1987 No. 295

SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987

Made	*10th July 1987*
Coming into operation—	
for the purposes of personal pension schemes	*27th July 1987*
for the purposes of occupational pension schemes	*6th April 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 16 of, and paragraphs 6, 7(2), (4) and (5), 9(1)(*a*), (2) to (4) and (7) to (9) and 11 of Schedule 1 to, the Social Security (Northern Ireland) Order 1986(**a**) (including those paragraphs of that Schedule as modified by Article 34(2B) of the Social Security Pensions (Northern Ireland) Order 1975(**b**)) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1987 and shall come into operation on 27th July 1987 for the purposes of personal pension schemes and on 6th April 1988 for the purposes of occupational pension schemes.

(2) In these regulations—

"the Order" means the Social Security (Northern Ireland) Order 1986;

"the Board" means the Occupational Pensions Board;

"child benefit" has the same meaning as in the Child Benefit (Northern Ireland) Order 1975(**c**);

"member" means member of an occupational pension scheme or a personal pension scheme;

"money purchase contracted-out scheme" has the same meaning as in Article 2(2)(**d**) of the Pensions Order;

"pensionable age" means, in the case of a man, 65, and in the case of a woman, 60;

"scheme" means occupational pension scheme or personal pension scheme.

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) S.I. 1975/1503 (N.I. 15); Article 34(2B) is inserted by paragraph 6(*b*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986
(**c**) S.I. 1975/1504 (N.I. 16)
(**d**) The definition is inserted by paragraph 2(*b*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(3) Any reference in these regulations to Schedule 1 is a reference to Schedule 1 to the Order and includes a reference to that Schedule as modified by Article 34(2B) of the Pensions Order.

Manner of calculation and verification of protected rights mentioned in paragraph 7(2) of Schedule 1

2.—(1) Except in a case to which paragraph (2) applies, the value of a member's protected rights (under a scheme which is, or was formerly, an appropriate scheme or a money purchase contracted-out scheme) such as are mentioned in paragraph 7(2) of Schedule 1 shall be calculated and verified—

(*a*) in such manner as may be approved in particular cases by the trustees or managers of the scheme; and

(*b*) by adopting methods consistent with the requirements of Schedule 1.

(2) In a case where a member's rights (as described in paragraph (1)) fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, the value of those rights shall be calculated and verified—

(*a*) in such manner as may be approved in particular cases by—

(i) a Fellow of the Institute of Actuaries,

(ii) a Fellow of the Faculty of Actuaries, or

(iii) a person with other actuarial qualifications who is approved by the Department, at the request of the trustees or managers of the scheme in question, as being a proper person to act for the purposes of these regulations in connection with that scheme,

and in this regulation "actuary" means any person such as is referred to in head (i), (ii) or (iii); and

(*b*) by adopting methods and making assumptions which—

(i) if not determined by the trustees or managers of the scheme in question, are notified to them by an actuary, and

(ii) are certified by an actuary to the trustees or managers of the scheme as being consistent with the requirements of Schedule 1, and as being consistent with "Retirement Benefit Schemes — Transfer Values (GN11)" published by the Institute of Actuaries and the Faculty of Actuaries and current at the date of the calculation.

Rights which the rules of a scheme may designate as protected rights

3. For the purposes of paragraph 7(2) of Schedule 1 (scheme rules may provide that a member's protected rights are rights specified in paragraph 7(2) of Schedule 1 and such other rights as may be prescribed), the prescribed rights are rights to money purchase benefits which derive from—

(*a*) guaranteed minimum pensions under an occupational pension scheme, or guaranteed minimum pensions appropriately secured within the meaning of Article 53C(**a**) of the Pensions Order, which

(a) Article 53C was inserted by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and amended by paragraph 17 of Schedule 9 to the Social Security (Northern Ireland) Order 1986

have been the subject of a transfer payment to the trustees or managers of the scheme;

(*b*) in the case of a personal pension scheme, a payment made to the trustees or managers of the scheme in accordance with Article 9 of the Order and regulation 3(10) of the Personal and Occupational Pension Schemes (Incentive Payments) Regulations (Northern Ireland) 1987(**a**); and

(*c*) in the case of an occupational pension scheme, a payment of minimum contributions made to the trustees or managers of the scheme in accordance with regulation 14(8) of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1987(**b**).

Conditions applying to pensions and annuities which give effect to protected rights

4.—(1) For the purposes of sub-paragraphs (1)(*a*) (effect may be given to protected rights by the provision by the scheme of a pension which among other things satisfies such conditions as may be prescribed) and (2)(ii) (effect may be given in certain circumstances to protected rights by the purchase by the scheme of an annuity which among other things satisfies such conditions as may be prescribed) of paragraph 9 of Schedule 1, the prescribed conditions are that the pension or annuity gives effect to all the protected rights of the member, that in the case of an annuity it is one which is purchased on or after the date on which it commences, and that the terms on which the pension is provided, or the terms of the purchase of the annuity—

(*a*) satisfy the requirements of paragraphs (2) to (5) of this regulation; and

(*b*) make no provision other than such as—

(i) is necessary to establish what the initial rate and the method of payment of the pension or annuity are to be, and that it shall continue to be paid at that rate (subject only to paragraphs (3) and (6)) throughout the lifetime of the member,

(ii) is necessary to satisfy the requirements of paragraphs (2) to (5) and regulation 5, and

(iii) is permitted by paragraphs (6) to (9).

(2) The rate of the pension or annuity shall be determined without regard to the sex or marital status of the member.

(3) The rate of the pension or annuity shall—

(*a*) on a date (''the first date'') not later than the first anniversary of the date on which it becomes payable; and

(*b*) on each anniversary of the first date,

be increased by the same percentage as that by which parts of guaranteed minimum pensions are increased, by the order (if any) made by the Department under Article 39A of the Pensions Order(**c**) and coming into operation on the first day of the tax year in which the date of the increase falls.

(**a**) S.R. 1987 No. 293
(**b**) S.R. 1987 No. 287
(**c**) Article 39A is inserted by Article 11(7) of the Social Security (Northern Ireland) Order 1986

(4) Except with the written consent of the person to whom the pension or annuity is payable, the pension or annuity, if paid in arrear, shall be paid no less frequently than by monthly instalments.

(5) The pension or annuity shall be paid no less frequently than by annual instalments.

(6) The pension or annuity may be increased, not more frequently than on the first date mentioned in paragraph (3) and on each of its anniversaries, but by larger percentages than paragraph (3) requires, so however that no increase is by more than 3 per cent..

(7) When the member has died, the pension or annuity may continue to be paid, at a rate which satisfies the requirements of paragraph (8), to or for the benefit of other persons if the requirements of paragraph (9) are satisfied.

(8) The requirements first referred to in paragraph (7) are that the rate shall not exceed—

(*a*) at any given time during the period which is within 5 years of the date on which the pension or annuity commenced, the rate at which it would have been payable if the member had been living at that time; and

(*b*) at any given time during any other period, one-half of the rate at which it would have been payable if the member had been living at that time.

(9) The requirements secondly referred to in paragraph (7) are that the pension or annuity shall be paid only—

(*a*) to the member's widow or widower, in a case where immediately after the member's death the pension or annuity is required by virtue of regulation 5 to be paid to her or him;

(*b*) to any one person, in a case to which sub-paragraph (*a*) does not apply;

(*c*) for the benefit of any child or children, if—

(i) sub-paragraph (*a*) does not apply,

(ii) the pension or annuity has not been paid in accordance with sub-paragraph (*b*), and

(iii) immediately before the member's death the member was entitled to child benefit in respect of that child or those children, or would have been so entitled if that child or one, some or all of those children had not been absent from Northern Ireland,

but only for so long as that child or at least one of those children is under the age of 18; and

(*d*) to any one person, during any period—

(i) which is within 5 years of the date on which the pension or annuity commenced, and

(ii) which immediately follows the death of a person who died while the pension or annuity was being paid to him in accordance with sub-paragraph (*a*) or (*b*) or in accordance with this sub-paragraph, or which begins on the date on which the child or the last of the children in respect of whom the pension or annuity has been paid in accordance with sub-paragraph (*c*) attained the age of 18 or died under that age.

Circumstances in which and periods for which pension or annuity is to be paid to widow or widower after being paid to member

5.—(1) For the purposes of paragraph 9(7)(*b*)(i) of Schedule 1 (pension or annuity to be paid to member's widow or widower in prescribed circumstances and for the prescribed period) the prescribed circumstances are that—

(*a*) the widow or widower is entitled to child benefit in respect of a child under 18 who is, or residing with a child under 16 who is—

(i) a son or daughter of the widow or widower and the member,

(ii) a child in respect of whom the member immediately before his or her death was, or would have been if the child had not been absent from Northern Ireland, entitled to child benefit, or

(iii) if the widow or widower and the member were residing together immediately before the member's death, a child in respect of whom the widow or widower then was, or would have been if the child had not been absent from Northern Ireland, entitled to child benefit; or

(*b*) the widow or widower had attained the age of 45 either—

(i) when the member died, or

(ii) during a period when the circumstances mentioned in sub-paragraph (*a*) existed.

(2) For the purposes of paragraph 9(7)(*b*)(i) of Schedule 1 the prescribed period is—

(*a*) in a case to which the circumstances described in sub-paragraph (*a*), but not sub-paragraph (*b*) of paragraph (1) exist, the period (subject to paragraph (3)) during which the circumstances described in sub-paragraph (*a*) of paragraph (1) continue to exist; and

(*b*) in a case to which the circumstances described in sub-paragraph (*b*) of paragraph (1) exist, the remainder of the widow's or widower's life (subject to paragraph (3)).

(3) There is excluded from the periods prescribed under paragraph (2) any period after the widow's or widower's remarriage under pensionable age.

Giving effect to protected rights in money purchase contracted-out scheme by providing lump sum

6.—(1) For the purposes of paragraph 9(3)(*b*) of Schedule 1 as modified by Article 34(2B) of the Pensions Order (effect may be given to protected rights in a money purchase contracted-out scheme by the provision of a lump sum where the annual rate of the pension or annuity would not exceed the prescribed amount) the prescribed amount is £104.

(2) For the purposes of paragraph 9(3)(*c*) of Schedule 1 as modified by Article 34(2B) of the Pensions Order (effect may be given to protected rights in a money purchase contracted-out scheme by the provision of a lump sum in prescribed circumstances) the prescribed circumstances are that—

(*a*) effect is given to all the member's protected rights by the provision of a lump sum; and

(*b*) either—