1987 No. 293

SOCIAL SECURITY

The Personal and Occupational Pension Schemes (Incentive Payments) Regulations (Northern Ireland) 1987

Made	*10th July 1987*
Coming into operation—	
regulations 1 and 2	*4th January 1988*
remainder	*6th April 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 5(2), 9(1), (2), (3), (6) and (7) and 16 of the Social Security (Northern Ireland) Order 1986(**a**) 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 (Incentive Payments) Regulations (Northern Ireland) 1987, and regulation 2 and this regulation shall come into operation on 4th January 1988 and the remainder of these regulations on 6th April 1988.

(2) In these regulations—

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975(**b**);

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

"centralised scheme" means an occupational pension scheme for whose benefits earners in employments under different employers qualify by virtue of their respective service in those employments and which is either a money purchase contracted-out scheme or a scheme for which there is a common fund;

"employer" includes a person who, by virtue of regulations 1(4) and (5), 14 and 15 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(**c**), is treated as an employer for the purpose of those regulations;

"scheme", except in the expression "personal pension scheme", means occupational pension scheme,

and other expressions have the same meaning as in the Pensions Order.

(3) Any reference in these regulations to a numbered Article is a reference to the Article of the Order bearing that number.

(**a**) S.I. 1986/1888 (N.I. 18)
(**b**) S.I. 1975/1503 (N.I. 15)
(**c**) S.R. 1985 No. 259; to which there are amendments not relevant to these regulations

Employments in relation to which payments under Article 5(1)(b) are not to be made

2.—(1) This regulation applies where—

(*a*) an earner is employed by a person (called in this regulation "the primary employer") in employment (called in this regulation "the primary employment") which is not contracted-out employment; and

(*b*) the primary employment would be contracted-out employment in relation to the earner by reference to a scheme (called in this regulation "the primary scheme") but for the fact that the earner voluntarily left it.

(2) Where—

(*a*) the primary scheme is not a centralised scheme; and

(*b*) there has been a period of at least 2 years, ending after 3rd January 1988, throughout which the earner was employed, whether or not by the primary employer, in employment which was contracted-out by reference to a scheme by reference to which employment by the primary employer was contracted-out,

the primary employer shall notify the Department of the facts described in sub-paragraphs (*a*) and (*b*) of paragraph (1) and sub-paragraph (*b*) of this paragraph.

(3) Where—

(*a*) the primary scheme is a centralised scheme;

(*b*) there has been a period ending after 3rd January 1988—

(i) of at least 2 years, throughout which the earner was employed in one employment, or

(ii) during which the earner was employed in a series of employments with intervals of not more than 6 months between consecutive employments in the series, the total duration of the employments, not including the intervals, being at least 2 years; and

(*c*) the one employment referred to in sub-paragraph (*b*)(i) or each employment in the series referred to in sub-paragraph (*b*)(ii) is contracted-out by reference to the primary scheme,

the trustees, or, if there are no trustees, the managers of the primary scheme shall notify the Department of the facts described in sub-paragraphs (*a*) and (*b*) of paragraph (1) and sub-paragraphs (*a*) to (*c*) of this paragraph.

(4) A notification required to be given under paragraph (2) or (3) shall be given within 6 months after the date on which the employment mentioned in paragraph (1)(*a*) ceased to be contracted-out employment or, if the Department is satisfied that the notification could not reasonably have been given within that period, such longer period as it may approve in a particular case or class of case.

(5) A notification required to be given under paragraph (2) or (3) shall be given in writing in such form as the Department may direct and shall contain such information as the Department may reasonably require for the purposes of this regulation.

(6) For the purposes of Article 5(2) (no payment under Article 5(1)(*b*) in relation to earnings paid with respect to prescribed employment) the prescribed employment is any employment to which paragraph (7) or (8) applies.

(7) This paragraph applies to the primary employment, where a notification has been given in accordance with paragraph (2) or (3) and the Department knows of no reason to suppose that the information given to it in the notification is incorrect.

(8) This paragraph applies to any employment (called in this regulation "the secondary employment") which—

(*a*) is employment of an earner about whom a notification has been given in accordance with paragraph (2) or (3), where the Department knows of no reason to suppose that the information given to it in the notification is incorrect;

(*b*) is not contracted-out employment in relation to him; and

(*c*) is not the primary employment,

except where the Department is satisfied that the circumstances specified in any one of sub-paragraphs (*a*), (*b*) and (*c*) of paragraph (9) obtain.

(9) The circumstances referred to in paragraph (8) are—

(*a*) that the earner is employed in the secondary employment by a person other than the primary employer;

(*b*) that there has been an interval of at least 7 days between the termination of the primary employment and the commencement of the secondary employment; and

(*c*) that the secondary employment—

(i) is not employment to which the primary scheme applies, and

(ii) commenced before, or while, the earner was employed in employment to which paragraph (10) applies.

(10) This paragraph applies to—

(*a*) the primary employment;

(*b*) any employment of the earner by the primary employer which commences immediately after the primary employment terminates; and

(*c*) any 2 or more employments of the earner by the primary employer of which the first commences immediately after the primary employment terminates and every subsequent one commences immediately after the previous one terminates.

(11) Where a notice under Article 3(9) specifies, as the date from which the personal pension scheme in question is to be the chosen scheme of the earner in question, a date earlier than that on which the Department receives the notice—

(*a*) in a case where the Department receives the notice in the tax year 1988-89 and the date specified by the notice as mentioned above is 6th April 1987, that part (if any) which the Department is required to pay under Article 5(1)(*b*) of the minimum contributions which fall due in respect of earnings paid to the earner during the tax years 1987-88 and 1988-89 shall be paid not earlier than October 1989; and

(*b*) in any other case, that part (if any) which the Department is required to pay under Article 5(1)(*b*) of the minimum contributions which fall due in respect of earnings paid to the earner during the tax year in which the Department receives the notice shall be paid not earlier than October in the tax year following that in which the Department receives the notice,

unless the Department has reason to suppose that no notification under paragraph (2) or (3), containing correct information, can or will be served on it in relation to that earner.

Cases in which payments under Article 9 are not to be made, or are to be made to prescribed persons

3.—(1) No payment shall be made under Article 9 (schemes becoming contracted-out between 1st January 1986 and 5th April 1993) in any case to which paragraph (2), (3) or (4) applies.

(2) This paragraph applies to a case where the earner in question, or another earner, has been in employment which—

(*a*) was contracted-out employment by reference to a scheme other than the scheme in question during part or all of the period beginning on 1st January 1986 and ending on 5th April 1993; and

(*b*) is indistinguishable from the employment of the earner in question except by reference to the identity of the employer, or the identity of the person employed, or both.

(3) This paragraph applies to a case where the employment in question could have been contracted-out employment by reference to a scheme other than the scheme in question during part or all of the period beginning on 1st January 1986 and ending on 5th April 1993, but was not, because of a choice made by, or a failure to make a choice on the part of, the earner in question.

(4) This paragraph applies to a case where the earnings in question are either—

(*a*) earnings in relation to which the earner, being a married woman or widow, is liable to make contributions at a reduced rate in accordance with an election which she has made and which is still operative; or

(*b*) earnings in relation to which contributions have not been paid or treated as paid, or the earner has paid contributions which are treated as not paid under regulation 38(1) and (2)(*a*) of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**a**).

(5) In a case where a scheme has ceased, on any date after 31st December 1985, to be a contracted-out scheme, no payment shall be made under Article 9 to the trustees or managers of that scheme.

(6) In a case where—

(*a*) the scheme in question is a money purchase contracted-out scheme;

(*b*) a period during which the earner in question has been in an employment which is or was contracted-out by reference to that scheme has terminated; and

(a) S.R. 1979 No. 186; to which there are amendments not relevant to these regulations