1987 No. 279

SOCIAL SECURITY

The Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987

Made	*10th July 1987*
Coming into operation . .	*6th April 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 32(1C) and 34(2D) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Article 4 of the Social Security (Northern Ireland) Order 1986(**b**) and paragraphs 3 and 6 of Schedule 1 to that Order as modified by Article 34(2B) of the Social Security Pensions (Northern Ireland) Order 1975(**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 Money Purchase Contracted-out Schemes Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1988.

(2) In these regulations—

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

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

"earnings period" has the same meaning as in the Social Security (Contributions) Regulations (Northern Ireland) 1979(**c**);

"emoluments" means so much of a person's remuneration or profit derived from employed earner's employment as constitutes earnings for the purposes of the principal Act;

"Friendly Society" means a Friendly Society registered under section 1(1)(*a*) of the Friendly Societies Act (Northern Ireland) 1970(**d**), or, as the case may be, under section 7(1)(*a*) of the Friendly Societies Act 1974(**e**);

"futures" has the meaning assigned to it by paragraph 8 of Schedule 1 to the Financial Services Act 1986(**f**);

(a) S.I. 1975/1503 (N.I. 15); Articles 32(1C) and 34(2B) and (2D) are inserted by paragraphs 5 and 6 of Schedule 2 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))
(b) S.I. 1986/1888 (N.I. 18)
(c) S.R. 1979 No. 186; the relevant amending regulations are S.R. 1980 No. 463, S.R. 1983 No. 8 and S.R. 1984 No. 43
(d) 1970 c. 31 (N.I.)
(e) 1974 c. 46
(f) 1986 c. 60

"government, local authority or public authority" means—

(*a*) the government of any member State;

(*b*) a local authority in any member State; or

(*c*) any international organisation the members of which comprise any member States;

"income tax month" means the period beginning on the 6th day of any calendar month and ending on the 5th day of the following calendar month;

"investment trust company" means a company which has been approved for the purposes of section 359 of the Income and Corporation Taxes Act 1970(**a**);

"issuer", in relation to any securities, has the meaning assigned to it by section 142(7) of the Financial Services Act 1986;

"options" has the meaning assigned to it by paragraph 7 of Schedule 1 to the Financial Services Act 1986;

"recognised Stock Exchange" has the meaning assigned to it by paragraph 13 of Schedule 13 to the Insurance Companies Regulations 1981(**b**);

"scheme" means occupational pension scheme;

"securities"—

(*a*) in relation to any government, local authority or public authority, means any investment which would fall within paragraph 3 of Schedule 1 to the Financial Services Act 1986 if "government, local authority or public authority" had the same meaning in that paragraph as in these regulations; and

(*b*) otherwise means any investment falling within paragraph 1, 2, 4 or 5 of that Schedule;

"trustees", in relation to a scheme which is not set up or established under a trust, means the managers of the 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 Pensions Order bearing that number.

Permitted investments

2.—(1) For the purposes of Article 34(2A)(**c**) (occupational pension scheme may be contracted-out if among other things the requirements imposed by or by virtue of Schedule 1 to the Order modified under Article 34(2B) are satisfied in its case) and of paragraphs 3 and 6 of Schedule 1 to the Order (schemes to comply with prescribed requirements as regards the investment of their resources, and such other requirements as may be prescribed), the prescribed requirements in relation to an occupational pension scheme are those specified in paragraphs (2) and (3).

(a) 1970 c. 10; section 359 was amended by section 93(6) of the Finance Act 1972 (c. 41)
(b) S.I. 1981/1654; the relevant amending instruments are S.I. 1982/675 and 1985/1419
(c) Article 34(2A) is inserted by paragraph 6(*b*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(2) The rules of the scheme shall require that the resources of the scheme are not invested in any investments other than those specified in the Schedule to these regulations.

(3) The rules of the scheme shall require the trustees of the scheme to take all reasonable steps to ensure that—

(*a*) in relation to the investments specified in paragraphs 5 to 8 of the Schedule, there is not, at any one time, invested in the securities of any one issuer—

(i) more than 5 per cent. of the value of the resources of the scheme, or

(ii) more than 10 per cent. of that value, where the total of the investments in the securities of any one issuer of more than 5 per cent. of that value does not exceed 40 per cent. of that value;

(*b*) not more than 50 per cent. of the value of the resources of the scheme is invested, at any one time, in investments specified in paragraph 6 of the Schedule;

(*c*) not more than 35 per cent. of the value of the resources of the scheme is invested, at any one time, in investments of the kinds specified in paragraphs 7 and 8 (read together) of the Schedule;

(*d*) the aggregate, at any one time, of—

(i) any sum lent to a person or body associated with the scheme out of the resources of the scheme,

(ii) any part of the resources of the scheme invested in a person or body or land associated with the scheme, and

(iii) any part of the resources of the scheme invested in any one or more of the investments specified in paragraphs 8 to 10 of the Schedule,

does not exceed 10 per cent. of the value of the resources of the scheme;

(*e*) not more than 40 per cent. of the value of the resources of the scheme is invested, at any one time, in securities issued by any one investment trust company; and

(*f*) not more than 25 per cent. of the value of the resources of the scheme is invested at any one time in land.

Deduction of minimum payments from earnings

3.—(1) Every employer, on making during any tax year to any earner any payment of emoluments in respect of which minimum payments are payable, may deduct minimum payments in accordance with this regulation.

(2) An employer shall not be entitled to recover any minimum payments paid or to be paid by him on behalf of any earner otherwise than by deduction in accordance with this regulation.

(3) Subject to the provisions of paragraph (4), on making any payment of emoluments to the earner the employer may deduct from those emoluments an amount which bears the same ratio to the amount of the minimum payments relating to those emoluments as A does to A plus B, where—

(*a*) A is the first percentage mentioned in Article 32(1A)(*a*)(**a**); and

(*b*) B is the first percentage mentioned in Article 32(1A)(*b*).

(4) Where 2 or more payments of emoluments fall to be aggregated under paragraph 1(1) of Schedule 1 to the principal Act, the employer may deduct the amount of the minimum payments based thereon which are payable by the earner either wholly from one such payment or partly from one and partly from the other or any one or more of the others.

(5) In the circumstances specified in paragraph (6), if the employer on making any payment of emoluments to an earner does not deduct therefrom the full amount of minimum payments which by virtue of these regulations he is entitled to deduct, he may recover the amount so underdeducted by deduction from any subsequent payment of emoluments to that earner during the same tax year, so however that any amount deducted under this paragraph may be in addition to but shall not exceed any amount deducted from the same payment of emoluments under paragraph (3) or (4).

(6) Paragraph (5) applies only where—

(*a*) the underdeduction occurred by reason of an error made by the employer in good faith;

(*b*) the emoluments in respect of which the underdeduction occurred are deemed to be earnings by virtue of regulations made under Article 14 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**b**);

(*c*) the underdeduction occurred as a result of the variation of the contracting-out certificate issued in respect of the employment in respect of which the payment of emoluments is made; or

(*d*) the emoluments in respect of which the underdeduction occurred are, by virtue of regulation 17B of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**c**), not paid through the secondary contributor in relation to the employment.

Minimum payments to be made by employers to trustees

4.—(1) for the purposes of Article 32(1)(**d**) and (1A), the employer of an earner whose employment is contracted-out by reference to a money purchase contracted-out scheme shall, subject to paragraph (2), make to the trustees of that scheme any minimum payments which fall to be made by him, other than amounts deductible by virtue of regulation 3(4) which he did not deduct, within 14 days of the end of the income tax month in which there arose the liability for Class 1 contributions in respect of the earnings to which those minimum payments relate.

(**a**) Article 32(1A) is inserted by paragraph 5(*b*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(**b**) S.I. 1977/610 (N.I. 11): Article 14 was amended by Schedule 7 to the Supplementary Benefits (Northern Ireland) Order 1977 (S.I. 1977/2156 (N.I. 27)) and paragraph 49 of Schedule 9 to, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986. *See* the Social Security (Contributions) (Industrial Relations) Regulations (Northern Ireland) 1977 (S.R. 1977 No. 94)

(**c**) S.R. 1979 No. 186: the relevant amending regulations are S.R. 1983 No. 64

(**d**) Article 32(1) was amended by paragraph 6 of Schedule 9 to the Social Security (Northern Ireland) Order 1986