1985 No. 356

SOCIAL SECURITY

The Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985

Made . . . . . *16th December 1985*

Coming into operation . . . *1st January 1986*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 53C and 71(4) 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 Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1985 and shall come into operation on 1st January 1986.

(2) In these regulations—

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

"actuary" means a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries;

"scheme" means an occupational pension scheme as defined in Article 2(2);

"supplementary credits" has the same meaning as in Schedule 3 to the Pensions Order;

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

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

Conditions on which policies of insurance and annuity contracts may be assigned or surrendered

2. The conditions referred to in Article 53C(4)(*b*) (policies of insurance or annuity contracts are appropriate for the purposes of Article 53C if among other things they may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed) are—

(*a*) that the consent of the earner concerned to the assignment or surrender is given in writing; and

(*b*) that in consideration of the assignment or surrender the benefits previously secured by the policy of insurance or annuity contract become secured by means of either or both of the following—

(i) another policy of insurance or annuity contract which is appropriate within the meaning of Article 53C(4), and

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(**a**) S.I. 1975/1503 (N.I. 15); Article 53C was inserted by Article 4 of, and paragraph 2 of Schedule 1 to, the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16))

(ii) in the case only of benefits which are not and do not include guaranteed minimum pensions, the award of supplementary credits under a scheme which applies to the employment of the earner at the time of the assignment or surrender.

Conditions on which policies of insurance and annuity contracts may be commuted

3.—(1) The conditions referred to in Article 53C(4)(*c*) (policies of insurance or annuity contracts are appropriate for the purposes of Article 53C if among other things the amount secured may not be commuted except on conditions which satisfy such requirements as may be prescribed) are—

(*a*) that the benefits secured by the policy of insurance or annuity contract have become payable, and the aggregate of those benefits and all other benefits currently payable or prospectively payable to the earner or, as the case may be, to his widow under all schemes relating to employment with the same employer as the employment in respect of which the benefits secured by the policy of insurance or annuity contract are payable does not exceed £104 per annum;

(*b*) that the benefits secured by the policy of insurance or annuity contract have become payable, the commutation does not apply to that part of those benefits which consists of the earner's and his widow's guaranteed minimum pensions, the earner has requested or consented to the commutation, and—

(i) he has attained the age of 50,

(ii) his earning capacity is destroyed or seriously impaired by physical or mental deterioration, or

(iii) he is in exceptional circumstances of serious ill-health; or

(*c*) such other conditions as the Occupational Pensions Board consider suitable.

(2) For the purposes of paragraph (1)(*a*)—

(*a*) any benefit in lump sum form shall be treated as the annual amount of benefit in pension form which, in the reasonable opinion of an actuary, is its equivalent;

(*b*) any benefit secured by means of another policy of insurance or annuity contract which is appropriate within the meaning of Article 53C(4) shall be treated as payable or prospectively payable under the scheme which was liable to provide it before it was so secured; and

(*c*) any guaranteed minimum pension which is prospectively payable shall be reckoned as having the value that it will have (in accordance with the provisions of the scheme in question) when the earner reaches pensionable age.

Other requirements applying to policies of insurance and annuity contracts

4. The requirements referred to in Article 53C(4)(*d*) (policies of insurance or annuity contracts are appropriate for the purposes of Article 53C if among other things they satisfy such requirements as may be prescribed) are—

(*a*) that the insurance company with which the policy is taken out or the contract entered into assumes an obligation to the earner in question and, if appropriate, dependants of his, or to trustees of a trust for the benefit of the earner and, if appropriate, dependants of his, to pay the benefits secured by the policy or contract to him or, as the case may be, to them;

(*b*) that, if any guaranteed minimum pension is due or prospectively due to the earner in question, the policy or contract contains, or is endorsed with, terms so as to provide—

(i) that the annuity to be paid thereunder to or for his benefit will be at least equal to the guaranteed minimum pension due to him, or, as the case may be, prospectively due to him at pensionable age, subject to any revaluation or increase under Article 37(**a**), and

(ii) if the earner is a man, that if he dies or has died leaving a widow the annuity to be paid thereunder to her or for her benefit will be at least equal to the guaranteed minimum due to her, or prospectively due to her in the event of her being left as his widow; and

(*c*) that the policy or contract is endorsed with a statement of the dates on which the period or periods of service which gave rise to the benefits secured by the policy or contract began and ended.

Further condition on which liability may be discharged

5. For the purpose of Article 53C(5)(*c*) (trustees of scheme to be discharged from their liability in certain cases if such conditions as may be prescribed are satisfied) the prescribed condition is that—

(*a*) the earner is dead, benefit is payable to a person other than his widow, and the arrangement for securing the benefit by means of the policy or contract was made at the written request of that person or with his or her consent given in writing in the form set out in the Schedule; or

(*b*) the arrangement for securing the benefit by means of the policy or contract was made without the consent of the earner or his widow and either—

(i) the scheme in question is being wound up, or

(ii) the benefit is an alternative substituted for short service benefit under a provision of the scheme made by virtue of regulation 12(4)(*a*) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(**b**).

Form of consent

6. For the purpose of Article 53C(5)(*a*)(ii) (form of consent to arrangements for securing benefits) the prescribed form is the form set out in the Schedule.

Sealed with the Official Seal of the Department of Health and Social Services on 16th December 1985.

(L.S.) *A. N. Burns*

Assistant Secretary

(**a**) Article 37 was amended by Article 4(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), Article 16 of, and paragraphs 15 and 19 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and Article 6 of, and paragraphs 2(1) and 8 of Schedule 3 to, the Social Security (Northern Ireland) Order 1985

(**b**) S.R. 1984 No. 332; to which there are amendments not relevant to the subject matter of these regulations