1985 No. 243

SOCIAL SECURITY

The Contracting-out (Transfer) Regulations (Northern Ireland) 1985

Made . . . . . *6th September 1985*

Coming into operation . . . *23rd September 1985*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 34(2)(*a*), 40(1) to (1C), 46(1A) and (1B), 47(1)(*b*) and 71(4) of, and paragraphs 1, 6 and 9 of Schedule 2 and paragraph 9(3) of Schedule 3 to, the Social Security Pensions (Northern Ireland) Order 1975(**a**), and Articles 17(2) and 18(13) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**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 Contracting-out (Transfer) Regulations (Northern Ireland) 1985 and shall come into operation on 23rd September 1985.

(2) In these regulations—

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

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

"overseas scheme" means a scheme which is administered wholly or primarily outside the United Kingdom;

"receiving scheme" means a scheme to which rights are, or liability is, transferred in accordance with regulation 2 or in accordance with arrangements approved under Article 46;

"transferring scheme" means a scheme from which rights are, or liability is, transferred to a receiving scheme;

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

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

Transfers of accrued rights to and liability for payment of requisite benefits from contracted-out schemes

2.—(1) There may be transferred from a contracted-out scheme to another scheme—

(**a**) S.I. 1975/1503 (N.I. 15); Article 40(1) was substituted, and Articles 40(1A) to (1C) and 46(1A) and (1B) were inserted, by Article 13 of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)). Article 47 was amended by Article 18(7) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)) and by Article 4(8) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)). Paragraph 6 of Schedule 2 was amended by Article 4(11) of the Social Security (Northern Ireland) Order 1980

(**b**) S.I. 1977/610 (N.I. 11); Article 18(13) was amended by Article 15 of, and paragraph 9 of Schedule 3 to, the Social Security (Northern Ireland) Order 1980

(*a*) the accrued rights of an earner (including, except where the context otherwise requires, an earner who is not in employment at the time of the transfer) to the requisite benefits under the former scheme; or

(*b*) the liability for the payment of such benefits to or in respect of any person who has become entitled to them,

in the circumstances and subject to the conditions mentioned in paragraphs (2) to (5), and in those paragraphs "a transfer" means a transfer such as is described in this paragraph.

(2) A transfer may be made to another contracted-out scheme in the circumstances specified in either of the paragraphs in Part I of Schedule 1.

(3) A transfer may be made to a scheme which is not a contracted-out scheme in the circumstances described in either of the paragraphs in Part II of Schedule 1.

(4) A transfer to another contracted-out scheme, insofar as it is a transfer of the accrued rights to guaranteed minimum pensions of an earner who has not entered employment which is contracted-out by reference to the receiving scheme, may be made to that scheme only on the conditions specified in Part I of Schedule 2.

(5) A transfer to another contracted-out scheme, insofar as it is a transfer of the liability for the payment of a guaranteed minimum pension to or in respect of a person who has become entitled to it, may be made only on the condition specified in Part II of Schedule 2.

(6) References in Schedules 1 and 2 to "the earner" and "person concerned" are respectively references to the earner referred to in paragraph (1)(*a*) and the person referred to in paragraph (1)(*b*).

Modifications of Part IV of the Pensions Order on transfers from contracted-out and formerly contracted-out schemes

3. Where a transfer referred to in this regulation has taken place from a contracted-out scheme in accordance with regulation 2, or from a formerly contracted-out scheme in accordance with arrangements approved under Article 46, Part IV of the Pensions Order shall have effect subject to the following modifications—

(*a*) where the transfer was of the accrued rights to guaranteed minimum pensions of an earner who had entered employment which was contracted-out by reference to the receiving scheme, the modifications of Article 37(1) and (8) specified in paragraphs 3 and 4 of Schedule 3;

(*b*) in the case of any other transfer to a contracted-out scheme of the accrued rights of an earner to guaranteed minimum pensions, the modifications of Articles 28(2), 37(8), 40(3)(**a**), 47 and 49 specified in paragraphs 1 and 4 to 7 of Schedule 3;

(*c*) in the case of any transfer to a contracted-out scheme of the liability for payment of a guaranteed minimum pension to or in respect of a person who had become entitled to it, the modifications of Articles 28(2), 40(3) and 49 specified in paragraphs 1, 5 and 7 of Schedule 3;

(*d*) in the case of any transfer to an overseas scheme (not being a contracted-out scheme) of accrued rights to, or the liability for payment of, guaranteed minimum pensions, the modifications of Articles 31 and 47 specified in paragraphs 2 and 6 of Schedule 3.

(**a**) Article 40(3) was amended by Article 17 of, and Schedule 6 to, the Health and Social Security (Northern Ireland) Order 1984

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976(**a**) shall be amended in accordance with the following provisions.

(2) Regulation 5 is hereby revoked.

(3) In regulation 9(3)(*a*)(iii) immediately after "Article 40(1) of the Order" there shall be inserted "or regulations made thereunder".

Amendment of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976

5.—(1) The Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976(**b**) shall be amended in accordance with the following provisions.

(2) In regulations 7(2) and (3), 8A(3)(*d*) and (4), 8B(*b*) and (*e*)(i) and 8C(*a*) immediately after the words "Article 40 of the Order" or "Article 40(1) of the Order" (as the case may be) at each place where they occur there shall be inserted "or regulations made thereunder".

(3) Regulation 8B(*c*) is hereby revoked.

(4) In regulation 8C(*c*) for "Article 40(2) of the Order" there shall be substituted "Article 37(1) of the Order as modified by paragraph 3 of Schedule 3 to the Contracting-out (Transfer) Regulations (Northern Ireland) 1985".

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977

6. In regulation 4A(1) of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977(**c**) immediately after "Article 40(1) of the Pensions Order" there shall be inserted "or regulations made thereunder".

Amendment of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978

7. In sub-paragraph (iv) of the proviso to paragraph (1) of regulation 2 of the Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1978(**d**) immediately after "Article 40(1) of the Order" there shall be inserted "or regulations made thereunder".

Amendment of the Contracting-out (Modification) Regulations (Northern Ireland) 1983

8. Regulation 2 of the Contracting-out (Modification) Regulations (Northern Ireland) 1983(**e**) shall be amended in accordance with the following provisions—

(*a*) in the heading, for "Articles 35 to 41, other than Article 37" there shall be substituted "Articles 35, 36, 38, 39 and 41";

(*b*) in paragraph (2), for "Articles 35 to 41 (contracting-out requirements for earner's and widow's pensions), other than Article 37 (earner's guaranteed minimum)," there shall be substituted "Articles 35, 36, 38, 39 and 41 (contracting-out requirements)";

(**a**) S.R. 1976 No. 29; the relevant amending regulations are S.R. 1977 No. 23 and S.R. 1983 No. 55
(**b**) S.R. 1976 No. 101; the relevant amending regulations are S.R. 1983 No. 55
(**c**) S.R. 1977 No. 286; the relevant amending regulations are S.R. 1983 No. 55
(**d**) S.R. 1978 No. 74; the relevant amending regulations are S.R. 1983 No. 55
(**e**) S.R. 1983 No. 135

(*c*) in paragraph (2)(*b*), for "Articles 35 to 41, other than Article 37 (and the provisions modified by sub-paragraph (*a*))," there shall be substituted "Article 35, 38 or 41".

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984

9. In regulation 12(4)(*b*)(i) of the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(**a**), for "regulation 5(*b*) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976" there shall be substituted "regulations made under Article 40 of the Pensions Order".

Sealed with the Official Seal of the Department of Health and Social Services on 6th September 1985.

(L.S.) *R. J. Minnis*
Assistant Secretary

(a) S.R. 1984 No. 332