1984 No. 444

SOCIAL SECURITY

The Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984

Made . . . . . 19th December 1984

Coming into operation . . . 1st January 1985

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 157(1) of, and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(**a**) and Articles 2(4) and (5) and 43C(7) 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 Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984 and shall come into operation on 1st January 1985.

(2) In these regulations—

"the Board" means the Occupational Pensions Board;

"relevant employment", in relation to a scheme, means any employment with an employer who contributes or is liable to contribute to the resources of the scheme, or with any successor to such an employer;

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

(3) Any reference in these regulations to a numbered Article or Schedule is to the Article of, or the Schedule to, the Social Security Pensions (Northern Ireland) Order 1975(**c**) bearing that number.

Schemes which provide benefit equal to or larger than short service benefit for certain members before normal pension age

2. In a case where—

(*a*) under the provisions of a scheme a benefit equal to or larger than that which would be required to constitute short service benefit may be paid earlier than at normal pension age to or in respect of a member who has left relevant employment; and

(*b*) such a benefit is payable earlier than at normal pension age to such a member at his request or by his consent,

Articles 43A and 43B shall not apply to any pension payable under that scheme to or in respect of that member.

Limitation of increases in certain cases

3.—(1) This regulation applies to cases to which regulation 2 does not apply and in which short service benefit falls to be paid, by virtue of regulation 26 of the

(a) 1975 c. 15; *see* definitions of "prescribe" and "regulations" in Schedule 17. Section 157(1) applies, by virtue of Article 2(3) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), to the exercise of certain powers conferred by that Order

(b) S.I. 1975/1503 (N.I. 15); Article 43C was inserted by Article 14 of, and Schedule 4 to, the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8))

(c) Articles 43A to 43E were inserted into the Social Security Pensions (Northern Ireland) Order 1975 by Article 14 of, and Schedule 4 to, the Health and Social Security (Northern Ireland) Order 1984

Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984(**a**), at a higher rate than that which would apply apart from that regulation; and the difference between the 2 rates is referred to in this regulation as "the regulation 26 increase".

(2) In a case where the excess mentioned in Article 43A(1)(*c*) and (ii) is equal to or less than the regulation 26 increase, Article 43A shall not apply.

(3) In a case where the excess mentioned in Article 43A(1)(*c*) and (ii) is greater than the regulation 26 increase, Article 43A shall be so modified as to have effect as if paragraph (1)(ii) of that Article referred to the difference between the excess mentioned in paragraph (1)(*c*) of that Article and the regulation 26 increase.

Widows of persons granted alternatives to short service benefit

4. In a case where a member of a scheme is provided with an alternative to short service benefit by virtue of paragraph 9(2)(*b*) of Schedule 3 but his widow is provided with short service benefit, Article 43B shall not apply to the pension payable to that widow.

Pensions reduced on attainment of pensionable age by the beneficiary

5. Subject to regulations 2 and 3, in a case where—

(*a*) a scheme makes provision for pensions to be payable to persons before they attain pensionable age;

(*b*) its provision for pensions payable to persons on or after attaining that age is made by virtue of sub-paragraph (*b*), or the words following sub-paragraph (*b*), in Article 36(9); and

(*c*) those provisions may have the effect that the pension payable to a particular person is reduced on or after his attainment of pensionable age,

Article 43A(1) shall be so modified as to operate without prejudice to those provisions.

Schemes with alternative methods of calculation of pensions

6.—(1) Subject to regulations 2 and 3, in a case where a scheme provides for the annual rate of an earner's pension to be whichever is the greater of the following rates—

(*a*) a rate which is related to the earner's average annual salary or final salary (as the case may be) in the manner specified in Article 36(**b**); and

(*b*) some other rate which is not directly related to the salaries mentioned in Article 36,

and the rate referred to in sub-paragraph (*b*) of this paragraph is the greater, Article 43A(3) shall be so modified as to require the relevant sum to be ascertained as if the rate referred to in sub-paragraph (*a*) of this paragraph were the annual rate of the earner's pension.

(2) Subject to regulations 2 and 4, in a case where a scheme provides for the annual rate of a widow's pension to be whichever is the greater of the following rates—

(*a*) a rate which is related to the earner's average annual salary or final salary (as the case may be) in the manner specified in Articles 38 and 39(**c**); and

(*b*) some other rate which is not directly related to the salaries mentioned in Articles 38 and 39,

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(**a**) S.R. 1984 No. 332

(**b**) Article 36 was amended by Article 16 of, and paragraph 18 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(**c**) Article 39 was amended by Article 16 of, and paragraph 20 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979