1984 No. 332

SOCIAL SECURITY

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

Made . . . . . *13th September 1984*

Coming into operation . . . *22nd October 1984*

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation, commencement and interpretation
2. Meaning of ''member'', ''prospective member'' and ''employer'' in relation to a scheme
3. Meaning of ''relevant employment'' in relation to certain schemes
4. Circumstances in which increase of benefit or additional benefit constitutes ''supplementary credits''
5. Short service benefit in lump sum form
6. Means of assuring short service benefit
7. Computation of benefit — general
8. Computation of benefit in cases of waiting periods
9. Computation of benefit in money purchase and analogous schemes
10. Deductions from short service benefit
11. Commutation of benefit
12. Alternatives to short service benefit
13. Interpretation of expressions in regulations 14 to 16
14. Refunds of contributions and extinguishment of benefits
15. Special provision for schemes to which no contributions are made by a particular member
16. Bonus credits to be extinguished in certain cases of refunds
17. Termination of service
18. More than one scheme applying to the same or related employment
19. Preservation of benefit on winding up of schemes
20. Schemes funded by level annual premiums
21. Application of preservation requirements to schemes with an overseas element
22. Transfers of accrued rights to schemes overseas
23. Interim trust deeds and other interim arrangements
24. Widows and dependants
25. Qualifying service in relation to which preservation requirements apply
26. Value of benefits to compare reasonably with contributions
27. Scheme rules to make express provision for certain matters
28. Revocations

SCHEDULE — Revocations

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 71(4) of, and paragraphs 5(1), 6(5), 9(1), (2) and (3), 12(2), 13(5), 15(4), 20, 21, 22, 23, 24, 25 and 26 of Schedule 3 to, the Social Security Pensions (Northern Ireland) Order 1975(**b**) and of all other powers enabling it in that behalf, and for the purpose only of consolidating the regulations hereby revoked hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1984 and shall come into operation on 22nd October 1984.

(2) In these regulations—

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975 and "Schedule 3" means Schedule 3 to the Pensions Order;

"the Board" means the Occupational Pensions Board;

"centralised scheme" means a scheme for whose benefits earners in employments under different employers qualify by virtue of their respective service in those employments;

"non-centralised scheme" means a scheme which is not a centralised scheme;

"qualifying service" in relation to a scheme, and except in the expression "linked qualifying service", includes pensionable service under the scheme and linked qualifying service under another scheme.

Meaning of "member", "prospective member" and "employer" in relation to a scheme

2.—(1) The following provisions of this regulation shall apply for the purposes of Article 59 of and Schedule 3 to the Pensions Order (requirements relating to preservation of benefit).

(2) Any person is to be regarded as a member of a scheme during, or at any time after, a period when his service in relevant employment is or was such that at the time when it is or was given it either—

(*a*) qualifies or qualified him for benefits (in the form of a pension or otherwise, payable on the termination of his service otherwise than by his death, or on his retirement or his death thereafter) under the scheme which in the opinion of the Board are or were referable to that period; or

(*b*) is or was certain so to qualify him subsequently if it continues or continued for a sufficiently long time and the rules of the scheme and the terms of his contract of service remain or remained unaltered during that time.

(3) There are to be regarded as prospective members of a scheme any persons in relevant employment who are not members but—

(*a*) who, by virtue of the terms of their contracts of service, are able to become members at their own option or the option of any other person; or

(*b*) who, by virtue of the terms of their contracts of service, will become so able, if their service in relevant employment continues for a sufficiently long time and the terms of their contracts of service remain unaltered during that time; or

(*c*) who, by virtue of the rules of the scheme or the terms of their contracts of service, will become members in any event, if their service in relevant

(**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, to the exercise of certain powers conferred by that Order.

(**b**) S.I. 1975/1503 (N.I. 15)

employment continues for a sufficiently long time and the rules of the scheme or, as the case may be, the terms of their contracts of service remain unaltered during that time.

(4) Any person, government department, public authority or body of persons who, under Part I of the Social Security (Northern Ireland) Act 1975 is, or is to be treated as, the secondary Class 1 contributor shall be treated as the employer of the earner in respect of whom the Class 1 contributions are payable.

(5) Without prejudice to paragraph (4), there shall be treated as the employer of a self-employed earner to whom a scheme applies any person (other than that self-employed earner), government department, public authority or body of persons who makes or is to make payments towards the resources of that scheme in respect of that self-employed earner (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money).

Meaning of "relevant employment" in relation to certain schemes

3. In the case of a scheme which is so framed as to apply to some, but not all, of the service in an employment, the preservation requirements shall be so modified as to have effect as if the definition of "relevant employment" in paragraph 2 of Schedule 3, in relation to such a scheme, were "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".

Circumstances in which increase of benefit or additional benefit constitutes "supplementary credits"

4. For the purposes of paragraph 5(1)(c) of Schedule 3 (circumstances in which increase of benefit or additional benefit constitutes "supplementary credits") the prescribed circumstances shall be that a member of a scheme, in consequence of any provision made by or under the scheme after he becomes a member of it, becomes entitled, before the termination of his pensionable service in relation to that scheme, to any increase of benefit or additional benefit which is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.

Short service benefit in lump sum form

5. For the purposes of paragraph 6(5) of Schedule 3 (short service benefit in lump sum form not to be paid before normal pension age except in prescribed circumstances) the prescribed circumstances shall be—

(*a*) that the member's earning capacity is destroyed or seriously impaired by physical or mental deterioration; or

(*b*) such other circumstances as the Board may consider suitable.

Means of assuring short service benefit

6. For the purposes of paragraph 9(1) of Schedule 3 (short service benefit to be payable directly out of the resources of a scheme or to be assured by such means as may be prescribed) a policy of insurance taken out, or an annuity contract entered into, with either—

(*a*) an insurance company to which Part II of the Insurance Companies Act 1982(**a**) applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long-term insurance business as defined in that Act; or

(**a**) 1982 c. 50

(*b*) a friendly society enabled under regulations made under Article 67 of the Pensions Order or section 71 of the Social Security Act 1973(**a**) to conduct such business as is described in that Article or that section,

shall be a prescribed means of assuring short service benefit.

Computation of benefit — general

7.—(1) A scheme which provides for long service benefit to be related to a member's earnings during a period of a specified length shall provide for the short service benefit of a member whose total pensionable service is less than that length to be correspondingly related to his earnings throughout his pensionable service.

(2) In a case where—

(*a*) short service benefit falls to be calculated in accordance with paragraph 11 (uniform accrual) of Schedule 3; and

(*b*) a lump sum is paid as mentioned in regulation 12(1)(*c*), (*d*), (*e*)(i) or (*e*)(ii) in substitution for part of that benefit,

any remaining short service benefit shall be calculated in accordance with paragraph 11 of Schedule 3, so however that the period in respect of which the lump sum is paid shall be left out of account in calculating the length of the first period (but not the second period) mentioned in that paragraph.

(3) A scheme may, for the purposes of the calculations mentioned in paragraph 11 of Schedule 3, reckon both the periods mentioned in that paragraph (or neither, but not only one) to the nearest, next highest or next lowest calendar month.

(4) A scheme may, for the purposes of the calculations mentioned in paragraph 13(2)(*b*) of Schedule 3, reckon both the periods mentioned in that paragraph (or neither, but not only one) to the nearest, next highest or next lowest calendar month.

(5) For the purpose of computing short service benefit under paragraph 11 of Schedule 3, it shall be assumed that the member's earnings would have remained constant during the time between the termination of his pensionable service and his attaining normal pension age; and the trustees or managers of the scheme may make such assumptions about—

(*a*) the level at which they would have remained constant;

(*b*) the dates of declaration and rates of bonuses; and

(*c*) the value of, and rate of interest on, securities,

during that time as the Board may consider reasonable.

Computation of benefit in cases of waiting periods

8. In a case where—

(*a*) long service benefit does not accrue to a member during a period ("the waiting period") at the beginning of his pensionable service; and

(*b*) in the opinion of the Board a specific part of long service benefit is referable to that period,

for the purpose of computing short service benefit that part of long service benefit shall be deemed not to consist of supplementary credits but to have accrued, or to be accruing, at such a rate as to accrue in full over the whole of the waiting period, so however that if that rate is lower than the rate at which the remainder of long service benefit accrues, paragraph 10(1) of Schedule 3 shall apply where the Board consider it appropriate notwithstanding that otherwise paragraph 11 of that Schedule would have applied.

(**a**) 1973 c. 38

Computation of benefit in money purchase and analogous schemes

9.—(1) This regulation applies to money purchase schemes (that is to say, schemes which provide benefits the amount or rate of which is calculated by reference to contributions paid from time to time by the member, or by his employer in respect of him, and to the member's age at the time when contributions are paid) and to other schemes which the Board consider appropriate to be treated as analogous to money purchase schemes.

(2) In the case of schemes to which this regulation applies, the preservation requirements shall be so modified that paragraph 10(1) of Schedule 3 shall apply where the Board consider it appropriate notwithstanding that otherwise paragraph 11 of that Schedule would have applied.

(3) In the case of schemes to which this regulation applies, where—

(*a*) short service benefit falls to be calculated under paragraph 10(1) of Schedule 3; and

(*b*) long service benefit is related to bonuses which have been declared at or before the time when the member attains normal pension age,

short service benefit must be correspondingly related to bonuses which have been declared at or before the time when the member's pensionable service is terminated.

(4) In the case of schemes to which this regulation applies, where—

(*a*) short service benefit falls to be calculated under paragraph 10(1) of Schedule 3; and

(*b*) long service benefit is related to the value of securities at, or in a specified period before, the time when the member attains normal pension age,

short service benefit must be correspondingly related to the value of securities at, or in the same period before, either the time when the member's pensionable service is terminated or (if the trustees or managers of the scheme so decide before, or not more than one month after, the member's pensionable service is terminated) the time when the benefit becomes payable.

Deductions from short service benefit

10.—(1) Where a scheme provides that in computing the amount of long service benefit payable to a member a deduction shall be made, either on account of benefit payable to that member under the Social Security (Northern Ireland) Act 1975 or otherwise, any corresponding provision in relation to short service benefit shall be permissible only if the basis on which the amount of the deduction is computed is such as the Board may consider reasonable having regard to all the circumstances of the case.

(2) This regulation does not apply to any deduction made in computing short service benefit pursuant to a right of charge or lien on, or set-off against, such benefit which is permitted by paragraph 18 of Schedule 3.

Commutation of benefit

11.—(1) For the purposes of paragraph 15(4) of Schedule 3 (short service benefit and any alternative benefit permitted under regulation 12 not to be commuted except in prescribed circumstances) the prescribed circumstances shall be those described in paragraphs (2) and (3).

(2) In the case of benefit for the member, the prescribed circumstances shall be—

(*a*) that the aggregate of that benefit and all other benefits currently or prospectively payable to him under all schemes relating to employment with