1977 No. 380 (C. 23)

SOCIAL SECURITY

The Social Security Pensions (1975 Order) (Commencement No. 11) Order (Northern Ireland) 1977

Made . . . . . 21*st December* 1977

Coming into operation . . . 5*th January* 1978

In exercise of the powers conferred on me by Article 1(3) and (4) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and of all other powers enabling me in that behalf, I hereby make the following order:

Citation, commencement and interpretation

1.—(1) This order may be cited as the Social Security Pensions (1975 Order) (Commencement No. 11) Order (Northern Ireland) 1977 and shall come into operation on 5th January 1978.

(2) In this order—

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

"the No. 2 Order" means the Social Security Pensions (1975 Order) (Commencement No. 2) Order (Northern Ireland) 1975(**b**);

"the Certification Regulations" means the Occupational Pension Schemes (Certification of Employments) Regulations (Northern Ireland) 1976(**c**);

"the Transitional Regulations" means the Contracted-out Employment (Transitional Arrangements) Regulations (Northern Ireland) 1977(**d**); /

"the Board" means the Occupational Pensions Board;

"employer", in a case where an election with a view to the issue, surrender or variation of a contracting-out certificate is made by a person other than the employer of the earners concerned, means that other person;

"trade union recognised to any extent" includes a trade union treated as recognised to any extent under Article 33(9) of the Order as amended by Article 82(1) of and Schedule 5 to the Industrial Relations (Northern Ireland) Order 1976(**e**).

Amendment of the No. 2 Order

2. The provisions contained in Article 2(2) of the No. 2 Order, in so far as they appoint 6th April 1978 as the day for the coming into operation of Article 32(1)(*b*) and (*c*) of the Order for the purpose of causing an employment to be a contracted-out employment for the purposes of Article 29 of the Order (contracted-out rates of Class 1 contributions), shall cease to have effect and for that purpose the said Article 32(1)(*b*) and (*c*) shall come into operation on 6th October 1978.

(a) S.I. 1975/1503 (N.I. 15)
(b) S.R. 1975 No. 330 (C. 11) (II, p. 1634)
(c) S.R. 1976 No. 5
(d) S.R. 1977 No. 292
(e) S.I. 1976/1043 (N.I. 16)

Adaptation of provisions of the Order

3.—(1) Article 32(1) of the Order shall be adapted, in consequence of its partly postponed operation, so as to provide that, subject to the provisions of the Order, the employment of an earner in employed earner's employment shall, for the purposes of Article 29 of the Order, be treated as contracted-out employment in relation to him during any period between 5th April 1978 and 5th October 1978 in which he is under pensionable age and his service in the employment is for the time being service which qualifies him for the requisite benefits of an occupational pension scheme, if either—

(*a*) the scheme is a contracted-out scheme in relation to that employment, and there is in force a contracting-out certificate, issued by the Board, to the effect that the employment is contracted-out employment by reference to the scheme; or

(*b*) (subject to paragraph (2)) an election under Article 33 of the Order that the employment of that earner should be included in a contracting-out certificate and that the certificate should be effective from 6th April 1978 has been posted or delivered to the Board on or before 23rd March 1978.

(2) If at the earliest of the dates specified in paragraph (3) a contracting-out certificate in respect of the employment of that earner has not been received by the employer and—

(*a*) if that earliest date is not later than 6th April 1978, that employment shall not be treated as contracted-out employment as aforesaid; and

(*b*) if that earliest date is later than 6th April 1978, that employment shall be treated as if it had never been treated as contracted-out employment as aforesaid,

(but without prejudice to the effect of the subsequent issue of any contracting-out certificate).

(3) The dates first referred to in paragraph (2) are—

(*a*) any date with effect from which the employer of the earner, under Article 5 of this order, withdraws the election or amends it so that it does not apply to the employment of that earner;

(*b*) any date on which the employer receives from the Board notification in writing that the Board—

(i) refuse to issue a contracting-out certificate on the basis of the election made by the employer, or

(ii) cannot issue a contracting-out certificate to the employer, unless the employer takes some further action required under the Order or regulations made thereunder, or

(iii) cannot issue a contracting-out certificate to the employer under the Transitional Regulations,

and

(*c*) a date which is either 6th July 1978 or such later date (not being later than 6th October 1978) as the Secretary of State may in his discretion allow.

Notification of liability for arrears of contributions

4.—(1) Where an election to which Article 3(1)(*b*) applies has been posted or delivered to the Board, the employer of any earner to whom the election applies, and in respect of whom the rate of primary contributions can differ according to whether his employment is or is not contracted-out employment,