1977 No. 286

SOCIAL SECURITY

The Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977

Made . . . . . *5th October* 1977

Coming into operation . . . *6th April* 1978

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 42(2) and (3) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Articles 17(1) and (2) and 18(9) and (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 Contracted-out Employment (Miscellaneous Provisions) Regulations (Northern Ireland) 1977 and shall come into operation on 6th April 1978.

(2) In these regulations—

"the 1977 Order" means the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977;

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

"relevant year", in relation to an earner, means any tax year in his working life (not being earlier than the first tax year for which lower and upper earnings limits are specified under Article 3 of the Pensions Order);

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

Policies of insurance and annuity contracts

2. For the purposes of Article 18(9) of the 1977 Order, which makes provisions dependent upon the existence in force of a certificate issued by the Department stating that in its opinion the payment of a guaranteed minimum pension to which a person is entitled or has accrued rights is secured by means of a policy of insurance or annuity contract which satisfies prescribed conditions, the prescribed conditions are—

(*a*) that the policy is taken out, or the contract entered into, with an insurance company to which the Insurance Companies (Northern Ireland) Order 1976(**c**) or Part II of the Insurance Companies Act 1974(**d**) applies and which is authorised by or under Article 7 of that Order or section 3 of that Act to carry on ordinary long-term insurance business as defined in that Order or that Act; and

(*b*) that the policy or contract contains, or is endorsed with, terms so as to provide—

(**a**) S.I. 1975/1503 (N.I. 15)
(**b**) S.I. 1977/610 (N.I. 11)
(**c**) S.I. 1976/59 (N.I. 3)
(**d**) 1974 c. 49

(i) that the annuity to be paid thereunder to or for the benefit of that person 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(7) of the Pensions Order as amended by Article 18(7) of the 1977 Order,

(ii) if that person is a man, that if he dies leaving a widow the annuity to be paid thereunder to her or for her benefit will be at least equal to the guaranteed minimum pension prospectively due to her in the event of her being left as that person's widow,

(iii) that the annuity or annuities (or such part of it or them as relates to the guaranteed minimum pensions of that person and, if he is a man, his widow) is or are (subject to the provisions of Article 41(1) of the Pensions Order and regulations from time to time made thereunder(e)) non-commutable and non-assignable, and

(iv) that the insurance company assumes an enforceable obligation to pay the guaranteed minimum pensions either to that person and, if appropriate, his widow, or, as the case may be, to trustees of a trust for the benefit of that person and, if appropriate, his widow, under the terms of which the sums paid by the insurance company in respect of those guaranteed minimum pensions can be used for no other purpose.

Modification of Article 46(6) *of the Pensions Order*

3. In relation to a scheme which has ceased to be contracted-out and, immediately before it so ceased, contained provisions authorised by Article 37(7) of the Pensions Order as amended by Article 18(7) of the 1977 Order, Article 46(6) of the Pensions Order as amended by Article 18(12) of the 1977 Order shall have effect with the modification that, where under the provisions authorised by the said Article 37(7) an earner's earnings factors are determined for the purposes of Article 37(2) of the Pensions Order without reference to any order made under Article 23 of the Pensions Order, that order shall also be disregarded for the purpose of calculating the costs, referred to in Article 46(5)(*a*) and (*b*) of the Pensions Order, of providing guaranteed minimum pensions for or in respect of that earner, so however that those costs shall be calculated on the basis that the weekly equivalent mentioned in the said Article 37(2) has been increased, in the manner for which the scheme is required to provide by the said Article 37(7), for each relevant year after the year in which the earner's service is terminated except those years (if any) for which his earnings factors are increased by 12 per cent. in accordance with the said Article 46(6).

Modification of Article 17(1) *of the* 1977 *Order*

4. In relation to a scheme which has ceased to be contracted-out and, immediately before it so ceased, contained provisions authorised by Article 37(7) of the Pensions Order as amended by Article 18(7) of the 1977 Order, Article 17(1) of the 1977 Order shall be so modified as to provide that, in the case of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains pensionable age—

(*a*) if it is so terminated before the period of 5 years ending with the tax year in which the scheme ceases to be contracted-out, the provision for taking his earnings factor for any relevant year to be that factor as increased by 12 per cent. for some or all of those tax years shall not apply; and

(e) *See* regulation 7 of S.R. 1976 No. 29