1976 No. 101

SOCIAL SECURITY

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

Made	18*th March* 1976
Coming into operation—	
Regulation 9	28*th March* 1976
Remainder	6*th April* 1978

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 41(1), 45(4) and (6), 46(2), (3) and (6), 47(1) to (3) and 48(7) and (11) of, and paragraphs 1, 3, 6 and 9 of Schedule 2 to, the Social Security Pensions (Northern Ireland) Order 1975(**a**), 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 (Notifications, Premium Payment and Miscellaneous Provisions) Regulations (Northern Ireland) 1976, and shall come into operation in the case of regulation 9 on 28th March 1976 and in the case of the remainder of the regulations on 6th April 1978.

(2) In these regulations—

"administrator", in relation to an occupational pension scheme, means the person or persons resident in the United Kingdom having the management of the scheme;

"the Board" means the Occupational Pensions Board;

"the Contracting-out regulations" means the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1976(**b**);

"employer" includes a person who, by virtue of regulation 3(2), is treated as an employer for the purposes of these regulations;

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

"responsible paying authority" means—

(*a*) in relation to a public service scheme, the authority responsible for paying the benefits of that scheme;

(*b*) in relation to a scheme, not being a scheme set up or established under an irrevocable trust, where the benefits, or so much of the benefits as represent guaranteed minimum pensions, are secured by means of a policy of insurance or annuity contract in accordance with regulation 3 of the Contracting-out regulations, the insurance company or friendly society with which the policy of insurance is taken out or the contract entered into;

(a) S.I. 1975/1503 (N.I. 15)
(b) S.R. 1976 No. 29

(*c*) in relation to a deferred annuity under regulation 3(3) of the Contracting-out regulations, the insurance company or friendly society with which the insurance policy is taken out or the contract entered into; and

(*d*) in any other case, the trustees of the scheme;

"scheme" means an occupational pension scheme;

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

Notifications to the Department

2.—(1) Whenever an earner's service in contracted-out employment is treated as terminated under the provisions of regulation 9 of the Contracting-out regulations the employer of that earner in that service shall, except where the termination is due to the death of the earner or occurs on a date later than the end of the tax year preceding that in which he attains pensionable age, or where the amount of a contributions equivalent premium in respect of that service would not exceed £5, notify the Department of that termination.

(2) A notification required to be given under paragraph (1) may be given at any time within the period of one month before the expected date of termination but if not so given shall be given within 6 months from the date on which the service terminated or, if the Department is satisfied that the notification could not reasonably have been given within that period, such longer period as it may approve in a particular case or class of case.

(3) A notification required to be given under paragraph (1) shall be given in writing in such form as the Department may direct and shall contain such information as the Department may reasonably require for calculating guaranteed minimum pensions and state scheme premiums and for related purposes.

(4) In any case where, subsequent to the giving of a notification under paragraph (1), a responsible paying authority transfers its responsibility for a guaranteed minimum pension to another responsible paying authority, the responsible paying authority making the transfer shall, within one month from the date of such transfer, notify the Department in writing of the transfer giving such particulars as the Department may reasonably require to enable it to identify the new responsible paying authority.

(5) An employer to whom a contracting-out certificate has been issued or the trustees of the scheme to which the certificate relates shall, if required to do so by the Department, in such manner and at such times as the Department may reasonably require, furnish to the Department such information relating to members of the scheme to which the contracting-out certificate relates as it may reasonably require for the purpose of calculating guaranteed minimum pensions and for related purposes.

Liability for payment of state scheme premiums

3.—(1) For the purposes of Article 46(2) of the Order (payment of accrued rights premiums and pensioner's rights premiums) the prescribed person is the trustees of the scheme.

(2) For the purposes of Articles 44 to 47 of the Order the person to be treated as the employer of an employed earner is—

(*a*) subject to sub-paragraphs (*b*) to (*e*), in the case of an employed earner, including an employed earner such as is mentioned in paragraph 6(2) of Schedule 2 to the Order, any person, government department, public authority or body of persons who, under Part I of the Social Security (Northern Ireland) Act 1975(c), is, or is to be treated as, the secondary Class 1 contributor in respect of that earner;

(*b*) in a case where the employer (within the meaning of sub-paragraph (*a*)) of an employed earner in contracted-out employment is insolvent, the trustees of the scheme by reference to which the earner's employment is contracted-out employment, so however that except in the case of a premium under Article 44(3) of the Order the trustees of the scheme shall be liable by virtue of this sub-paragraph only for so much of any state scheme premium as is not recovered from the insolvent employer as a priority debt by virtue of the provisions of paragraph 3 of Schedule 4 to the Order;

(*c*) in a case where a scheme ceases to be contracted-out, and by virtue of arrangements approved by the Board under Article 46(1) of the Order a limited revaluation premium is payable under Article 47(1) of the Order, the trustees of that scheme;

(*d*) in a case where an employed earner's employer (within the meaning of sub-paragraph (*a*)) dies or otherwise ceases to be his employer and the business is taken over by a new employer and the earner's employment in contracted-out employment is to be treated as continuing under the new employer by virtue of regulation 9(5) of the Contracting-out regulations, that new employer; and

(*e*) in a case where a holding company within the meaning of section 148 of the Companies Act (Northern Ireland) 1960(d) or a company which is treated by the Board under regulation 13(1)(*b*)(ii) of the Occupational Pension Schemes (Certification of Employments) Regulations (Northern Ireland) 1976(e) as a holding company, has made an election to contract out in respect of earners employed by one or more subsidiary companies of that company, that holding company or, as the case may be, that company which is treated as a holding company.

(3) Where the amount of a state scheme premium payable under the Order does not exceed £5 the person who would otherwise be liable to pay that premium shall not be so liable, but may nevertheless choose to pay it; and if any such premium is not paid, then for the purpose of extinguishing the earner's entitlement to the guaranteed minimum pension to which the premium relates the premium shall be treated as if it had been paid.

(4) In the event of a contracted-out scheme ceasing to be contracted-out then for the purposes of Article 46 (accrued rights premiums and pensioner's rights premiums) and Article 47 (limited revaluation premiums) of the Order the Board shall certify to the Department whether or not an earner's accrued rights to guaranteed minimum pension or a person's rights to guaranteed minimum pension are subject to approved arrangements as mentioned in the said Article 46 and in the event of rights which are so subject ceasing to be so subject the Board shall certify to the Department the date on which those rights ceased to be so subject.

(5) Any liability for the payment of a state scheme premium which is, by any provisions of these regulations, imposed on the trustees of a scheme shall be a liability to make that payment out of the resources of the scheme.

(c) 1975 c. 15
(d) 1960 c. 22 (N.I.)
(e) S.R. 1976 No. 5

Elections to pay state scheme premiums

4.—(1) An employer's obligation under Article 45(4) of the Order (not to discriminate between different earners when making or abstaining from making elections to pay contributions equivalent premiums) shall not apply to—

(*a*) cases where an earner's accrued rights are transferred under Article 40 of the Order;

(*b*) married women and widows who, by virtue of regulations made under Article 5(2) of the Order, have elected to pay primary Class 1 contributions under the Social Security (Northern Ireland) Act 1975 at a reduced rate;

(*c*) cases where a refund of the earner's contributions to the scheme is precluded to enable the scheme to qualify for the approval of the Commissioners of Inland Revenue for the purposes of section 208 of the Income and Corporation Taxes Act 1970(**f**) or of Chapter II of Part II of the Finance Act 1970(**g**);

(*d*) cases where, on the death of an earner, his widow becomes entitled to a widow's pension which comprises an amount of pension which has accrued by reference to the earner's service in employment which was not contracted-out employment and a widow's guaranteed minimum pension by reference to the earner's service in contracted-out employment; and

(*e*) cases where the earner has completed less than 5 years' qualifying service for the purposes of Schedule 3 to the Order (preservation) but where, nevertheless, he is entitled under the rules of the scheme to elect, and he has elected, that his accrued rights shall be preserved:

Provided that in respect of any of the classes of case mentioned in this paragraph an employer shall not discriminate between different earners falling within the same class of case.

(2) An election under Article 44(2) or (3), or Article 46(6) or 47(3) of the Order shall be notified to the Department in writing in such form as the Department may reasonably require for the purpose of identifying the earner to whom the election relates, and such notification shall be given—

(*a*) in the case of an election under Article 44(2) of the Order, within the period beginning one month before the date of termination of the contracted-out employment to which the election relates and ending 6 months after that date;

(*b*) in the case of an election under Article 44(3) of the Order, within a period of 6 months from the date of death in respect of which the election is made; and

(*c*) in the case of an election under Article 46(6) or 47(3) of the Order, within a period ending 6 months after the date on which the Board certify to the Department, under regulation 3(4), that the earner's accrued rights to guaranteed minimum pension or as the case may be the person's rights to guaranteed minimum pension are not, or, as the case may be, have ceased to be, subject to approved arrangements.

(3) On application being made to it for that purpose the Department may, in any particular case or class of case, extend the periods mentioned in paragraph (2) for the making of an election to pay a state scheme premium if it appears to it that the circumstances are such that an election could not reasonably be made within the specified period.

(**f**) 1970 c. 10 (**g**) 1970 c. 24