1975 No. 48

SOCIAL SECURITY

The National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975

Made . . . . . *5th March* 1975

Coming into operation . . . *6th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by paragraphs 4 and 6(1) and (2)(*a*) and (*b*) of Schedule 26 to the Social Security Act 1973(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 National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975 and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the National Insurance Act (Northern Ireland) 1966(b);

"the 1973 Act" means the Social Security Act 1973;

"the Department" means the Department of Health and Social Services for Northern Ireland;

"the settlement period" has the meaning given by regulation 2 below;

"the shorter settlement period" means the settlement period as shortened in accordance with regulation 2(2) below, whether or not extended in accordance with regulation 2(4);

"the Assurance Regulations" means the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(c), as amended(d);

"the Miscellaneous Provisions Regulations" means the National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations (Northern Ireland) 1960(e), as amended(f);

and other expressions have the same meaning as in the Act.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it.

(a) 1973 c. 38
(b) 1966 c. 6 (N.I.)
(c) S. R. & O. (N.I.) 1960 No. 181 (p. 645)
(d) S.R. & O. (N.I.) 1961 No. 169 (p. 695); 1963 Nos. 71 (p. 225) and 154 (p. 569); 1964 No. 1 (p. 1) and 1970 No. 15 (p. 40)
(e) S.R. & O. (N.I.) 1960 No. 194 (p. 695)
(f) The relevant amending regulations are S.R. & O. (N.I.) 1966 No. 214 (p. 675)

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**g**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

The settlement period

2.—(1) "The settlement period" means a period beginning on 6th April 1975 and ending on 5th April 1980 unless the period is shortened under paragraph (2) or extended under paragraph (4) below.

(2) Subject to paragraph (3) below, in a case where any of the following events occurs, namely—

(*a*) the service with the employer is terminated (whether through the death of the insured person or the employer, the transfer of the employer's business or otherwise);

(*b*) the pension scheme is wound up or the insured person ceases to be a member of it; or

(*c*) the employer becomes insolvent,

the settlement period shall end 26 weeks after the event or on 5th April 1980, whichever is earlier.

(3) In a case to which paragraph (2) above applies, where, before the settlement period (including any extension thereof which is granted under paragraph (4) below) would, but for this paragraph, have ended, the following conditions are satisfied, namely—

(*a*) the insured person has continued or resumed his service with the employer or entered service with the employer's successor or (where the employer is an insolvent company) its receiver or manager appointed by order of the court in accordance with the provisions of the Companies Act (Northern Ireland) 1960(**h**); and

(*b*) the employer or his successor, receiver or manager, as the case may be, has assumed or resumed responsibility for the provision of the equivalent pension benefits accrued to the insured person up to 5th April 1975; and

(*c*) the insured person is a member of a pension scheme which was a recognised superannuation scheme for the purposes of Part III of the Act on 5th April 1975 and which has under its own rules accepted his service in non-participating employment as qualifying him for the equivalent pension benefits accrued to him up to that date,

the settlement period shall end on 5th April 1980 unless it again falls to be shortened under paragraph (2) above or is extended, or again extended, under paragraph (4) below.

(4) The settlement period may for good cause be extended by the Department, on application being made to the Department, beyond the date on which it would have ended under paragraph (1), (2) or (3) (as the case may be) above, for such further period or periods as the Department may direct, so however that no such extension shall prolong the settlement period by more than 52 weeks unless the Department is satisfied that the extension is required—

(*a*) for the purpose both of enabling an employee to become entitled to short service benefit under paragraph 6(1) of Schedule 16 to the 1973 Act, and of assuring him of equivalent pension benefits; or

(**g**) 1889 c. 63
(**h**) 1960 c. 22 (N.I.)

(*b*) for the purpose of remedying an error or omission made in seeking to comply with the provisions of the Assurance Regulations or these regulations and without failure to exercise due care and diligence,

in which case the extension shall end not later than 5th April 1983.

(5) For the purposes of paragraph (2)(*a*) above, service with the employer is to be treated as terminated—

(*a*) when the employee's contract of service has expired or been terminated, or, in the absence of a contract of service, when the service itself has ended; or

(*b*) when the employee reaches the age of 70 if a man, or 65 if a woman, whichever is the earlier.

Continuance in force of certain provisions of enactments and regulations

3. For the purposes of facilitating the winding up of the system of insurance under the Act and the disposal of matters connected with that system, and of temporarily retaining for transitional purposes the effect of certain provisions of enactments which are repealed by section 100(2)(*b*) of and Schedule 28 to the 1973 Act and of certain regulations made, or having effect as if made, by virtue of those repealed provisions, there shall continue in force the provisions of the enactments specified in the first column of Schedules 1 and 2 below, those specified in Schedule 1 without modifications, and those specified in Schedule 2 with the modifications specified in the following provisions of these regulations; and the regulations specified in Schedule 3 below shall be modified as mentioned in the following provisions of these regulations.

Modifications of section 57 (payments in lieu of contributions)

4.—(1) Section 57 of the Act shall be so modified as to include provision that, subject to the provisions of paragraphs 15 and 16 of Schedule 9 to the Act and of this regulation, where an insured person's period of service in a non-participating employment comes to an end by reason of the repeal of section 55(1) of the Act or by reason of the provisions of regulation 2(2) of the Assurance Regulations as modified by regulation 10(2)(*a*) (in the cases referred to in regulation 10(8)(*a*)) or 10(2)(*b*) below, a payment in lieu of contributions (of the amount set out in section 57) shall, except where the insured person dies before 6th July 1975, be due from his employer to the National Insurance Fund at the end of the settlement period unless at any time during that period the insured person has become, and has remained, assured of equivalent pension benefits.

(2) In a case to which paragraph (1) above applies, and in which a payment in lieu of contributions is made and subsequently, within the settlement period, the insured person becomes assured of equivalent pension benefits, the payment may be refunded to the employer, on application by him in writing to the Department.

(3) For the purposes of this regulation, where an insured person dies without being assured of equivalent pension benefits, he shall be deemed to have been so assured immediately before his death and to have remained so assured until the end of the settlement period if it is shown to the satisfaction of the Department that his employer intended so to assure him within the settlement period; and for the purposes of this paragraph the Department may require the employer to furnish a certificate on a form approved by the Department.

Modifications of section 58 (payments in lieu of contributions—further provisions)

5.—(1) Section 58(4) of the Act shall be so modified as to apply only to cases where a person's service in non-participating employment came to an end and he entered another non-participating employment before 6th April 1975.

(2) Section 58(8) of the Act shall be so modified, in its application to cases where service in a non-participating employment has come to an end in the circumstances mentioned in regulation 4 above, as to provide that in such cases a payment in lieu of contributions shall be due in accordance with the provisions of section 57 as modified by the said regulation 4.

Modification of section 59 (employer's rights against insured person in respect of payment in lieu of contributions)

6.—(1) This regulation applies to circumstances where at any time after the coming to an end of an insured person's service in a non-participating employment in the circumstances mentioned in regulation 4(1) above—

(*a*) he (or, by virtue of a connection with him, any other person)—is entitled to a refund of any payments made under the recognised superannuation scheme by or in respect of him towards the provision of benefits under the scheme; and

(*b*) either he has been assured of equivalent pension benefits, or a payment in lieu of contributions has been or falls to be made in respect of him.

(2) Section 59(1) of the Act shall be so modified as to include provision that in the circumstances specified in paragraph (1) above, the person who has made or is liable to make the payment in lieu of contributions mentioned in paragraph (1)(*b*) above, or who would be so liable had the insured person not been assured of equivalent pension benefits, shall, subject to the provisions of that section as modified by the provisions of this regulation, be entitled—

(*a*) having made that payment, or any part of it, to recover one half of the sum paid by him from the person liable for the refund mentioned in paragraph (1)(*a*) above; or, as the case may be,

(*b*) to recover one half of the value of the payment in lieu of contributions which he would have had to make, if the insured person had not been assured of those benefits, from the person liable for that refund,

provided that the amount recoverable shall not exceed the amount of the refund, or so much of it as has not been made.

(3) Section 59(2) of the Act shall be so modified as to provide additionally that where the period for which equivalent pension benefits have been assured does not coincide with the period in respect of which the refund is to be made, then (subject to subsection (3) as modified by paragraph (4) of this regulation) the amount recoverable under section 59 shall be determined by reference to so much of the refund and of the payment which would have had to be made had the insured person not been assured of equivalent pension benefits as are referable to the length of time which is common to both periods.

(4) Section 59(3) of the Act shall be so modified as to apply additionally to cases where, had the insured person not been assured of equivalent pension benefits, a payment in lieu of contributions would have fallen to be made, and under section 58(4) of the Act the insured person's service in a previous

employment would have been treated in fixing that payment as service in the employment in respect of which the refund is made.

(5) Section 59(4) of the Act shall be so modified as to apply additionally to cases where paragraph (2)(*b*) above applies and the person who would have been liable to make a payment in lieu of contributions had the insured person not become assured of equivalent pension benefits is himself the person liable for the refund.

(6) Section 59(6) of the Act shall be so modified as to apply additionally to cases in which, had the insured person not been assured of equivalent pension benefits, a payment in lieu of contributions would have fallen to be made in respect of him and under section 58(4) of the Act his service in 2 employments would have been treated as service in one in fixing that payment.

(7) Section 59(7) shall be so modified—

(*a*) as to apply additionally to the recovery of the value of any part of the payment in lieu of contributions which would have had to be made if the insured person had not become assured of equivalent pension benefits; and

(*b*) as to provide that a person shall not be entitled to recover any part of a payment in lieu of contributions except in a case to which regulation 7 below applies, or, in any other case, except in accordance with section 59 of the Act (as modified by this regulation).

Reduction of pension benefits after making of payment in lieu of contributions

7. Where, in respect of service in non-participating employment which came to an end in the circumstances mentioned in regulation 4(1) above, a payment in lieu of contributions has been made after 5th April 1975, and the person liable for that payment has not exercised any right of recovery in respect of it under section 59 of the Act as modified by regulation 6 above, and the insured person subsequently becomes entitled to pension benefits (which equal or exceed equivalent pension benefits) in respect of the same service as that which was taken into account in fixing the payment, and in respect of the same period or any part thereof, the person liable for the payment shall be entitled to make arrangements, with the person liable to provide the pension benefits, for the reduction of those benefits by an amount equal to the amount of equivalent pension benefits for that period or, as the case may be, that part of that period.

Modification of section 287(1)(f) of the Companies Act (Northern Ireland) 1960

8. Section 287(1)(*f*) of the Companies Act (Northern Ireland) 1960 shall be so modified as to apply additionally to payments in lieu of contributions payable before or by the effect of the winding up order or resolution whether or not on the termination of a person's employment.

Modification of section 1(1)(f) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964

9. Section 1(1)(*f*) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964(i) shall be so modified as to apply additionally to payments in lieu of contributions payable before or by the effect of the order of adjudication whether or not on the termination of a person's employment.

(i) 1964 c. 32 (N.I.)