1965. No. 246 [C]

TERMS AND CONDITIONS OF EMPLOYMENT

Redundancy Payments—Pensions

REGULATIONS, DATED 19TH NOVEMBER, 1965, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 24 OF THE CONTRACTS OF EMPLOYMENT AND REDUNDANCY PAYMENTS ACT (NORTHERN IRELAND) 1965.

The Ministry of Health and Social Services in exercise of powers conferred by section 24 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a) and of all other powers enabling it in that behalf hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965 and shall come into operation on 6th December, 1965.

Interpretation

2. In these Regulations—

"the Act" means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965;

"employee" has the meaning assigned to it by section 63(3) of the Act and includes any person in respect of whom the Act has effect as if he were an employee within the meaning of that section;

"employer" has the meaning assigned to it in section 63(3) of the Act and includes any person in respect of whom the Act has effect as if he were an employer within the meaning of that section;

"the Ministry" means the Ministry of Health and Social Services;

"pension" has the meaning assigned to it in Regulation 3 and includes any part of a pension;

"pensioned employee" means an employee who has a right or claim to a pension of a kind referred to in Regulation 4;

"tribunal" means a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(b);

"week" means a week ending with Saturday.

Meaning of "pension"

3.—(1) Subject to the provisions of this Regulation, in these Regulations "pension" means a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Ministry is satisfied that it is to be paid in accordance with any scheme or arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits and (except in the case of such a lump sum which had been paid to the employee) that—

(*a*) the scheme or arrangement is established by Act of Parliament or of the Parliament of the United Kingdom, or other instrument having the force of law; or

(*b*) the benefits under the scheme or arrangement are secured by an irrevocable trust which is subject to the laws of Northern Ireland; or

(a) 1965. c. 19 (N.I.). (b) 1964. c. 18 (N.I.).

(*c*) the benefits under the scheme or arrangement are secured by a contract of assurance or an annuity contract which is made with—

(i) an assurance company to which the Assurance Companies Acts (Northern Ireland) 1909 to 1947(**a**) apply; or

(ii) a registered friendly society; or

(iii) an industrial and provident society registered under the Industrial and Provident Societies Act 1893(**b**);

and that the provision made to enable benefits to be paid (taking into account any additional resources which could and would be provided by the employer, or any person connected with the employer, to meet any deficiency) is adequate to ensure payment in full of the benefits aforesaid.

(2) If in any case the Ministry is satisfied that benefits under the scheme or arrangement are wholly or mainly provided for the benefit of persons not resident in Northern Ireland it may if it thinks fit and subject to such conditions, if any, as it thinks proper, waive the requirement contained in paragraph (1)(*b*) in respect of a scheme or arrangement the benefits under which are secured by an irrevocable trust or the requirements of heads (i), (ii) or (iii) of paragraph (1)(*c*) in the case of a scheme or arrangement the benefits under which are secured by a contract of assurance or an annuity contract.

(3) In these Regulations "pension" does not include—

(*a*) a payment to an employee which consists solely of a return of his own contributions, with or without interest;

(*b*) that part of a payment to an employee which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement;

(*c*) a periodical payment or lump sum, in so far as that payment or lump sum represents such compensation as is mentioned in section 53(1) of the Act (which relates to statutory compensation schemes) and is payable under a statutory provision, whether made or passed before, on or after the appointed day.

Application of Regulations

4.—(1) These Regulations apply in any case where an employee who is entitled, or but for these Regulations, would be entitled to a redundancy payment from an employer has a right or claim to a pension for himself which—

(*a*) is to be paid by reference to the employee's last period of continuous employment with that employer;

(*b*) (i) if it is a lump sum is to be paid, or

(ii) if it is a periodical payment is to begin to accrue,

at the time when the employee leaves the employment with that employer or within 90 weeks thereafter; and

(*c*) in so far as it consists of periodical payments satisfies the conditions specified in paragraph (2).

(2) The conditions referred to in the preceding paragraph are that the Ministry is satisfied that the pension is payable for life and is not capable of being terminated or suspended except for—

(*a*) the operation of any provision for the termination or suspension of the pension—

(i) upon the commutation thereof; or

(a) 9 Edw. 7. c. 49; 14 & 15 Geo. 5. c. 20 (N.I.) and 1947. c. 1.
(b) 56 & 57 Vict. c. 39.