1988 No. 34

SOCIAL SECURITY

The Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988

Made	*8th February 1988*
Coming into operation—	
regulations 1 to 11, 19 and 20	*1st March 1988*
regulations 12 to 18	*1st July 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 3(1), (2), (4), (5), (9), (10) and (11), 4(1) and (5), 5(1)(*b*) and (5) and 84(1) of, and paragraphs 2 and 6 of Schedule 1 to, the Social Security (Northern Ireland) Order 1986(**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 Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

(*a*) this regulation and regulations 2 to 11, 19 and 20 on 1st March 1988;

(*b*) regulations 12 to 18 on 1st July 1988.

(2) In these regulations—

"administrators", in relation to a personal pension scheme, means the trustees or, if there are no trustees, the managers (except any trustee or manager who is resident outside the United Kingdom, or which, being a company, does not have its registered office in the United Kingdom), and any person who is resident in the United Kingdom, or which, being a company, has its registered office in the United Kingdom, who or which is authorised to act on behalf of the trustees, or, if there are no trustees, on behalf of the managers;

"the Board" means the Occupational Pensions Board;

"contracted-out", "contracted-out scheme" and "money purchase contracted-out scheme" shall be construed in accordance with the Pensions Order(**b**);

"Friendly Society" means a Friendly Society registered under section 1(1)(*a*) of the Friendly Societies Act (Northern Ireland) 1970(**c**), or, as

(a) S.I. 1986/1888 (N.I. 18)
(b) S.I. 1975/1503 (N.I. 15); *see* Articles 2 and 34, as amended by paragraphs 2 and 6 of Schedule 2 to the Social Security (Northern Ireland) Order 1986
(c) 1970 c. 31 (N.I.)

the case may be, under section 7(1)(*a*) of the Friendly Societies Act 1974(**a**);

"investment business" has the meaning assigned to that expression by the Financial Services Act 1986(**b**);

"the Order" means the Social Security (Northern Ireland) Order 1986;

"pensionable age" means, in the case of a man, 65, and in the case of a woman, 60;

"scheme" (except in the expressions "contracted-out scheme", "money purchase contracted-out scheme", "occupational pension scheme" and "unit trust scheme") means personal pension scheme;

"tax week" has the same meaning as in the principal Act(**c**).

(3) Any reference in these regulations to a numbered Article is a reference to the Article of the Order bearing that number.

Forms of schemes which may be appropriate schemes

2.—(1) Without prejudice to any other requirements imposed by the Order or regulations made under it, a personal pension scheme can be an appropriate scheme only if it is approved by the Inland Revenue under either Chapter II of Part I of the Finance (No. 2) Act 1987(**d**) or Chapter II of Part II of the Finance Act 1970(**e**) by reference to section 20(2)(*h*) of that Act and in either case it takes the form specified in any one (but not more than one) of sub-paragraphs (*a*) to (*c*)—

(*a*) an arrangement for the issue of insurance policies or annuity contracts;

(*b*) a unit trust scheme of a kind mentioned in Part I of Schedule 1 which has been authorised under section 78(1) of, or by virtue of paragraph 9 of Schedule 15 to, the Financial Services Act 1986;

(*c*) an arrangement for the investment of contributions in an interest-bearing account or shares in or deposits with a building society as defined in the Building Societies Act 1986(**f**).

(2) For the purposes of this regulation a personal pension scheme which has been granted provisional approval by the Inland Revenue under the Personal Pension Schemes (Provisional Approval) Regulations 1987(**g**) shall be treated as being approved under Chapter II of Part I of the Finance (No. 2) Act 1987.

Persons who and bodies which may establish schemes

3.—(1) Without prejudice to any other requirements of the Order or regulations made under it—

(**a**) 1974 c. 46
(**b**) 1986 c. 60
(**c**) 1975 c. 15
(**d**) 1987 c. 51
(**e**) 1970 c. 24; subsection (2) of section 20 was substituted by section 21(4) of the Finance Act 1971 (c. 68) and paragraph (*h*) of that subsection was inserted by paragraph 3 of Schedule 3 to the Finance (No. 2) Act 1987
(**f**) 1986 c. 53
(**g**) S.I. 1987/1765

(*a*) an arrangement such as is described in regulation 2(1)(*a*) which is established by a Friendly Society can be an appropriate scheme only if paragraph (2) applies to that Friendly Society; and

(*b*) an arrangement such as is described in regulation 2(1)(*c*) can be an appropriate scheme only if it is established by a person to whom or a body to which paragraph (3) applies.

(2) This paragraph applies to a Friendly Society which—

(*a*) is authorised by virtue of Chapter III of Part I of the Financial Services Act 1986; and

(*b*) has disclosed in its audited accounts a contributions income of not less than £300,000 in the year 1986 and £400,000 in the year 1987.

(3) This paragraph applies to—

(*a*) a building society as defined in the Building Societies Act 1986;

(*b*) a pension company within the meaning of the Building Societies (Designation of Pension Companies) Order 1987(**a**) which is an associated body of a building society within the meaning of section 18(17) of the Building Societies Act 1986;

(*c*) an institution authorised under Part I of the Banking Act 1987(**b**).

Information to be included in an application for an appropriate scheme certificate

4.—(1) Every application for an appropriate scheme certificate shall be made in writing to the Board and shall include the following particulars—

(*a*) the name of the scheme and the address where it is administered;

(*b*) the names and addresses of the trustees (if any) and administrators of the scheme;

(*c*) the name, address and standing (in relation to the scheme) of the person applying for the certificate, if he is not the trustees or administrators, or one or some of them;

(*d*) the name and address of the person who or body which has established the scheme (the address in the case of a company being that of its registered office);

(*e*) such evidence as the Board may reasonably require that the scheme satisfies such of the requirements of regulation 3 as apply to it;

(*f*) which of the forms specified in sub-paragraphs (*a*) to (*c*) of regulation 2(1) the scheme takes;

(*g*) the name and address of a bank or building society which accepts payments made by automated direct credit transfer and the name and number of the account at that bank or building society, into which it is desired that minimum contributions should be paid; and

(*h*) the date (being a date consistent with the provisions of regulation 5(2)(*b*)) from which it is desired that the certificate shall have effect.

(**a**) S.I. 1987/1871
(**b**) 1987 c. 22

(2) Every application shall be accompanied by a copy of—

(*a*) the documents constituting the scheme; and

(*b*) the rules of the scheme, if they are not set out in those documents or any of them,

except where the Board in their discretion dispense wholly or partly with this requirement.

(3) Every person who has made an application shall supply such other documents and information as the Board may reasonably require.

Issue of appropriate scheme certificates

5.—(1) When the Board have determined that a scheme should be treated as an appropriate scheme, they shall issue an appropriate scheme certificate to the person who applied for it, but no such certificate shall be issued before 1st July 1988.

(2) The appropriate scheme certificate shall specify—

(*a*) the name of the scheme and the address where it is administered; and

(*b*) the date from which the certificate is to have effect, which shall be 6th April in 1987 or any later year and which may be earlier than the date on which the certificate is issued where the person who applied for the certificate has so requested, but, if the Board receive the application after 5th April 1989, not earlier than 6th April in the tax year in which the Board receive the application.

Further information and change of circumstances

6. The administrators of the scheme shall—

(*a*) in such manner and at such times as the Board may reasonably require, furnish to the Board such reports, accounts and other documents and information relating to the scheme to which the certificate relates as the Board may reasonably require; and

(*b*) notify the Board in writing of—

(i) any change in the identity, names or addresses of the trustees (if any) and administrators of the scheme,

(ii) any change in the name or address of the person who or body which has established the scheme,

(iii) any change affecting the information given under regulation 4(1)(*e*) and (*f*), and

(iv) any change of circumstances affecting the scheme as the Board may have required them to notify,

as soon as practicable after its occurrence; and the document by which the notification is given may be served by ordinary post.

Applications for the variation of, and to surrender, appropriate scheme certificates

7.—(1) Every application for the variation of, or to surrender, an appropriate scheme certificate—

(*a*) shall be made in writing to the Board by the administrators of the scheme;

(*b*) shall be made only after notices of intention to make that application have been given by the administrators in accordance with paragraph (2) except where (in the case of an application for the variation of an appropriate scheme certificate) the Board dispense with this requirement; and

(*c*) shall include a statement that all notices required by paragraph (2) to be given in relation to that application have been duly given.

(2) Notices of intention to make an application such as is mentioned in paragraph (1) shall be given in writing to—

(*a*) any member of the scheme who has protected rights under it; and

(*b*) any earner who, jointly with the trustees or managers of the scheme, has given in relation to the scheme a notice under Article 3(9) which has not been cancelled,

by sending it to his last known address; and the document comprising the notice may be served by ordinary post.

(3) Notices given under this regulation shall specify—

(*a*) the name of the scheme and the address where it is administered;

(*b*) the date (being a date consistent with the provisions of regulation 9(5)) from which it is desired that the variation or surrender shall have effect; and

(*c*) where the application is to surrender an appropriate scheme certificate, any arrangements made or proposed for the preservation or transfer of protected rights under the scheme.

(4) Every person who makes an application under this regulation shall supply such other documents and information as the Board may reasonably require.

Determination of question arising on an application for the issue of an appropriate scheme certificate

8.—(1) Subject to the provisions of this regulation, the Board shall treat an application for an appropriate scheme certificate as an application for the determination of the question whether the scheme in question shall be an appropriate scheme, and subject to the provisions of paragraph (3), they shall determine the question as soon as practicable.

(2) The Board may refuse to give effect to an application if they are not satisfied that the applicant has complied with the provisions of regulation 4.

(3) The Board may defer making a determination until such documents and information as are mentioned in regulation 4(2) and (3) have been supplied.

(4) Where under this regulation the Board determine that a scheme should be treated as an appropriate scheme they shall issue an appropriate scheme certificate in accordance with regulation 5, and inform the Department that they have done so.

(5) Where the Board's determination under this regulation does not give effect to the application, the Board shall notify the applicant in writing of the

determination and of the reasons for it and shall refer him to the Board's powers of review under Article 62 of the Pensions Order(a).

Determination of question arising on an application with a view to the variation or surrender of an appropriate scheme certificate

9.—(1) Subject to the provisions of this regulation, the Board shall treat an application made with a view to the variation or surrender of an appropriate scheme certificate as an application for the determination of the question whether the certificate should be varied or, as the case may be, whether the scheme should cease to be an appropriate scheme; and subject to the provisions of paragraph (3) they shall determine the question as soon as practicable.

(2) The Board may refuse to give effect to an application if they are not satisfied that the applicant has complied with the provisions of regulation 7.

(3) The Board may defer making a determination until such documents and information as are mentioned in regulation 7(4) have been supplied.

(4) When the Board have made a determination under paragraph (1), they shall vary or accept the surrender of the certificate if such action would give effect to the determination, and inform the Department that they have done so.

(5) The date from which a surrender or variation is to have effect shall be that on which the determination is made, except that, where the person who made the application has requested that it should have effect from a specific date which is earlier or later than the date on which the determination is made, it may have effect from that specific date, so however that that date shall not be earlier than the date on which the Board receive the application, or later than the last day of the tax year in which the Board receive the application.

(6) Where the Board's determination under this regulation does not give effect to the application, the Board shall notify the applicant in writing of the determination and of the reasons for it and shall refer him to the Board's powers of review under Article 62 of the Pensions Order; and the applicant shall give notice in writing of the determination and the Board's reasons for it, to—

(*a*) any member of the scheme who has protected rights under it; and

(*b*) any earner who, jointly with the trustees or managers of the scheme, has given in relation to the scheme a notice under Article 3(9) which has not been cancelled,

by sending it to his last known address; and the document comprising the notice may be served by ordinary post.

Other circumstances in which the Board may cancel an appropriate scheme certificate

10.—(1) Where the Board have reason to suppose that any scheme to which an appropriate scheme certificate applies should not continue to be an appropriate scheme, and the administrators of the scheme have not shown to

(a) Article 62 was amended by paragraph 18 of Schedule 5 to, and paragraph 20 of Schedule 9 to, the Social Security (Northern Ireland) Order 1986

the satisfaction of the Board that it should so continue, the Board may determine that the scheme should not continue to be treated as an appropriate scheme; where they so determine, they shall cancel the certificate with effect from such date as they may specify (subject to paragraph (2)); the Board shall notify the administrators of the scheme in writing of their determination and the reasons for it and shall refer them to the Board's powers of review under Article 62 of the Pensions Order, and shall also notify the Department of their determination.

(2) The date from which the cancellation is to have effect shall be the date on which the certificate is cancelled, except that, where the Board consider that the scheme has failed to satisfy the requirements for continuing to be an appropriate scheme before that date, they may cancel the certificate with effect from an earlier date, so however that that earlier date—

(*a*) shall not be a date other than 6th April in any year; and

(*b*) shall not be earlier than 6th April in the tax year in which the Board consider that the scheme first failed to satisfy those requirements.

Determination of questions

11. Any question—

(*a*) whether a scheme is, or at any time was, an appropriate scheme; or

(*b*) for what period a scheme is or has been an appropriate scheme,

shall be determined by the Board.

Notice under Article 3(9)

12.—(1) A notice under Article 3(9) (notices to the Department by an earner and the trustees or managers of a scheme of willingness that that scheme should be his chosen scheme) shall be given in writing in such form as the Department may in its discretion accept.

(2) Subject to paragraph (3), the date specified in a notice under Article 3(9) as the date from which the scheme is to be the earner's chosen scheme shall be one of the following dates, selected by the persons who give the notice—

(*a*) 6th April in the tax year in which the Department receives the notice;

(*b*) 6th April in the next tax year; and

(*c*) only in a case where the Department receives the notice before 6th April 1989, 6th April 1987.

(3) In a case where a scheme (''the first scheme'') was an earner's chosen scheme on the date with effect from which the first scheme ceased to be an appropriate scheme, the date specified in a notice under Article 3(9) as the date from which another scheme (''the second scheme'') is to be the earner's chosen scheme may be the date with effect from which the first scheme ceased to be an appropriate scheme (whether or not that date is 6th April), if that date is not earlier than whichever is the earlier of—

(*a*) the date 6 months earlier than that on which the Department receives the notice; and

(*b*) 6th April in the tax year in which the Department receives the notice.

Notice under Article 3(10)

13.—(1) A notice under Article 3(10) (notice cancelling a notice given under Article 3(9), in this regulation called "the relevant Article 3(9) notice") shall be given in writing and in such form as the Department may in its discretion accept.

(2) The date specified in a notice under Article 3(10) as the date from which the scheme is to cease to be the earner's chosen scheme shall be 6th April in the tax year in which the Department receives the notice or 6th April in the next tax year, so however that if the notice is given by the earner and not by the trustees or managers of the scheme the date shall be at least a year later than the date specified in the relevant Article 3(9) notice.

Circumstances in which minimum contributions are not to be paid to schemes

14.—(1) Minimum contributions shall not be paid in respect of an earner for any part of the tax year in which he attains pensionable age unless they were payable, or would have been payable had his earnings not been taken to be nil under regulation 17, in respect of him for the previous tax year.

(2) After a scheme has ceased to be appropriate, minimum contributions shall not, except as provided by paragraph (11), be paid to the trustees or managers of that scheme for any period during which that scheme was appropriate by virtue of an appropriate scheme certificate which had effect from a date earlier than that on which it ceased to be appropriate.

(3) After effect has been given to protected rights of an earner under a scheme, minimum contributions shall not, except as provided by paragraph (11), be paid to the trustees or managers of that scheme for any period during which that scheme was the earner's chosen scheme by virtue of a notice given under Article 3(9) which had effect from a date earlier than that on which effect was given to those protected rights.

(4) Where—

(*a*) but for the provisions of paragraph (2), or paragraphs (2) and (3), minimum contributions would have fallen to be paid to the trustees or managers of a scheme ("the first scheme") which has ceased to be appropriate, for—

(i) any tax year before it ceased to be appropriate, or

(ii) any part of a tax year before it ceased to be appropriate;

(*b*) no minimum contributions have been paid, except under this paragraph, in respect of that earner for the whole or any part of the period which begins on the first day of—

(i) the tax year mentioned in sub-paragraph (*a*)(i), or

(ii) the tax year mentioned in sub-paragraph (*a*)(ii),

and ends on the day before that on which the first scheme ceased to be appropriate; and

(*c*) with effect from the date on which the first scheme ceased to be appropriate, another scheme ("the second scheme") which is an appropriate scheme has become the chosen scheme of the earner in respect of whom the minimum contributions mentioned in sub-paragraph (*a*) would have fallen to be paid,

the minimum contributions which would have fallen to be paid to the trustees or managers of the first scheme, except any of them that have been paid in accordance with paragraph (5), shall be paid to the trustees or managers of the second scheme.

(5) Where, but for the provisions of paragraph (3), or paragraphs (2) and (3), minimum contributions would have fallen to be paid to the trustees or managers of a scheme for any period before the end of the tax year in which effect was given to the protected rights in question, those minimum contributions shall, subject to paragraph (6), be paid, in the circumstances described in paragraphs (7), (10) and (13), to the persons described in paragraphs (8), (9), (11), (12) and (14) (and in no other circumstances and to no other persons).

(6) In the case of a scheme which has ceased to be appropriate—

(*a*) no payment shall be required under paragraph (5) if effect was given to the protected rights in question later than the end of the tax year immediately following the tax year which included the day with effect from which the scheme ceased to be appropriate; and

(*b*) no payment shall be required under paragraph (5) of any minimum contributions that—

(i) would have fallen to be paid for a period after the end of the tax year immediately preceding the tax year which included the day with effect from which the scheme ceased to be appropriate, or

(ii) are required under paragraph (4) to be paid to the trustees or managers of another scheme.

(7) Paragraphs (8) and (9) apply where effect has been given to the earner's protected rights by the making of a transfer payment to another personal pension scheme or to an occupational pension scheme.

(8) Where the personal pension scheme is an appropriate scheme or the occupational pension scheme is a money purchase contracted-out scheme the minimum contributions shall be paid to the trustees or managers of that scheme.

(9) Where the circumstances described in paragraph (8) do not exist and the minimum contributions are payable for, or for part of, the tax year in which the earner attained pensionable age or died before attaining that age, the minimum contributions shall be paid to the earner or his widow or her widower, or if the earner died unmarried, they may at the Department's discretion be paid to any person.

(10) Paragraphs (11) and (12) apply where effect has been given to the earner's protected rights by the purchase of an annuity or by the provision by the scheme of a pension.

(11) Where—

(*a*) the amount of the minimum contributions in question is at least 10 times as great as the lower earnings limit (within the meaning of Article 3 of the Pensions Order(**a**)) for the tax year in which the

(a) Article 3 was amended by paragraph 7 of Schedule 5 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209) (N.I. 16)) and Article 75(4) of the Social Security (Northern Ireland) Order 1986

Department first becomes aware that the minimum contributions are payable, or would be payable but for paragraph (2) or (3); and

(*b*) the Department is satisfied that the minimum contributions will be applied fairly to increase the amount of the annuity or pension,

the minimum contributions shall be paid (in the case of an annuity) to the insurance company from which the annuity has been purchased or (in the case of a pension) to the trustees or managers of the scheme.

(12) Where the circumstances described in paragraph (11) do not exist and the minimum contributions are payable for, or for part of, the tax year in which the earner attained pensionable age or died before attaining that age, the minimum contributions shall be paid to the earner or his widow or her widower, or if the earner died unmarried, they may at the Department's discretion be paid to any person.

(13) Paragraph (14) applies where effect has been given to the earner's protected rights by the award of a lump sum.

(14) Where the minimum contributions are payable for, or for part of, the tax year in which the earner attained pensionable age or died before attaining that age, the minimum contributions shall be paid to the earner or his widow or her widower, or if the earner died unmarried, they may at the Department's discretion be paid to any person.

Manner of payment of minimum contributions

15. Minimum contributions shall be paid—

(*a*) by automated direct credit transfer into a bank or building society account which relates to the relevant scheme and which accepts payments made by automated direct credit transfer; or

(*b*) in such other manner as the Department may in its discretion approve.

Claim for the purpose of Article 5(1)(b)

16. For the purpose of Article 5(1)(*b*), £1·00 shall be substituted for 2 per cent. of the earnings referred to in Article 5(1)(*a*) if 2 per cent. of those earnings is less than £1·00 and the earner or his widow or her widower, or the administrators of the relevant scheme in respect of whom the minimum contributions are to be paid, applies or apply in writing in such form as the Department may in its discretion accept.

Calculation or estimation of earnings

17.—(1) In relation to any tax year, the earnings of an earner shall be calculated or estimated, for the purposes mentioned in this regulation, on the bases mentioned in this regulation.

(2) In paragraph (3)—

"eligible tax week" means any tax week in any part of which the earner in question is at least 16 years of age, and in no part of which he is over pensionable age, and (for the purposes of sub-paragraph (*b*), but not sub-paragraph (*a*), of Article 5(1)) which is not a week for which he is entitled to a Class 1 credit, by virtue of regulation 9 of the Social Security (Credits) Regulations (Northern Ireland) 1975(**a**), by reason of unemployment; and

(**a**) S.R. 1975 No. 113; the relevant amending regulations are S.R. 1976 No. 321, S.R. 1977 No. 132, S.R. 1978 No. 77, S.R. 1982 No. 42, S.R. 1983 Nos. 31 and 76 and S.R. 1987 Nos. 153 and 220

"ineligible tax week" means any tax week which is not an eligible tax week.

(3) In relation to any eligible tax week in a tax year the earnings of an earner shall be taken to be the amount calculated or estimated in accordance with paragraph (1) divided by the number of eligible tax weeks in that tax year, and in relation to any ineligible tax week they shall be taken to be nil.

(4) For the purposes of Article 5(1)(*a*), the formula set out in paragraph (5)(*a*), or, if it produces a smaller value for X, the formula set out in paragraph (5)(*b*), shall be applied, so however that if the formula set out in paragraph (5)(*a*) produces a negative value for X, or if the value of P is nil, the value of X shall be taken to be nil.

(5) The formulae mentioned in paragraph (4) are—

(*a*) $X = P + R - S - 52L$; and

(*b*) $X = 53U - 52L$.

(6) For the purposes of Article 5(1)(*b*), the formula set out in paragraph (7)(*a*), or, if it produces a smaller value for X, the formula set out in paragraph (7)(*b*), shall be applied, so however that if the formula set out in paragraph (7)(*a*) produces a negative value for X, or if the value of $P - Q$ is nil, the value of X shall be taken to be nil.

(7) The formulae mentioned in paragraph (6) are—

(*a*) $X = P - Q + R - S - 52L$; and

(*b*) $X = 53U - 52L$.

(8) In paragraph (9)—

(*a*) "primary Class 1 contributions" does not include contributions which the earner, being a married woman or widow, is liable to make at a reduced rate in accordance with an election which she has made and which is still operative; and

(*b*) the reference to contributions as having been paid includes the case of contributions which are treated as having been paid under regulation 39 of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**a**) but does not include the case of contributions which are treated as not paid under regulation 38(1) and (2)(*a*) of those regulations.

(9) In this regulation—

(*a*) L is the lower earnings limit (within the meaning of Article 3 of the Pensions Order) for the tax year in question;

(*b*) P is the total earnings, insofar as the earnings for each week did not exceed U, paid to or for the benefit of the earner in relation to the tax year in question, in relation to which primary Class 1 contributions have been paid with respect to employments that are not contracted-out;

(*c*) Q is that part (if any) of P which derives from employments prescribed under Article 5(2)(**b**) (employments in respect of which incentive payments are not to be made);

(**a**) S.R. 1979 No. 186; to which there are amendments not relevant to these regulations
(**b**) *See* S.R. 1987 No. 293, regulation 2

(*d*) R is the total earnings, insofar as the earnings for each week did not exceed U, paid to or for the benefit of the earner in relation to the tax year in question, in relation to which primary Class 1 contributions have been paid with respect to employments that are contracted-out;

(*e*) S is the total earnings, insofar as the earnings for each week equalled or exceeded L but did not exceed U, paid to or for the benefit of the earner in relation to the tax year in question, in relation to which primary Class 1 contributions have been paid with respect to employments that are contracted-out;

(*f*) U is the upper earnings limit (within the meaning of Article 3 of the Pensions Order) for the tax year in question; and

(*g*) X is so much of the earnings paid to or for the benefit of the earner with respect to any employment which is not contracted-out employment in relation to him as exceeds the lower earnings limit but does not exceed the upper earnings limit.

Adjustment of amount of minimum contributions

18. Where the amount of minimum contributions payable in respect of an earner in relation to a tax year would otherwise not be a whole number of pence, it shall be taken to be the nearest whole number of pence, or, when the 2 nearest whole numbers are equally near, the lower of them.

Cancellation of membership of interest-bearing account-funded appropriate personal pension schemes

19.—(1) Without prejudice to any other requirements imposed by the Order or regulations made under it, a personal pension scheme which comprises an arrangement of the kind described in regulation 2(1)(*c*) can be an appropriate scheme only if it satisfies the requirements of paragraph (2).

(2) Without prejudice to any right of a member of the scheme, under Article 17(1) or other rules of the scheme, the rules of the scheme shall include provision—

(*a*) that, within 7 days of the day on which a person becomes a member of the scheme, he shall be served, personally or by ordinary post, with a notice in writing containing the information specified in Schedule 2 and a form of counter-notice; and

(*b*) that, if the person signs the form of counter-notice or another document to the same effect and serves it—

(i) by ordinary post or otherwise,

(ii) not later than the fourteenth day after the notice referred to in sub-paragraph (*a*) is served on him,

(iii) on the person nominated, in that notice, to accept service of it,

his membership of the scheme shall be cancelled and the contributions (if any) paid to the scheme by him or for him shall be returned, as soon as reasonably practicable, to the person who paid them.

(3) Where a counter-notice of the kind mentioned in paragraph (2)(*b*) is properly addressed, pre-paid and served by ordinary post, it shall be deemed to have been duly served on the day on which it was posted.

Transitional provisions

20.—(1) During the period beginning on 1st July 1988 and ending on 5th April 1989 the Board may in their discretion issue an appropriate scheme certificate, notwithstanding that they have not satisfied themselves that the scheme in question satisfies the conditions for the issue of such a certificate, on the basis of—

(*a*) the information specified in paragraph (2) given by the administrators of the scheme;

(*b*) an undertaking, given by any person having power to alter any of the rules of the scheme in question, to the effect specified in paragraph (3); and

(*c*) an undertaking, given by the person who or body which has established the scheme, to the effect specified in paragraph (4).

(2) The information mentioned in paragraph (1)(*a*) is to the effect that, to the best of the belief of the administrators, the documents submitted with the application satisfy the requirements for the issue of an appropriate scheme certificate in relation to the scheme in question.

(3) The undertaking mentioned in paragraph (1)(*b*) is to the general effect that the person giving it will—

(*a*) use his best endeavours to make, within such time as the Board may specify, such alterations to the rules of the scheme (having effect from the date from which the appropriate scheme certificate has effect) as may be necessary to make the scheme satisfy the requirements of Schedule 1 to the Order; and

(*b*) within such time as the Board may specify, lodge with the Board copies of the rules as so altered.

(4) The undertaking mentioned in paragraph (1)(*c*) is to the effect that where, as a result of the Board's cancelling the appropriate scheme certificate because alterations as mentioned in paragraph (3)(*a*) have not been made within the time specified by the Board, any person has incurred financial obligations in respect of personal pension protected rights premiums, the person or body giving the undertaking will provide any additional funds necessary to enable those financial obligations to be met.

(5) For the purpose of Article 7(8), in a case where—

(*a*) the Board have issued an appropriate scheme certificate by virtue of paragraph (1) and have subsequently cancelled it with effect from a date which is later than that with effect from which they issued it; and

(*b*) the rules of the scheme as regards the protected rights of members are not in accordance with Schedule 1 to the Order,

the rules of the scheme shall be deemed to make any such provision as the Board may consider necessary to ensure that its members have protected rights which are in accordance with that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services on 8th February 1988.

(L.S.) *A. N. Burns*
Assistant Secretary

SCHEDULE 1 Regulation 2(1)(*b*)

Kinds of Unit Trust Scheme that may be an Appropriate Scheme

PART I

KINDS OF UNIT TRUST SCHEME

An authorised securities scheme.

A feeder fund, but only if the authorised unit trust scheme which is the object of its investment is an authorised securities scheme, a money market fund, or a fund of funds of a kind mentioned in this Part of this Schedule.

A fund of funds, but only if the authorised unit trust schemes which are the object of its investment are authorised securities schemes or money market funds.

A money market fund.

PART II

DEFINITIONS

In this Schedule—

"authorised securities scheme" means an authorised unit trust scheme the sole object of which is investment in transferable securities and which is not a feeder fund or a fund of funds;

"authorised unit trust scheme" has the same meaning as in the Financial Services Act 1986(**a**);

"feeder fund" means an authorised unit trust scheme the sole object of which is investment in units of a single authorised unit trust scheme;

"fund of funds" means an authorised unit trust scheme the sole object of which is investment in units of other authorised unit trust schemes;

"money market fund" means an authorised unit trust scheme the sole object of which is investment in transferable securities, deposits and instruments creating or evidencing indebtedness which are not transferable securities; and

"transferable security" means any investment falling within paragraphs 1 to 6 of Schedule 1 to the Financial Services Act 1986 other than an investment title to which either cannot be transferred or can be transferred only with the consent of a third party.

(a) 1986 c. 60

SCHEDULE 2 Regulation 19(2)(*a*)

Information to be included in Notice

1. The right of the member to cancel his membership of the scheme.

2. The provisions of Article 17(1), the scheme rules and of these regulations which govern the exercise of the right referred to in paragraph 1.

3. The name and address of the person on whom the member's counter-notice, mentioned in regulation 19, should be served.

4. The type of account, or accounts, in which contributions to the scheme are invested.

5. The rate of interest, at the time when the notice is served, which is accruing to contributions of members of the scheme which are then invested.

6. The part—

(*a*) of any payment or payments that are made to the scheme by or on behalf of a member;

(*b*) of any income arising from the investment of payments such as are mentioned in sub-paragraph (*a*); or

(*c*) of the value of rights under the scheme,

that may be used (otherwise than as an unidentifiable element in the calculation of interest on invested contributions)—

(i) to defray the administrative expenses of the scheme;

(ii) to pay commission; or

(iii) in any other way which does not result in the provision of benefits for or in respect of members.

7. How tax relief on members' contributions is effected.

8. How the cessation of the making of contributions to the scheme by a member of it, not less than 21 days after he becomes a member of it, but before the end of the period for which he could continue making such contributions, would affect the member's rights under the scheme.

9. The address to which enquiries about the scheme generally or about an individual's entitlement to benefit should be sent.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Articles 3, 4 and 5 of, and Schedule 1 to, the Social Security (Northern Ireland) Order 1986 (''the Order'') are some of the enabling provisions under which these regulations are made. Article 4 and Schedule 1 were brought into operation on 1st May 1987 and Articles 3 and 5 on 4th January 1988 by virtue of the Social Security (1986 Order) (Commencement No. 5) Order (Northern Ireland) 1987 (S.R. 1987 No. 161 (C. 6)).

If a personal pension scheme is to be an appropriate scheme for the purposes of the Order, it must, in view of regulation 2, take the form of only one of the following—

(*a*) an arrangement for the issue of insurance policies or annuity contracts;

(*b*) certain kinds of unit trust schemes which have been authorised under or by virtue of the Financial Services Act 1986; or

(*c*) an arrangement for the investment of contributions in an interest-bearing account, or shares in or deposits with a building society.

Regulation 3 provides that a Friendly Society can establish an appropriate scheme only if it is authorised by virtue of Chapter III of Part I of the Financial Services Act 1986 and has disclosed in its audited accounts a contributions income of not less than £300,000 in the year 1986 and £400,000 in the year 1987; and that an appropriate scheme can take the form of an interest-bearing account only if it is established by—

(*a*) a building society as defined in the Building Societies Act 1986;

(*b*) a pension company as defined in the Building Societies (Designation of Pension Companies) Order 1987; or

(*c*) an institution authorised under Part I of the Banking Act 1987.

Regulations 4 to 11 set out the procedures for applying to the Occupational Pensions Board (''the Board'') for the issue by the Board of an ''appropriate scheme certificate'' (a certificate that a personal pension scheme is an appropriate scheme for the purposes of the Order) and for applying to the Board to surrender such a certificate or to have one varied. They make provision for the Board to determine questions whether and for what period a scheme is or was an appropriate scheme, and questions arising on an application concerning the issue, variation or surrender of an appropriate scheme certificate, and they also provide for the cancellation of certificates.

Regulations 12 and 13 set out the procedures for giving notices under Article 3(9) and (10) of the Order (under which a particular personal pension scheme may become, or cease to be, a particular earner's ''chosen scheme'').

Regulations 14 to 18 deal with the minimum contributions which the Department is to pay under Article 3(1) of the Order. Regulation 14 sets out the circumstances in which minimum contributions, otherwise payable to the

trustees or managers of a personal pension scheme, are not to be paid, or are to be paid to another scheme or to other persons. Regulation 15 deals with the manner of payment of minimum contributions, and regulation 16 with claims for the purpose of Article 5(1)(*b*) of the Order, which provides for mimimum contributions to be increased for tax weeks ending before 6th April 1993. Regulation 17 sets out the method of calculating or estimating the earnings on which minimum contributions are based, and regulation 18 provides for the rounding of mimimum contributions to avoid fractional amounts.

Regulation 19 provides that a personal pension scheme which comprises an arrangement for the investment of contributions in an interest-bearing account or accounts can be an appropriate scheme only if (without prejudice to any right of a member of it which arises otherwise than by virtue of these regulations), the scheme rules include provision—

(*a*) first, that within 7 days of a member's joining the scheme, he shall be served with a notice which contains the information mentioned in Schedule 2; and

(*b*) secondly, that within 14 days of the service of that notice, the member may cancel his membership of the scheme and receive a refund of any contributions which he has paid to it.

Regulation 20 provides transitionally for the issue (only until 5th April 1989) of an appropriate scheme certificate, even though the Board have not satisfied themselves that the scheme satisfies the conditions for the issue of one, on the basis of information given by the administrators of the scheme and undertakings given by any person having power to alter the scheme's rules and by the person who or body which has established the scheme.