1987 No. 278

SOCIAL SECURITY

The Contracting-out (Widowers' Guaranteed Minimum Pensions) Regulations (Northern Ireland) 1987

Made	*10th July 1987*
Coming into operation	*6th April 1988*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 38(7A) of the Social Security Pensions (Northern Ireland) Order 1975(**a**) and Article 11(6) of the Social Security (Northern Ireland) Order 1986(**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 Contracting-out (Widowers' Guaranteed Minimum Pensions) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1988.

(2) In these regulations "the principal regulations" means the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(**c**).

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with paragraph (2).

(2) After regulation 30A there shall be inserted the following regulations—

"*Circumstances in which widower's pension is to be payable*

30B. For the purposes of Article 38(7A) (for a scheme to be contracted-out it must provide for an earner's widower's pension to be payable in prescribed circumstances and for a prescribed period) the prescribed circumstances are that—

(*a*) the widower and the earner were both over pensionable age when the earner died;

(*b*) the widower is entitled to child benefit (which expression has in this regulation the same meaning as in the Child Benefit (Northern Ireland) Order 1975(**d**)) in respect of a child who is, or residing with a child under 16 who is—

(**a**) S.I. 1975/1503 (N.I. 15); Article 38(7A) is inserted by Article 11(3)(*c*) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))
(**b**) S.I. 1986/1888 (N.I. 18)
(**c**) S.R. 1985 No. 259; the relevant amending regulations are S.R. 1985 No. 357
(**d**) S.I. 1975/1504 (N.I. 16)

(i) a son or daughter of the widower and the earner,

(ii) a child in respect of whom the earner, immediately before her death was, or would have been if the child had not been absent from Northern Ireland, entitled to child benefit, or

(iii) if the widower and the earner were residing together immediately before the earner's death, a child in respect of whom he then was, or would have been if the child had not been absent from Northern Ireland, entitled to child benefit; or

(*c*) the widower had attained the age of 45 either—

(i) when the earner died, or

(ii) during a period when the circumstances mentioned in paragraph (*b*) existed.

Period for which widower's pension is to be payable

30C.—(1) For the purposes of Article 38(7A) the prescribed period is—

(*a*) in a case where the circumstances described in paragraph (*a*) of regulation 30B exist, the remainder of the widower's life;

(*b*) in a case where the circumstances described in paragraph (*b*), but not either paragraph (*a*) or paragraph (*c*), of regulation 30B exist, the period (subject to paragraph (2)) during which the circumstances described in paragraph (*b*) of regulation 30B continue to exist; and

(*c*) in a case where the circumstances described in paragraph (*c*), but not paragraph (*a*), of regulation 30B exist, the remainder of the widower's life (subject to paragraph (2)).

(2) There is excluded from the periods prescribed under paragraph (1)(*b*) and (*c*) any period—

(*a*) after the widower's remarriage under pensionable age;

(*b*) during which he is under pensionable age and he and a woman to whom he is not married are living together as husband and wife;

(*c*) after he has attained pensionable age if immediately before he attained that age he and a woman to whom he was not married were living together as husband and wife.

Statutory references to persons entitled to guaranteed minimum pensions — application to widowers

30D. The provisions of Articles 46(1)(*b*)(**a**) and (2)(*b*)(**b**), 50(1)(**c**) and 51(3)(**d**) shall be construed as if the references to a person entitled to

(a) Article 46(1) is amended by paragraph 7(1)(*f*) of Schedule 2 to, and paragraph 14(1) of Schedule 9 to, the Social Security (Northern Ireland) Order 1986

(b) Article 46(2) was amended by paragraph 19 of Schedule 5 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and paragraph 14(3) of Schedule 9 to the Social Security (Northern Ireland) Order 1986

(c) Article 50(1) is amended by paragraph 10(*a*) of Schedule 2 to the Social Security (Northern Ireland) Order 1986

(d) Article 51(3) is amended by paragraph 11 of Schedule 2 to the Social Security (Northern Ireland) Order 1986

receive a guaranteed minimum pension included references to a person so entitled by virtue of being the widower of an earner only in the case where the earner and the widower were both over pensionable age when the earner died.''.

Sealed with the Official Seal of the Department of Health and Social Services on 10th July 1987.

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

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations are made under Article 38(7A) of the Social Security Pensions (Northern Ireland) Order 1975 (''the Pensions Order'') and Article 11(6) of the Social Security (Northern Ireland) Order 1986 (''the Order''). Article 38(7A) and Article 11(6) are brought into operation on 6th April 1988 by virtue of the Social Security (1986 Order) (Commencement No. 5) Order (Northern Ireland) 1987 (S.R. 1987 No. 161 (C. 6)).

Article 11(3) of the Order amends Article 38 of the Pensions Order so that, in certain circumstances, an occupational pension scheme has to provide widowers' as well as widows' pensions if it is to be contracted-out.

Regulation 2 of these regulations inserts into the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985 three new regulations, 30B to 30D. Regulation 30B sets out the circumstances in which a widower's pension is to be payable; they are related to the ages of the widower and the earner, and to his entitlement (if any) to child benefit. Regulation 30 C specifies the period for which a widower's pension is to be payable. Regulation 30D provides that in certain provisions of the Pensions Order, concerning schemes which have ceased to be contracted-out, the references to a person entitled to receive a guaranteed minimum pension include the widower of an earner only in the case where the earner and the widower were both over pensionable age when the earner died.