SCHEDULES

SCHEDULE 5

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

SPECIFIC PROVISIONS

Contracting-out requirements for schemes providing guaranteed minimum pensions

7 An occupational pension scheme which—

(a) at any time before the coming into operation of the first regulations made under—

(i) sub-paragraph (a) of paragraph (2) of Article 34 of the Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 5(2)(a) of this Act), or

(ii) paragraph (8) of Article 37 of the Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 12(4) of this Act),

did not satisfy that sub-paragraph or, as the case may be, that paragraph; but

(b) would have satisfied it if those regulations had then been in operation,

shall, for the purpose of determining whether the scheme satisfied that sub-paragraph or, as the case may be, that paragraph, be treated as if those regulations had been in operation at that time.

8 Any document the contents of which are in terms corresponding to those of paragraph (7) of Article 37 of the Social Security Pensions (Northern Ireland) Order 1975 as that paragraph stood immediately before the making of the Social Security (Northern Ireland) Order 1985 (which corresponded to section 12(2) and (3) of this Act, but with the substitution for the words from "is terminated before" onwards of the words "is terminated before he attains the scheme's normal pension age shall be determined for the purposes of section 10(2) without reference to any order that comes into operation under Article 23 of the Social Security Pensions (Northern Ireland) Order 1975 after the relevant year in which his service ends") shall be construed as if its contents were and always had been in terms corresponding to those of section 12(2) and (3) of this Act.

9 The requirement of the Social Security Pensions (Northern Ireland) Order 1975 that for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide requisite benefits shall, except so far as it relates to guaranteed minimum pensions, be treated for the purposes of section 33 of this Act as if it had never existed.

10 (1) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme made an increase in the rate of pensions currently payable to the members

of the scheme who had attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this sub-paragraph, they would be required to make under section 105 in the tax year 1990-91.

(2) Subsections (1) and (4) of section 106 shall apply to sub-paragraph (1) as they apply to subsections (2) and (3) of that section.

Overriding effect of certain requirements for existing contracted-out and appropriate schemes

11 (1) Subject to sub-paragraph (2), if immediately before paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1990 came into operation a contracting-out certificate was in force in relation to an occupational pension scheme then, to the extent that the rules of the scheme are inconsistent with the inclusion in section 9(2)(a) of this Act of the words "and does not have a guaranteed minimum under sections 10 to 12" and the inclusion in section 10 of this Act of subsection (3) of that section, they shall be overridden by them.

(2) If paragraph 4(3) of Schedule 8 has or ever had effect in respect of this paragraph, sub-paragraph (1) shall have effect with the substitution for the words "paragraph 6 of Schedule 4 to the Social Security (Northern Ireland) Order 1990" of the words "this paragraph".

12 If immediately before 14th August 1990—

(a) there was in force in relation to an occupational pension scheme a contracting-out certificate which stated that the scheme was contracted-out by virtue of Article 34(2A) of the Social Security Pensions (Northern Ireland) Order 1975, or

(b) there was in force in relation to a personal pension scheme an appropriate scheme certificate,

then, to the extent that the rules of the scheme are inconsistent with any provision of this Act derived from provision made by paragraph 16(1) or (2) or 17(1) to (3) of Schedule 6 to the Social Security (Northern Ireland) Order 1989 (by virtue of which—

(i) section 23(3) applies to all protected rights and not only such rights as are mentioned in section 6(2) or (3);

(ii) section 24 includes subsection (1) and, in subsection (3), the words "Subject to subsections (5) and (7)", the words from "except" to "subsection (4)" and the word "shall"; and

(iii) section 25 includes subsection (2)),

they shall be overridden by that provision.

Transactions discharging trustees

13 Without prejudice to section 28 of the Interpretation Act (Northern Ireland) 1954—

(a) as respects a transaction which took place before 1st January 1986, sections 15(1) and 77 have effect with the omission of paragraph (c), and

(b) as respects a transaction which took place before 1st November 1986, section 15 has effect with the substitution for the references to guaranteed minimum pensions of references to requisite benefits.

Contributions equivalent premiums: earnings before 1987-88

14 (1) Where an earner's earnings paid in any period before the tax year 1987-88—

(a) exceeded the lower earnings limit; but

(b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,

it shall be assumed for the purposes of sections 54(4) and 57(2) that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them; and in this paragraph "Bracket 3" has the meaning given in section 9(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(2) Section 59(3) applies for the purposes of sub-paragraph (1), in so far as it applies as respects section 54(4), as if the reference in paragraph (b) of section 59(3) to earnings included a reference to earnings relevant for any purpose of that sub-paragraph.

(3) Where the Department has acted in pursuance of section 59(3) as applied by sub-paragraph (2) and it subsequently ascertains the amount of those earnings—

(a) if it appears to the Department that the amount of the contributions equivalent premium would have been less if the Department had not made the calculation on the basis described in sub-paragraph (1), it shall refund the difference to the prescribed person, and

(b) if it appears to the Department that that premium would have been greater if the Department had not done so, the prescribed person shall pay the difference to the Department.

Preservation

15 Without prejudice to paragraph 3, in any case where—

(a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending with 27th February 1991, otherwise than on the termination of his service in relevant employment, and

(b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,

paragraph 6(1) of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 67(1) of this Act) shall be taken at all times on and after 6th April 1988 to have had effect in relation to the member and his rights under the scheme with the amendment made by paragraph 12(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (which substituted the words "pensionable service" for the words "service in relevant employment").

Anti-franking

16 (1) If before 23rd August 1989 an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Chapter III of Part IV shall apply in relation to him with the modifications set out in sub-paragraphs (2) and (3).

(2) In section 83—

(a) in subsection (3) for the words "at any time" there shall be substituted the words "on the relevant date and at any time thereafter";

(b) after that subsection there shall be inserted—

"(3A) In subsection (3) "relevant date"—

(a) in the application of that subsection to a case where a scheme provides for any part of the pension in excess of the earner's guaranteed minimum to commence from a date not more than 3 months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age, is to be construed in relation to the part of the pension as to which such provision is made as a reference to the date on which by virtue of it that part of the pension begins to be paid; and

(b) in any other case means the commencement of payment date.";

(c) subsection (4)(d) shall be omitted.

(3) Section 86 shall be omitted.

Modifications in consequence of making of Part II of the Social Security (Northern Ireland) Order 1986

17 (1) Regulations may provide that any provision of this Act to which section 150 applies shall have effect subject to such modifications (other than those which may be made by virtue of that section) as the Department may consider necessary or expedient in consequence of Part II of the Social Security (Northern Ireland) Order 1986 or any provision of this Act deriving from that Part.

(2) Regulations may provide that any provision contained in a statutory provision to which this sub-paragraph applies shall have effect subject to such modifications as the Department, after consultation with the appropriate authority, may consider necessary or expedient in consequence of the provisions mentioned in sub-paragraph (1).

(3) The statutory provisions to which sub-paragraph (2) applies are—

(a) the Judicial Pensions Act (Northern Ireland) 1951;

(b) the County Courts Act (Northern Ireland) 1959;

(c) the Resident Magistrates' Pensions Act (Northern Ireland) 1960;

(d) the Lands Tribunal and Compensation Act (Northern Ireland) 1964;

(e) the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;

(f) the Police Act (Northern Ireland) 1970;

(g) the Superannuation (Northern Ireland) Order 1972;

(h) section 97(4) of, and paragraphs 5(2), 6 and 7A of, the Social Security (Northern Ireland) Act 1975;

(i) the Assembly Pensions (Northern Ireland) Order 1976;

(j) section 72(2) of, and Schedule 4 to, the Judicature (Northern Ireland) Act 1978;

(k) the Fire Services (Northern Ireland) Order 1984;

(l) the Judicial Pensions and Retirement Act 1993.

(4) In this paragraph "the appropriate authority" means such Minister of the Crown or government department as the Secretary of State may by order designate in relation to any provision of a statutory provision to which sub-paragraph (2) applies; and regulations under that sub-paragraph modifying such a provision shall not be made without the consent of the appropriate authority so designated.

Savings for statutory rules

18 The repeal of Article 18A(2) of the Social Security (Northern Ireland) Order 1986 shall not affect the validity of any order containing such provision as there mentioned (provision for the Department to make payments in relation to the provisions contained in Part II of that Order for any period beginning on or after 6th April 1987).

Provisions contained in Act by virtue of statutory rules

19 Without prejudice to any express provision in this Act, where this Act repeals any provision contained in any statutory provision by virtue of any order or regulations (including a provision which has not come into operation at the time of the repeal) and the provision is reproduced in this Act, the Department shall have the like power to make orders or regulations repealing or amending the provision of this Act which reproduces the effect of the repealed provision as it had in relation to that provision.

Saving for application of general provisions relating to social security

20 The repeals made by this Act do not affect the operation of Article 2(3) of the Social Security Pensions (Northern Ireland) Order 1975 (or of any other provision in that Order or any other enactment as it applies by virtue of that Article), so far as it is not given effect to in this Act but remains capable of having effect (and paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 shall continue to have effect accordingly).

Saving for Article 9 of the Social Security (Northern Ireland) Order 1986

21 The repeal by this Act of Article 9 of the Social Security (Northern Ireland) Order 1986 (schemes becoming contracted-out between 1986 and 1993) or of any reference to that Article in another of the repealed enactments does not affect—

(a) the operation of that Article so far as it is not reproduced in this Act but remains capable of having effect; or

(b) the operation of that enactment so far as the reference is not reproduced in the corresponding provision of this Act and that enactment remains capable of having effect in relation to that Article.