

SCHEDULES

SCHEDULE 5

PENSIONS: MISCELLANEOUS AMENDMENTS AND ALTERNATIVE TO ANTI-FRANKING RULES

PART I

MISCELLANEOUS AMENDMENTS

Guaranteed minimum for widows and widowers

1.—(1) In section 13 of the Pension Schemes Act (minimum pensions for widows and widowers), after subsection (4) there shall be inserted—

“(4A) The scheme must provide for the widow or widower’s pension to be payable to the widow or widower—

- (a) for any period for which a Category B retirement pension is payable to the widow or widower by virtue of the earner’s contributions or would be so payable but for section 43(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (persons entitled to more than one retirement pension);
- (b) for any period for which widowed parent’s allowance or bereavement allowance is payable to the widow or widower by virtue of the earner’s contributions; and
- (c) in the case of a widow or widower whose entitlement by virtue of the earner’s contributions to a widowed parent’s allowance or bereavement allowance has come to an end at a time after the widow or widower attained the age of 45, for so much of the period beginning with the time when the entitlement came to an end as neither—
 - (i) comprises a period during which the widow or widower and a person of the opposite sex are living together as husband and wife; nor
 - (ii) falls after the time of any remarriage by the widow or widower.”.

(2) In subsection (5) of that section—

- (a) for “must provide” there shall be substituted “must also make provision”; and
 - (b) the words “Category B retirement pension,”, in the first place where they occur, and the words from “or for which” to the end shall cease to have effect.
- (3) In subsection (6) of that section, for “must provide” there shall be substituted “must also make provision”.

Transfer of rights to overseas personal pension schemes

- 2.—(1) In section 16(1) of the Pension Schemes Act (transfer of accrued rights)
- (a) in paragraph (a), for “or to a personal pension scheme” there shall be substituted “, to a personal pension scheme or to an overseas arrangement”; and
 - (b) in paragraph (b), for “or a personal pension scheme” there shall be substituted “, a personal pension scheme or an overseas arrangement”.
- (2) In section 24(2)(b) of that Act (ways of giving effect to protected rights)—
- (a) in sub-paragraph (i), for “or to a personal pension scheme” there shall be substituted “, to a personal pension scheme or to an overseas arrangement”; and
 - (b) in sub-paragraph (ii), for “or to an occupational pension scheme” there shall be substituted “, to an occupational pension scheme or to an overseas arrangement”.
- (3) In section 176(1) of that Act (general interpretation), after the definition of “occupational pension scheme”, there shall be inserted—
- ““overseas arrangement” means a scheme or arrangement which—
- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
 - (b) is administered wholly or primarily outside Northern Ireland;
 - (c) is not an appropriate scheme; and
 - (d) is not an occupational pension scheme;”.

Protected rights

- 3.—(1) Section 24 of the Pension Schemes Act shall be amended as follows.
- (2) In subsection (4), for paragraph (d) there shall be substituted—
- “(d) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given.”.

Status: This is the original version (as it was originally enacted).

(3) After that subsection there shall be inserted—

“(4A) Subject to subsection (4B), in the case of an occupational pension scheme, effect may be given to protected rights by the provision of a lump sum if—

- (a) the trustees or managers of the scheme are satisfied that the member is terminally ill and likely to die within the period of twelve months beginning with the date on which the lump sum becomes payable; and
- (b) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given.

(4B) The value of the protected rights to which effect may be given under subsection (4A) in a case in which the member is a married person on the date on which the lump sum becomes payable shall not exceed one half of the value on that date of all the member’s protected rights.”.

(4) In subsections (3) and (5), for “or (4)” there shall be substituted “, (4) or (4A)”.

Use of cash equivalent for annuity

4. In section 91 of the Pension Schemes Act (ways of taking right to cash equivalent), subsection (4) shall cease to have effect.

Transfer values where pension in payment

5.—(1) In section 93(2) of the Pension Schemes Act (calculation of cash equivalents), for “and” at the end of paragraph (a) there shall be substituted—

- “(aa) for a cash equivalent, including a guaranteed cash equivalent, to be reduced so as to take account of the extent (if any) to which an entitlement has arisen under the scheme to the present payment of the whole or any part of—
- (i) any pension; or
 - (ii) any benefit in lieu of pension; and”.

(2) In section 94(7) of that Act (variation and loss of rights under section 90)—

- (a) after “right” there shall be inserted “if”; and
- (b) paragraph (a) shall cease to have effect.

(3) In Article 121(1) of the Pensions Order (interpretation of Part II), in the definition of “pensioner member”, after “other benefits” there shall be inserted “and who is not an active member of the scheme”.

(4) Sub-paragraph (2) has effect in relation to any case in which the whole or any part of a pension or other benefit becomes payable on or after the coming into operation of that sub-paragraph.

Information about contracting-out

6. For section 152 of the Pension Schemes Act (information as to guaranteed minimum pensions) there shall be substituted—

“152 Information for purposes of contracting-out

(1) The Department or the Inland Revenue may give to the trustees or managers of an occupational pension scheme or appropriate scheme such information as appears to the Department or Inland Revenue appropriate to give to them for the purpose of enabling them to comply with their obligations under Part III.

(2) The Department or Inland Revenue may also give to such persons as may be prescribed any information that they could give under subsection (1) to trustees or managers of a scheme.”.

Trustees of schemes

7. In section 173 of the Pension Schemes Act (managers of schemes)—

- (a) for “provide who is to be treated” there shall be substituted “provide—
 - (a) who is to be treated”; and
- (b) at the end there shall be added—

“or

- (b) who is to be treated as a trustee of a scheme for the purposes of Chapter I of Part IV, Chapter I of Part IVA, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 149(2), 154(1) to (5), 158, 159 and 171.”.

Register of disqualified trustees

8.—(1) In Article 30(7) of the Pensions Order (persons disqualified: consequences), for the words from “and” to the end there shall be substituted “but the arrangements made by the Authority for the register shall secure that the contents of the register are not disclosed or otherwise made available to members of the public except in accordance with Article 30A.”.

(2) After that paragraph there shall be added—

“(8) Nothing in paragraph (7) requires the Authority to exclude any matter from a report published under Article 101.”.

(3) After that Article there shall be inserted—

“Accessibility of register of disqualified trustees

30A.—(1) The Authority shall make arrangements that secure that the disqualification register is open, during the normal working hours of the Authority, for inspection in person and without notice at—

- (a) the principal office used by them for the carrying out of their functions under this Order, and
- (b) such other offices (if any) of theirs or of the Department as they consider to be places where it would be reasonable for a copy of the register to be kept open for inspection.

(2) If a request is made to the Authority—

- (a) to state whether a particular person identified in the request is a person appearing in the disqualification register as disqualified in respect of a scheme specified in the request, or
- (b) to state whether a particular person identified in the request is a person appearing in that register as disqualified in respect of all trust schemes,

it shall be the duty of the Authority promptly to comply with the request in such manner as they consider reasonable.

(3) The Authority may, in such manner as they think fit, publish a summary of the disqualification register if (subject to paragraphs (6) to (8)) the summary—

- (a) contains all the information described in paragraph (4),
- (b) arranges that information in the manner described in paragraph (5),
- (c) does not (except by identifying a person as disqualified in respect of all trust schemes) identify any of the schemes in respect of which persons named in the summary are disqualified, and
- (d) does not disclose any other information contained in the register.

(4) That information is—

- (a) the full names and titles, so far as the Authority have a record of them, of all the persons appearing in the register as persons who are disqualified,
- (b) the dates of birth of such of those persons as are persons whose dates of birth are matters of which the Authority have a record, and
- (c) in the case of each person whose name is included in the published summary, whether that person appears in the register—
 - (i) as disqualified in respect of only one scheme,

(ii) as disqualified in respect of two or more schemes but not in respect of all trust schemes, or

(iii) as disqualified in respect of all trust schemes.

(5) For the purposes of sub-paragraph (c) of paragraph (4), the information contained in the published summary shall be arranged in three separate lists, one for each of the descriptions of disqualification specified in the three heads of that sub-paragraph.

(6) The Authority shall ensure, in the case of any published summary, that a person is not identified in the summary as a disqualified person if it appears to them that the determination by virtue of which that person appears in the register—

(a) is the subject of any pending review, appeal or legal proceedings which could result in that person's removal from the register, or

(b) is a determination which might still become the subject of any such review, appeal or proceedings.

(7) The Authority shall ensure, in the case of any published summary, that the particulars relating to a person do not appear in a particular list mentioned in paragraph (5) if it appears to them that a determination by virtue of which that person's particulars would appear in that list—

(a) is the subject of any pending review, appeal or legal proceedings which could result in such a revocation or other overturning of a disqualification of that person as would require his particulars to appear in a different list, or

(b) is a determination which might still become the subject of any such review, appeal or proceedings.

(8) Where paragraph (7) prevents a person's particulars from being included in a particular list in the published summary, they shall be included, instead, in the list in which they would have been included if the disqualification to which the review, appeal or proceedings relate had already been revoked or otherwise overturned.

(9) For the purposes of this Article a determination is one which might still become the subject of a review, appeal or proceedings if, and only if, in the case of that determination—

(a) the time for the making of an application for a review, or for the bringing of an appeal or other proceedings, has not expired, and

(b) there is a reasonable likelihood that such an application might yet be made, or that such an appeal or such proceedings might yet be brought.

(10) In this Article—

Status: This is the original version (as it was originally enacted).

“the disqualification register” means the register kept by the Authority under Article 30(7),

“name”, in relation to a person any of whose names is recorded by the Authority as an initial, means that initial.”.

Conditions of payment of surplus to employer

9.—(1) Article 37 of the Pensions Order (payment of surplus to employer) shall be amended as follows.

(2) In paragraph (4) for sub-paragraph (d) there shall be substituted—

“(d) the annual rates of the pensions under the scheme are increased, at intervals of not more than twelve months, by at least the relevant percentage, and”.

(3) After paragraph (5) there shall be inserted—

“(5A) For the purposes of paragraph (4)(d), the relevant percentage is the percentage which, for the purposes of the increases of the annual rates of the pensions under the scheme—

(a) falls to be computed by reference to a period which, except in the case of the first increase—

(i) begins with the end of the period by reference to which the last preceding increase was made, and

(ii) ends with a date which falls after the date of the last preceding increase, and

(b) is equal to whichever is the lesser of—

(i) the percentage increase in the retail prices index over the period by reference to which the increase is made, and

(ii) the equivalent over that period of 5 per cent. per annum.”.

(4) In paragraph (6), for the words from the beginning to the end of sub-paragraph (a) there shall be substituted—

“(6) In this Article—

(a) “annual rate” has the same meaning as in Article 54, and”.

(5) The preceding provisions of this paragraph have effect in relation to payments made to an employer at any time after the coming into operation of this paragraph.

Duties relating to statements of contributions

10.—(1) In Article 41 of the Pensions Order (provision of documents for members), for paragraph (5) there shall be substituted—

“(5) Regulations may in the case of occupational pension schemes provide for—

- (a) prescribed persons,
- (b) persons with prescribed qualifications or experience, or
- (c) persons approved by the Department,

to act for the purposes of paragraph (2) instead of scheme auditors or actuaries.

(5A) Regulations may impose duties on the trustees or managers of an occupational pension scheme to disclose information to, and make documents available to, a person acting under paragraph (5).

(5B) If any duty imposed under paragraph (5A) is not complied with, Articles 3 and 10 apply to any trustee, and Article 10 applies to any manager, who has failed to take all such steps as are reasonable to secure compliance.”.

(2) In Article 49 of that Order (other responsibilities of trustees, employers, etc.), in paragraph (9), after sub-paragraph (b) there shall be added “; and

- (c) except in prescribed circumstances, any person acting instead of an auditor for the purposes of Article 41(2)(b) in relation to the scheme must give notice of the failure, within the prescribed period, to the Authority.”.

(3) In that Article, after paragraph (10) there shall be inserted—

“(10A) Article 10 applies to a person who fails to comply with paragraph (9)(c).”.

(4) In Article 86 of that Order (schedules of payments to money purchase schemes: supplementary), after paragraph (4) there shall be added—

“(5) Except in prescribed circumstances, any person acting instead of an auditor for the purpose of Article 41(2)(b) in relation to an occupational pension scheme to which Article 85 applies must, where any amounts payable in accordance with the payment schedule have not been paid on or before the due date, give notice of that fact, within the prescribed period, to the Authority.

(6) Article 10 applies to a person so acting who fails to comply with paragraph (5).”.

Orders and regulations

11. In Article 167(3) of the Pensions Order (Assembly, etc. control of orders and regulations), after “orders” in the first place where it occurs, there shall be inserted “made by virtue of Article 10(2)” and sub-paragraph (a) shall cease to have effect.