
STATUTORY INSTRUMENTS

1975 No.1503 (N.I.15)

NORTHERN IRELAND

The Social Security Pensions
(Northern Ireland) Order 1975

Made - - - -

17th September 1975

Laid before Parliament

26th September 1975

Coming into operation in accordance with Article 1 (3) and (5)

LONDON

HER MAJESTY'S STATIONERY OFFICE: 1975

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At the Court at Balmoral, the 17th day of September 1975

Present,

The Queen's Most Excellent Majesty in Council

Whereas it has been made to appear to Her Majesty that by reason of urgency this Order requires to be made without a draft having been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title, citation and commencement

1.—(1) This Order may be cited as the Social Security Pensions (Northern Ireland) Order 1975.

(2) The Social Security (Northern Ireland) Act 1975(b) and this Order may be cited together as the Social Security (Northern Ireland) Acts 1975.

(3) Subject to paragraph (5) this Order shall come into force on such day or days as the Secretary of State may by order appoint.

(4) An order under paragraph (3) may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Order which are thereby brought (wholly or partly) into force, and may make such adaptations of those provisions or of any provisions of this Order then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Order.

(a) 1974 c. 28.

(b) 1975 c. 15.

(5) The following provisions of this Order shall come into force on the fourteenth day after the day on which the Order is made—

- (a) the amendments made by Article 74(1) and Schedule 5 in the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935(a), the Administration of Justice Act (Northern Ireland) 1954(b) and the Public Expenditure and Receipts Act (Northern Ireland) 1968(c);
- (b) the repeals made by Article 74(2) and Schedule 6 in the Pensions (Increase) Act (Northern Ireland) 1971(d) Schedule 2.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(e) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“accrued rights” has the meaning given in Article 40(3);

“the Department” means the Department of Health and Social Services;

“government department” includes a department of the Government of the United Kingdom;

“guaranteed minimum pension” has the meaning given in Article 28;

“the Inland Revenue” means the Commissioners of Inland Revenue;

“linked qualifying service” shall be construed in accordance with Article 40(4);

“long-term benefit” means a Category A or Category B retirement pension, a widowed mother’s allowance, a widow’s pension or an invalidity pension;

“normal pension age”, in relation to a member of an occupational pension scheme, means the earliest age at which that member can become entitled to receive a pension under the scheme apart from any special provision as to early retirement on grounds of ill-health or otherwise;

“the Occupational Pensions Board” means the Board established by that name by section 66 of the Social Security Act 1973(f);

“occupational pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

“the principal Act” means the Social Security (Northern Ireland) Act 1975;

“public service pension scheme” means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

- (a) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter;
- or

(a) 1935 c. 13 (N.I.).

(c) 1968 c. 8 (N.I.).

(e) 1954 c. 33 (N.I.).

(b) 1954 c. 9 (N.I.).

(d) 1971 c. 35 (N.I.).

(f) 1973 c. 38.

- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,
 and includes any occupational pension scheme prescribed by regulations made by the Department and the Department of Finance jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Order;
- “qualifying earnings factor” has the meaning given in Article 7(3);
- “requisite benefits” has the meaning given in Article 28(2);
- “resources”, in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme (whether requisite benefits or other benefits) are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;
- “rights” in relation to benefit under an occupational pension scheme includes options to have benefit paid in a particular form or at a particular time;
- “transfer credits” has the meaning given in Article 40(3).
- (3) Except as respects commencement, and subject to Article 71, this Order and the principal Act shall have effect as if the provisions of this Order other than Article 69 were contained in that Act; and for that purpose—
- (a) Part II and Articles 29 and 30 shall be treated as included in Part I of that Act (contributions); and
- (b) Part III (except Article 24) and Article 31 shall be treated as included in Chapter I of Part II of that Act (contributory benefits).
- (4) References in Parts IV and V to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those Parts; and, subject to any such regulations, references in those Parts to an employer shall, in relation to an earner employed in an office with emoluments, be construed as references to—
- (a) such person as may be prescribed in relation to that office; or
- (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (5) Regulations may, for any purpose of Parts IV and V, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (6) Regulations may for any purpose of Parts IV and V prescribe persons who, in the case of any scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
- (7) Except where the context otherwise requires, references in this Order to any Part of it include references to any Schedule having effect by virtue of any provision in that Part.

PART II
CONTRIBUTIONS

Earnings limits

- 3.—(1) For the purposes of the principal Act and this Order—
- (a) the lower earnings limit for Class 1 contributions (level of weekly earnings at which liability for such contributions arises); and
 - (b) the upper earnings limit for Class 1 contributions (maximum amount of weekly earnings in respect of which such contributions are payable), for any tax year shall be such amounts as may be specified for that year by regulations made in accordance with paragraphs (2) and (3).
- (2) The amount specified as the lower earnings limit for any tax year shall be an amount equal to or not more than 49p less than—
- (a) the sum which at the beginning of that year is specified in Article 8(1)(a); or
 - (b) that sum as increased by any Act, Measure or order passed, enacted or made before the beginning of that year and taking effect before 6th May in that year.
- (3) The amount specified as the upper earnings limit for any tax year shall be an amount which either—
- (a) is equal to seven times the sum by reference to which the lower earnings limit for that year is specified in accordance with paragraph (2); or
 - (b) exceeds or falls short of seven times that sum by an amount not exceeding half that sum.

Rates of contributions in respect of employed earners

- 4.—(1) In section 4(6) of the principal Act (rates of Class 1 contributions)—
- (a) for the reference to 5.5 per cent. (primary contribution) there shall be substituted a reference to 6.5 per cent.; and
 - (b) for the reference to 8.5 per cent. (secondary contribution) there shall be substituted a reference to 10 per cent.
- (2) Paragraph (1) is without prejudice to the power conferred by section 120 of the principal Act to alter the percentage rates for primary and secondary Class 1 contributions so as to make them correspond to the rates in force, or to be in force, in Great Britain.

Married women and widows

- 5.—(1) The provisions of the principal Act whereby primary Class 1 contributions may be paid at a reduced rate and Class 2 contributions need not be paid by a married woman or widow shall cease to have effect.
- (2) As respects any woman who is married or a widow when paragraph (1) comes into force regulations shall provide—

- (a) for enabling her to elect that her liability in respect of primary Class 1 contributions shall be a liability to contribute at such reduced rate as may be prescribed; and
 - (b) either for enabling her to elect that her liability in respect of Class 2 contributions shall be a liability to contribute at such reduced rate as may be prescribed or for enabling her to elect that she shall be under no liability to pay such contributions; and
 - (c) for enabling her to revoke any such election.
- (3) Regulations under paragraph (2) may—
- (a) provide for the making or revocation of any election under the regulations to be subject to prescribed exceptions and conditions;
 - (b) preclude a person who has made such an election from paying Class 3 contributions while the election has effect;
 - (c) provide for treating an election made or revoked for the purpose of any provision of the regulations as made or revoked also for the purpose of any other provision of the regulations;
 - (d) provide for treating an election made in accordance with regulations under section 125(2) of the principal Act as made for the purpose of regulations under this Article.

(4) Regulations may provide for earnings factors to be derived, for such purposes as may be prescribed, from contributions which by virtue of regulations under paragraph (2) are paid at a reduced rate; and if provision is made for a person to have earnings factors so derived for the purpose of establishing entitlement to any benefit, the regulations may, in relation to that person, vary or add to the requirements for entitlements to that benefit.

Persons over pensionable age

6.—(1) No primary Class 1 contribution shall be payable in respect of earnings paid to or for the benefit of an employed earner in respect of any period after he attains pensionable age, but without prejudice to any liability to pay secondary Class 1 contributions in respect of any such earnings.

(2) No Class 2 contributions shall be payable by an earner in respect of any period after he attains pensionable age.

(3) In section 9(5)(b) of the principal Act (exception from liability to pay Class 4 contributions for persons who have attained pensionable age and retired from regular employment) the words “and retired from regular employment” shall be omitted.

Voluntary contributions

7.—(1) No person shall be entitled to pay a Class 3 contribution in respect of any tax year if his earnings factor, or the aggregate of his earnings factors, for that year derived from contributions actually paid is equal to or exceeds the qualifying earnings factor for that year; and regulations may provide for precluding the payment of Class 3 contributions in other cases.

(2) Regulations may provide for the repayment of Class 3 contributions that have been paid in cases where their payment was precluded by, or by regulations made under, paragraph (1); and contributions repayable by virtue of any such regulations shall, for the purpose of determining the contributor's entitlement to any benefit, be treated as not having been paid.

(3) In paragraph (1) and in the subsequent provisions of this Order "qualifying earnings factor", in relation to any tax year, means an earnings factor equal to the lower earnings limit for that year multiplied by 52.

PART III

BENEFITS

Category A and B retirement pensions

Rate of Category A retirement pension

8.—(1) The weekly rate of a Category A retirement pension shall consist of—

- (a) a basic component of £11·60; and
- (b) an additional component payable where there are one or more surpluses in the pensioner's earnings factors for the relevant years.

(2) The additional component shall be the weekly equivalent of $1\frac{1}{4}$ per cent. of the amount of the surpluses mentioned in paragraph (1)(b) or, if there are more than 20 such surpluses, of those 20 which are the largest.

(3) For the purposes of paragraph (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking $\frac{1}{2}$ p as nearest to the next whole penny above.

(4) For the purposes of this Article—

- (a) there is a surplus in the pensioner's earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for the final relevant year; and
- (b) the amount of the surplus is the amount of that excess;

and for the purposes of sub-paragraph (a) the pensioner's earnings factor for any relevant year shall be taken to be that factor as increased by any order or orders that have come into force under Article 23 before the end of the final relevant year.

(5) References in this Article to the pensioner's earnings factor for any relevant year are references to the aggregate of his earnings factors derived from contributions actually paid by him in respect of that year.

(6) In this Article "relevant year" means any tax year (not being earlier than the first tax year for which lower and upper earnings limits are specified under Article 3) in the period between (inclusive) the tax year in which the pensioner attained the age of 16 and (exclusive) the tax year in which he attained pensionable age and "final relevant year" means the last tax year which is a relevant year in relation to the pensioner.

Rate of widow's Category B retirement pension

9.—(1) The weekly rate of a woman's Category B retirement pension payable—

(a) by virtue of subsection (2) or (3) of section 29 of the principal Act during any period after the death of the husband; or

(b) by virtue of subsection (4) of that section where the husband was over pensionable age when he died,
shall be determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner as references to the husband.

(2) The weekly rate of a woman's Category B retirement pension payable by virtue of subsection (4) of section 29 of the principal Act where the husband was under pensionable age when he died shall be determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner and the tax year in which he attained pensionable age as references to the husband and the tax year in which he died.

Category B retirement pension for widower

10.—(1) A man who has retired from regular employment shall be entitled to a Category B retirement pension if—

(a) he has had a wife and she has died, and he was married to her when she died; and

(b) they were both over pensionable age when she died; and

(c) she either was entitled to a Category A retirement pension or would have been so entitled if she had retired on the date of her death.

(2) The weekly rate of a man's Category B retirement pension under this Article shall be determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner as references to the wife.

(3) Subject to the provisions of the principal Act, a man's Category B retirement pension under this Article shall commence from the date on which he becomes entitled to it under paragraph (1) and shall be payable for his life.

Special provision for surviving spouses

11.—(1) This Article has effect where but for section 27(6) of the principal Act (prevention of double entitlement) a person would be entitled both—

(a) to a Category A retirement pension; and

(b) to a Category B retirement pension under Article 10 or a Category B retirement pension under section 29 of the principal Act by virtue of the contributions of a husband who has died.

(2) If by reason of a deficiency of contributions the basic component in the Category A retirement pension falls short of the sum specified in Article 8(1)(a), that component shall be increased by the amount of the shortfall or the amount of the basic component in the rate of the Category B retirement pension, whichever is the less.

(3) If the additional component in the Category A retirement pension falls short of the prescribed maximum, that component shall be increased by the amount of the shortfall or the amount of the additional component in the rate of the Category B retirement pension, whichever is the less.

Special provision for married women

12.—(1) This Article has effect where but for section 27(6) of the principal Act a married women would be entitled both—

(a) to a Category A retirement pension; and

(b) to a Category B retirement pension by virtue of the contributions of her husband.

(2) If by reason of a deficiency of contributions the basic component in the Category A retirement pension falls short of the weekly rate specified in paragraph 9 of Part I of Schedule 4 to the principal Act (married women's Category B retirement pension), that component shall be increased by the amount of the shortfall or the amount of the weekly rate of the Category B retirement pension, whichever is the less.

Application of earnings rule

13. In section 30(1) of the principal Act (which provides for a reduction in the weekly rate of a Category A or Category B retirement pension where the pensioner has earnings over a specified amount) the reference to the weekly rate of pension shall be construed as a reference to that rate exclusive of the additional component and of any graduated retirement benefit.

Deferred retirement

14. Schedule 1 shall have effect for increasing the rate of a Category A or Category B retirement pension in cases where a person defers his retirement after attaining pensionable age.

Widow's benefit

Rate of widowed mother's allowance and widow's pension

15.—(1) Where a woman becomes entitled to a widowed mother's allowance or a widow's pension in consequence of the death of her husband and he was over pensionable age when he died, the weekly rate of that allowance or pension shall, subject to paragraph (3), be determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner as references to the husband.

(2) Where a woman becomes entitled to a widowed mother's allowance or widow's pension in consequence of the death of her husband and he was under pensionable age when he died, the weekly rate of that allowance or pension shall, subject to paragraph (3), be determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner and the tax year in which he attained pensionable age as references to the husband and to the tax year in which he died.

(3) The foregoing provisions of this Article shall, so far as they relate to a widow's pension, have effect subject to section 26(2) of the principal Act (reduction of widow's pension for woman under 50).

Invalidity benefit and disablement pension

Rate of invalidity pension for persons under pensionable age

16. Subject to subsection (4) of section 15 of the principal Act (persons over pensionable age), the weekly rate of an invalidity pension under that section shall for any period of interruption of employment be determined in the manner specified in Article 8 for a Category A retirement pension, taking the reference in that Article to the tax year in which the pensioner attained pensionable age as a reference to the tax year which includes or included the first day of entitlement to the pension in that period.

Invalidity pension for widows

17.—(1) This Article applies to a woman who—

- (a) ceases to be entitled to a widow's allowance without becoming entitled to a widowed mother's allowance or ceases to be entitled to a widowed mother's allowance; and
- (b) when she so ceases is incapable of work; and
- (c) either—
 - (i) would have been entitled to a widow's pension if she had been over the age of 40 when her husband died or when she ceased to be entitled to a widowed mother's allowance; or
 - (ii) is entitled to such a pension with a reduction under section 26(2) of the principal Act.

(2) Subject to paragraph (5), a woman to whom this Article applies shall be entitled to an invalidity pension under this Article for any day of incapacity for work which—

- (a) falls in a period of interruption of employment that began before the time when she ceased to be entitled as mentioned in paragraph (1)(a); and
- (b) is after that time and after the first 168 days of incapacity for work in that period.

(3) An invalidity pension under this Article shall be payable at—

- (a) the weekly rate that would apply if the pension were payable under section 15 of the principal Act; or
 - (b) the weekly rate specified in paragraph (4),
- whichever is the higher.

(4) The weekly rate mentioned in paragraph (3)(b) is—

- (a) if the woman is not entitled to a widow's pension, a weekly rate equal to that of the widow's pension to which she would have been entitled if she had been over the age of 50 when her husband died; and
- (b) if she is entitled to a widow's pension with a reduction under the said section 26(2), a weekly rate equal to the difference between the weekly rate of that pension and what it would have been without the reduction.

(5) A woman shall not be entitled to an invalidity pension under this Article if she is over pensionable age and has retired from regular employment; but if she retires from regular employment, having attained pensionable age, and the period of interruption of employment mentioned in sub-paragraph (2)(a) did not terminate earlier than the day before she attained that age—

- (a) she shall, if not otherwise entitled to a Category A retirement pension, be entitled to such a pension; and
- (b) the weekly rate of the Category A retirement pension to which she is entitled (whether by virtue of sub-paragraph (a) or otherwise) shall be determined in the manner specified in paragraph (3) for an invalidity pension under this Article.

(6) No invalidity pension shall be payable under section 15 of the principal Act for any day of incapacity for which an invalidity pension is payable under this Article.

Invalidity pension for widowers

18.—(1) This Article applies to a man whose wife has died and who either—

- (a) was incapable of work at the time when she died; or
- (b) becomes incapable of work within the prescribed period after that time.

(2) Subject to paragraph (5), a man to whom this Article applies shall be entitled to an invalidity pension under this Article for any day of incapacity for work which—

- (a) falls in a period of interruption of employment that began before the time when his wife died or within the prescribed period after that time; and
- (b) is after that time and after the first 168 days of incapacity for work in that period.

(3) An invalidity pension under this Article shall be payable at—

- (a) the weekly rate that would apply if the pension were payable under section 15 of the principal Act; or
- (b) the weekly rate specified in paragraph (4),

whichever is the higher.

(4) Where the man's wife was over pensionable age when she died the weekly rate mentioned in sub-paragraph (b) of paragraph (3) is a rate determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner as references to the wife; and where the man's wife was under pensionable age when she died the weekly rate mentioned in that sub-paragraph is a rate determined in the manner specified in Article 8 for a Category A retirement pension, taking references in that Article to the pensioner and the tax year in which he attained pensionable age as references to the wife and the tax year in which she died.

(5) A man shall not be entitled to an invalidity pension under this Article if he is over pensionable age and has retired from regular employment; but if he retires from regular employment, having attained pensionable age, and the period of interruption of employment mentioned in paragraph (2)(a) did not terminate earlier than the day before he attained that age—

- (a) he shall, if not otherwise entitled to a Category A retirement pension, and also not entitled to a Category B retirement pension by virtue of Article 10, be entitled to a Category A retirement pension; and
- (b) the weekly rate of Category A retirement pension to which he is entitled (whether by virtue of sub-paragraph (a) or otherwise) shall be determined in the manner specified in paragraph (3) for an invalidity pension under this Article.

(6) No invalidity pension shall be payable under section 15 of the principal Act for any day of incapacity for which an invalidity pension is payable under this Article.

Invalidity allowance and disablement pension

19. In section 16(2) of the principal Act (rates of invalidity allowance) and paragraph 5 of Part V of Schedule 4 to that Act (rates of increase in unemployment supplement to disablement pension)—

- (a) in paragraph (a) (rate if beneficiary is under the age of 35) for “35” there shall be substituted “40”;
- (b) in paragraph (b) (rate if beneficiary is under the age of 45) for “45” there shall be substituted “50”.

Unemployment and sickness benefit

Rate of unemployment and sickness benefit for persons under pensionable age

20.—(1) The rate of unemployment or sickness benefit shall be the same for all persons entitled by virtue of subsection (2)(a) of section 14 of the principal Act (persons under pensionable age); and accordingly for subsections (4) and (5) of that section (which provide for a higher or lower rate of benefit for such persons according to whether or not they are married women) there shall be substituted—

“(4) In the case of a person entitled under subsection (2)(a) above, unemployment or sickness benefit shall be payable at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 1.”.

(2) In paragraph 1 of Part I of Schedule 4 to that Act for the entry in the second column there shall be substituted “£9·80”.

Contribution conditions and earnings factors

Contribution conditions for retirement pensions, widowed mother's allowance and widow's pension

21.—(1) Paragraph 5 of Schedule 3 to the principal Act (contribution conditions for Category A and B retirement pensions, widowed mother's allowance and widow's pension) shall be amended in accordance with paragraphs (2) and (3).

(2) In sub-paragraphs (2)(b) and (3)(b) (earnings factor for any year to be not less than that year's lower earnings limit multiplied by 50) for the words “not less than that year's lower earnings limit multiplied by 50” there shall be substituted the words “not less than the qualifying earnings factor for that year”.

(3) After sub-paragraph (5) there shall be added—

“(6) In relation to Category A and Category B retirement pension, the second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

(a) those paragraphs are complied with as respects not less than 20 of that number of years; and

(b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.

(7) In relation to a widowed mother’s allowance and widow’s pension, the second condition shall be deemed to be satisfied notwithstanding that paragraphs (a) and (b) of sub-paragraph (3) above are not complied with as respects each of the requisite number of years if—

(a) those paragraphs are complied with as respects at least half that number of years (or at least 20 of them, if that is less than half); and

(b) in each of the other years the contributor concerned was, within the meaning of regulations, precluded from regular employment by responsibilities at home.”.

(4) Section 28(2) of the principal Act (woman married under the age of 55 entitled to Category A retirement pension only if she has the necessary earnings factors for at least half the years between marriage and pensionable age) shall cease to have effect.

(5) In section 33 of the principal Act (partial satisfaction of contribution conditions) the following subsection shall be added—

“(4) Regulations may provide that where—

(a) a person is entitled by virtue of this section to a Category A or Category B retirement pension consisting only of the additional component with no basic component; and

(b) that pension, and any graduated retirement benefit to which he may be entitled, together amount to less than the prescribed rate, the person’s entitlement as respects that Category A or Category B retirement pension shall be satisfied either altogether or for a prescribed period by the making of a single payment of the prescribed amount.”.

Use of former spouse’s contributions

22.—(1) Where a person—

(a) has been married; and

(b) in respect of the tax year in which the marriage terminated or any previous tax year, does not with his own contributions satisfy the contribution conditions for a Category A retirement pension, then, for the purpose of enabling him to satisfy those conditions, the contributions of his former spouse may to the prescribed extent be treated as if they were his own contributions.

(2) Where a person has been married more than once this Article applies only to the last marriage and the reference to that person’s former spouse shall be construed accordingly.

(3) Section 28(3) of the principal Act and Schedule 7 to that Act (widow's right to Category A retirement pension on late husband's contributions) shall cease to have effect.

Revaluation of earnings factors

23. Whenever the Secretary of State makes an order under section 21 of the Social Security Pensions Act 1975(a) directing that earnings factors for any tax year be increased by any percentage (in order to restore their value in relation to the general level of earnings so far as they are relevant to the calculation of the additional component in the rate of any long-term benefit), the Department may make an order for Northern Ireland directing that corresponding earnings factors for the same year be increased by a corresponding percentage.

Non-contributory benefit

Mobility allowance

24.—(1) In Chapter II of Part II of the principal Act (non-contributory benefits) the following is inserted after section 37:—

“Mobility allowance. 37A.—(1) Subject to the provisions of this section, a person who satisfies prescribed conditions as to residence or presence in Northern Ireland shall be entitled to a mobility allowance for any period throughout which he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so.

(2) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as suffering from such physical disablement as is mentioned above; but a person qualifies for the allowance only if

- (a) his inability or virtual inability to walk is likely to persist for at least 12 months from the time when a claim for the allowance is received by the Department; and
- (b) during most of that period his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion.

(3) The weekly rate of a mobility allowance shall be that specified in Schedule 4 to this Act, Part III, paragraph 3A.

(4) No person shall be entitled to a mobility allowance—

- (a) in respect of a period in which he is under the age of 5 or over pensionable age;
- (b) except in prescribed cases, for any week before that in which a claim for the allowance by or in respect of him is received by the Department.

(5) Regulations may prescribe cases in which mobility allowance is not to be payable, or is to be payable at a reduced rate, while the person otherwise entitled has the use—

(a) 1975 c. 60.

- (a) of an invalid carriage or other vehicle provided by the Department under Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972(a); or
- (b) of any prescribed description of appliance supplied under that Order being such an appliance as is primarily designed to afford a means of personal and independent locomotion out of doors.

(6) Except so far as may be provided by regulations, the question of a person's entitlement to mobility allowance shall be determined as at the date when a claim for the allowance is received by the Department.

(7) A payment to or in respect of any person by way of a mobility allowance, and the right to receive such a payment, shall (except in prescribed circumstances and for prescribed purposes) be disregarded in applying any enactment or instrument under which regard is to be had to a person's means.”.

(2) In Part III of Schedule 4 to the principal Act there is inserted:—
“3A. Mobility allowance ... £5”.

(3) Regulations may make provision—

- (a) for permitting a claim for a mobility allowance to be made, or treated as if made, for a period beginning after the date on which the claim is made;
- (b) for permitting an award on any such claim to be made for a period beginning after the date on which the claim is made subject to the condition that the person in respect of whom the claim is made satisfies the prescribed requirements for entitlement when benefit becomes payable under the award;
- (c) for the review of any such award if those requirements are found not to have been satisfied.

(4) Regulations may provide for disqualifying a person for receiving a mobility allowance for a period not exceeding six weeks on any disqualification if he fails without good cause to attend for, or to submit himself to, such medical or other examination or treatment as may be required in accordance with the regulations.

(5) In the case of regulations under section 114(1) of the principal Act (determination of questions), so far as they relate to any question arising in connection with mobility allowance, subsection (3) of that section (determination of questions by Department's officer; reference of question to local tribunal, etc.) shall not apply.

Supplementary

Increase of long-term benefits

25. The reference in section 120 of the principal Act (amendments following alterations of contributions or benefits in Great Britain) to an order

(a) S.I. 1972/1265 (N.I. 14).

under section 124 of the Social Security Act 1975(a) shall include a reference to such an order made in exercise of the powers conferred by section 23 of the Social Security Pensions Act 1975 or by regulations made under section 24(1)(a) of that Act.

Power to modify provisions about graduated retirement benefit

26.—(1) So long as sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(b) (graduated retirement benefit) continue in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975(c), regulations may make provision—

- (a) for replacing section 35(4) (increase of graduated retirement benefit in cases of deferred retirement) with provisions corresponding to those of paragraphs 1 to 3 of Schedule 1 to this Order;
- (b) for extending section 36 (increase of woman's retirement pension by reference to her late husband's graduated retirement benefit) to men and their late wives.

(2) This Article is without prejudice to any power to modify the said sections 35 and 36 conferred by Schedule 3 to the said Act of 1975.

Simultaneous entitlement to more than one pension

27.—(1) Where under Part II of the principal Act (whether Chapter I or Chapter II) a person would, but for section 27(6) of that Act, be entitled to more than one retirement pension, he may give notice in writing to the Department from time to time stating which of the pensions he wishes to receive; and that pension shall then be the one to which he is entitled in respect of any week commencing after the date of the notice.

(2) If no such notice is given, the person shall be entitled (whichever pension he may have claimed) to whichever one is from time to time the most favourable to him.

PART IV

CONTRACTING-OUT

Preliminary

Contracting-out of full contributions and benefits

28.—(1) This Part shall have effect for the purpose of reducing—

- (a) the rates at which contributions are payable under Part I of the principal Act by or in respect of an earner in employed earner's employment; and
- (b) the rate of any Category A or Category B retirement pension, widowed mother's allowance or widow's pension payable by virtue of contributions at such reduced rates,

where an occupational pension scheme provides for the earner and his widow to be entitled to the requisite benefits and the earner's employment is contracted-out by reference to the scheme.

(a) 1975 c. 14.

(b) 1966 c. 6 (N.I.).

(c) 1975 c. 18.

(2) In this Order “the requisite benefits” means the pensions which are provided by an occupational pension scheme in accordance with the requirements of Articles 35 and 38; and “guaranteed minimum pension” means any such pension to the extent to which its weekly rate is equal to the earner’s or widow’s guaranteed minimum as determined for the purposes of those Articles respectively.

Contracted-out rates of contributions and benefits

Contracted-out rates of Class 1 contributions

29.—(1) Where the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, the amount of a Class 1 contribution shall be the aggregate of—

- (a) the normal percentage of so much of the earnings paid in that week in respect of the employment as does not exceed the current lower earnings limit; and
- (b) the contracted-out percentage of so much of those earnings as exceeds that limit but does not exceed the current upper earnings limit.

(2) In paragraph (1)—

“the normal percentage” means the percentage that would apply for the calculation of the amount of the contribution if the employment were not contracted-out employment;

“the contracted-out percentage” means—

- (a) in the case of a primary Class 1 contribution, a percentage less by 2·5 than the normal percentage;
- (b) in the case of a secondary Class 1 contribution, a percentage less by 4·5 than the normal percentage.

(3) In the case of earners paid otherwise than weekly the references in paragraph (1) to the current lower or upper earnings limit shall be construed as references to the prescribed equivalents.

(4) Where earnings are paid to or for the benefit of an earner in respect of an employment after he has ceased to be employed in it, that employment shall be treated for the purposes of paragraph (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(5) This Article shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under Article 5.

(6) For the purposes of section 1(5) of the principal Act (supplement to contributions calculated by reference to contributions paid in a tax year) contributions paid in accordance with this Article in any tax year shall be treated as having amounted to such sum as would have been their amount if they had been paid at the rates applicable apart from this Article; and that sum shall be estimated by the Department in accordance with any directions given by the Department of Finance.

Alteration of contracted-out rates of Class 1 contributions

30. Whenever the Secretary of State makes an order under section 28 of the Social Security Pensions Act 1975 altering, with effect from any date, either or both of the contracted-out percentages for the time being applying under section 27 of that Act, the Department may make a corresponding order for Northern Ireland altering with effect from the same date, either or both of the contracted-out percentages applying under Article 29.

Contracted-out rates of benefit

31.—(1) Where for any period a person is entitled both—

(a) to a Category A or Category B retirement pension, a widowed mother's allowance or a widow's pension; and

(b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in sub-paragraph (a) shall for that period be reduced by an amount equal to its additional component or, if less, an amount equal to the weekly rate or aggregate weekly rates of the pension or pensions mentioned in sub-paragraph (b).

(2) For the purposes of this Article a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of Article 41 or if that pension had not been forfeited under any such provisions.

(3) References in this Article to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under Article 37(6).

Arrangements for contracting-out

Contracted-out employment

32.—(1) Subject to the provisions of this Order, the employment of an earner in employed earner's employment is contracted-out employment in relation to him during any period in which he is under pensionable age and—

(a) his service in the employment is for the time being service which qualifies him for the requisite benefits of an occupational pension scheme; and

(b) the scheme is a contracted-out scheme in relation to that employment; and

(c) there is in force a certificate, issued by the Occupational Pensions Board and known as a "contracting-out certificate", that the employment is contracted-out employment by reference to the scheme.

(2) Where it is a condition of a scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, then in determining whether his service qualifies him as mentioned in paragraph (1)(a) at a time when he has not completed that period of service, the assumption is to be made that he will complete it; but in such a case for the employment to be contracted-out by reference to the scheme—

(a) the minimum period must not be more than five years;

- (b) any service during that period must count towards guaranteed minimum pensions; and
- (c) any service in the period must, when the period is completed, count towards all the requisite benefits of the scheme.

(3) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

(4) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.

(5) In section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a) (which requires an employer to give his employees written statements of their terms of employment and requires any such statement to specify certain matters) after subsection (1)(c) there shall be inserted—

“(cc) whether a contracting-out certificate is in force for the employment in respect of which the statement is given.”;

but nothing in this paragraph shall be taken as authorising or requiring any tribunal acting under that Act to determine any question whether an employment is, has been or will be contracted-out employment.

Contracting-out certificates

33.—(1) Regulations shall provide for the issue by the Occupational Pensions Board to employers of contracting-out certificates specifying—

- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
- (b) the occupational pension schemes by reference to which those employments are to be so treated.

(2) Regulations shall also provide for the cancellation, variation or surrender of any contracting-out certificate, or the issue of an amended certificate, on any change of circumstances affecting the treatment of an employment as contracted-out employment.

(3) Subject to the provisions of this Part, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to paragraph (4) an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

(4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this Article, discriminate between different earners on any grounds other than the nature of their employment; and if the Occupational Pensions Board consider that an employer is contravening this paragraph in relation to any scheme they may refuse to give effect to any election made by him in relation to that scheme or cancel any contracting-out certificate held by him in respect of that scheme.

(a) 1965 c. 19 (N.I.).

- (5) Regulations may make provision—
- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
 - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
 - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
 - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
 - (iii) to the trustees and managers of the scheme and such other persons as may be prescribed;
 - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in sub-paragraph (b)(ii);
 - (d) for empowering the Occupational Pensions Board to refuse to give effect to an election made by an employer unless they are satisfied that he has complied with the requirements of the regulations;
 - (e) for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in sub-paragraph (b)(ii) or whether the requirements of the regulations as to consultation have been complied with.

(6) Regulations may enable the Occupational Pensions Board to cancel or vary a contracting-out certificate where they have reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate and the employer does not show that it ought to be so treated.

(7) Except in prescribed circumstances, no contracting-out certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.

(8) In this Article—

“independent trade union” means a trade union which—

- (a) is not under the domination or control of an employer or a group of employers or of one or more employers’ associations; and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control;

“industrial tribunal” means a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(a).

Contracted-out schemes

34.—(1) An occupational pension scheme is a contracted-out scheme in relation to an earner’s employment if it is for the time being specified in a contracting-out certificate as a scheme by reference to which that employment

(a) 1964 c. 18 (N.I.).

is contracted-out employment; and references to the contracting-out of a scheme are references to its inclusion in a certificate as aforesaid.

(2) Subject to the provisions of this Article, an occupational pension scheme can be contracted-out in relation to an earner's employment only if—

- (a) it complies in all respects with Articles 35 to 43 in respect of the requisite benefits for the earner and his widow and of the other matters there mentioned or, in such cases or classes of case as may be prescribed, with those Articles as modified by regulations; and
- (b) the rules of the scheme applying to the requisite benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.

(3) Where by any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued contracting-out of the scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out certificate.

(4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the Occupational Pensions Board notwithstanding that the relevant scheme is one that they would otherwise treat as proper to be contracted-out in relation to all earners in that employment if the Board consider that there are circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme.

(5) Where in relation to an earner's employment there are in force two or more occupational pension schemes none of which can by itself be a contracted-out scheme, the Board may if they think fit treat them for contracting-out purposes as a single scheme.

(6) It is hereby declared that nothing in this Part precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes.

Requirements for contracting-out

Requisite benefit for earner

35.—(1) Subject to the provisions of this Part, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide for him to be entitled to a pension under the scheme if he attains pensionable age and contain—

- (a) rules for determining the annual rate of the pension that comply with the requirements of Article 36; and
- (b) a rule to the effect that if the earner has a guaranteed minimum under Article 37 the weekly rate of the pension will be not less than his guaranteed minimum under that Article.

(2) Subject to paragraphs (3) and (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.

(3) The scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age but so that his consent is required—

(a) for any postponement by virtue of employment to which the scheme does not relate; and

(b) for any postponement after the expiration of five years from the date on which he attains pensionable age.

(4) The scheme may provide for any part of the pension in excess of the earner's guaranteed minimum to commence from a date not more than three 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.

(5) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.

(6) The benefits referred to in paragraph (5) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—

(a) was for him non-participating employment under that legislation; and

(b) was not on its termination the subject of any payment in lieu of contributions;

but paragraph (5) excludes so much only of those benefits as (and no more than) had to be provided in order that the employment should for that period be treated as non-participating.

(7) In this Article "the former legislation" means Part III of the National Insurance Act (Northern Ireland) 1966 and the previous corresponding enactments.

Annual rate of earner's pension

36.—(1) The requirements mentioned in Article 35(1)(a) are as follows.

(2) Subject to the provisions of this Article, the rules of the scheme must provide for the annual rate of the earner's pension to be not less than $1\frac{1}{4}$ per cent. of either—

(a) his average annual salary in the whole period of his service in contracted-out employment by reference to the scheme; or

(b) his final salary,

multiplied by the number of his years of such service or by such number of those years as will produce an annual rate equal to not less than half the salary on which it is calculated.

(3) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions, the scheme's rules need not provide as in paragraph (2) for an earner whose service is terminated before completion of that minimum period.

(4) The earner's pension need not be in accordance with paragraph (2) in case of his service in the relevant employment being terminated before he attains the scheme's normal pension age and when—

- (a) he has completed in that employment less than five years' qualifying service for the purposes of Schedule 3; or
- (b) he is under the age of 26 on termination of that employment.

(5) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's average annual salary,—

- (a) the method of computing average annual salary must be approved by the Occupational Pensions Board; and
- (b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.

(6) In paragraph (5)(b), "prescribed" means prescribed by any order or orders coming into force under Article 23 before the earner attains whatever is the scheme's normal pension age or (if earlier) his service in the relevant employment is terminated.

(7) Where the scheme provides for the annual rate of the pension to be calculated by reference to the earner's final salary,—

- (a) the method of ascertaining final salary; and
- (b) the scheme's provisions for calculating the rate of pension by reference to it,

must be approved by the Board.

(8) In deciding whether or not to give their approval under paragraph (7)(b) the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular to the interval (if any) between the end of the period by reference to which final salary is to be determined and the scheme's normal pension age and to what provision (if any) is made for revaluing the salary during any such interval.

(9) Subject to the foregoing provisions, the scheme may provide—

- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the earner's pension is to be calculated; and
- (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;

and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.

(10) In paragraph (9) references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.

(11) The scheme may, with the approval of the Occupational Pensions Board, provide for a lower percentage than that specified in paragraph (2); but the Board shall not approve any such provision unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case; and in deciding whether or not to give their approval the Board shall have regard to—

- (a) whether any lump sum payments are provided in addition to the pension;
- (b) the extent, if any, to which earnings of any kind or amount are excluded from the salary by reference to which the pension is to be calculated; and
- (c) any other features of the scheme that appear to the Board to be relevant.

Earner's guaranteed minimum

37.—(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme in accordance with Article 35 if, in any tax week in a relevant year, earnings have been paid to or for the benefit of the earner in respect of contracted-out employment by reference to the scheme, being earnings in excess of the current lower earnings limit or the prescribed equivalent if he is paid otherwise than weekly.

(2) Where an earner has a guaranteed minimum as aforesaid, that minimum shall, subject to paragraph (6), be the weekly equivalent of an amount equal to the appropriate percentage of the total of his earnings factors for the relevant years so far as derived from contributions paid in respect of such earnings as are mentioned in paragraph (1).

(3) In paragraph (2) “the appropriate percentage” means—

(a) if the earner is not more than 20 years under pensionable age when this Article comes into force, $1\frac{1}{4}$ per cent.;

(b) in any other case $\frac{25}{N}$ per cent. where N is the number of years in the earner's working life (assuming that he will attain pensionable age) which fall after the coming into force of this Article;

and “derived” means derived in accordance with rules to be embodied in regulations.

(4) For the purposes of paragraph (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 and rounding the result to the nearest whole penny, taking $\frac{1}{2}$ p as nearest to the next whole penny above.

(5) For the purposes of paragraph (2) the earner's earnings factor for any relevant year (so far as derived as mentioned in that paragraph) shall, subject to paragraph (7), be taken to be that factor as increased by any order or orders that have come into force under Article 23 before the end of the final relevant year.

(6) Where in accordance with Article 35(3) the commencement of an earner's guaranteed minimum pension is postponed for any period and there are at least eight complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by $\frac{1}{8}$ per cent.—

- (a) of the amount of that minimum apart from this paragraph; or
- (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.

In this paragraph "week" means any period of seven consecutive days.

(7) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before he attains the scheme's normal pension age shall be determined for the purposes of paragraph (2) without reference to any order that comes into force under Article 23 after the relevant year in which his service is terminated; but in that event the scheme shall provide for the weekly equivalent mentioned in that paragraph to be increased by at least—

- (a) 5 per cent. compound for each relevant year after that year; or
- (b) the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by any order or orders that come into force under Article 23 before the end of the final relevant year,

whichever makes the lesser increase (so however that this paragraph is not to be taken as preventing the scheme from providing increases above those alternative minima).

(8) Paragraph (7) applies only so as to permit the same such provision to be made for all members of the scheme.

(9) In this Article "relevant year" means any tax year in the earner's working life (not being earlier than the first tax year for which lower and upper earnings limits are specified under Article 3) and "final relevant year" means the last tax year which is a relevant year in relation to the earner.

Requisite benefit for widow

38.—(1) Subject to the provisions of this Part, for an occupational pension scheme to be contracted-out in relation to an earner's employment it must provide, in the event of his dying (whether before or after attaining pensionable age) and leaving a widow, for her to be entitled to a pension under the scheme.

(2) Subject to paragraphs (4) and (5), the scheme must contain rules whereby the annual rate of the pension will be not less than the requisite minimum under this Article, which is $\frac{5}{8}$ ths per cent. of either—

- (a) the earner's average annual salary in the whole period of his service in contracted-out employment by reference to the scheme; or
- (b) his final salary (or last salary before death),

multiplied by the number of his years of such service; and Article 39 applies as to the relationship which the widow's pension must bear to the earner's salary.

(3) To comply with this Article the scheme must also contain a rule to the effect that if the earner had a guaranteed minimum under Article 37 the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner.

(4) Where it is a condition of the scheme that the earner shall complete a specified minimum period of service before qualifying for requisite benefits in excess of guaranteed minimum pensions the scheme need not contain the rules specified in paragraph (2) for the case of the earner's service being terminated (by death or otherwise) before completion of that minimum period.

(5) The widow's pension need not be in accordance with paragraph (2) in case of the earner dying after termination of his service in the relevant employment and either—

(a) his having completed in that employment less than five years' qualifying service for the purposes of Schedule 3; or

(b) his being under the age of twenty-six on termination of that employment.

(6) Subject to the following provisions of this Article, the scheme must provide for the widow's pension to be payable for any period for which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions or for which a Category B retirement pension would be so payable but for section 27(6) of the principal Act.

(7) The scheme may, with the approval of the Occupational Pensions Board, contain provisions not complying with this Article in relation to any part of the pension in excess of the widow's guaranteed minimum where the marriage of the widow to the earner takes place after the termination of his service in contracted-out employment by reference to the scheme and not more than six months before his death.

(8) The widow's guaranteed minimum pension must be payable to her; but the scheme may, with the approval of the Occupational Pensions Board, contain provisions whereby, at the discretion of the trustees or managers, any other part of the pension required by this Article is not paid to her, but instead comparable benefits are provided for one or more dependants of the deceased earner.

(9) The scheme may, with the approval of the Occupational Pensions Board, provide for reducing any part of the pension in excess of the widow's guaranteed minimum where the person to whom it is payable (whether the widow or by virtue of paragraph (8) another dependant of the deceased) was more than ten years younger than he was.

Earners' salary as factor of widow's pension

39.—(1) The following additional provisions apply as to a scheme's compliance with Article 38.

(2) If the scheme provides for the annual rate of the widow's pension to be calculated by reference to the earner's average annual salary—

(a) the method of computing average annual salary must be approved by the Occupational Pensions Board; and

(b) the scheme must provide that earnings for any period falling within any tax year shall, for the purposes of the calculation, be treated as increased by the same percentage as that prescribed for the increase of earnings factors for that year.

(3) In paragraph (2)(b), “prescribed” means prescribed by any order or orders coming into force under Article 23 before whichever is the earliest of the following events, namely—

- (a) termination of the earner’s service in the relevant employment;
- (b) his attaining the scheme’s normal pension age;
- (c) his death.

(4) Where the scheme provides for the annual rate of the widow’s pension to be calculated by reference to the earner’s final salary (or last salary before death)—

- (a) the method of ascertaining final or last salary; and
- (b) the scheme’s provisions for calculating the rate of pension by reference to it,

must be approved by the Board.

(5) In deciding whether or not to give their approval under paragraph (4)(b) the Board shall have regard to any aspects of the scheme which appear to them to be relevant, but in particular—

- (a) to the interval (if any) between the end of the period by reference to which final or last salary is to be determined and the scheme’s normal pension age or, as the case may be, the date of the earner’s death; and
- (b) to what provision (if any) is made for revaluing the salary during any such interval.

(6) Subject to the foregoing provisions, the scheme may provide—

- (a) for excluding earnings of any kind from the salary by reference to which the annual rate of the widow’s pension is to be calculated; and
- (b) for excluding any amount of earnings of the kind that are to constitute that salary except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit;

and if the salary is to include the amount of earnings up to one and a half times the lower earnings limit the scheme may provide for reducing the rate of pension to what it would have been if that amount had been excluded.

(7) In paragraph (6) references to the lower and upper earnings limits in relation to any earnings, are references to those limits as in force when the earnings are paid.

Transfer of accrued rights

40.—(1) Where an earner’s service in contracted-out employment by reference to a scheme is terminated before he attains pensionable age the scheme may provide for his accrued rights to the requisite benefits under the scheme to be transferred to another scheme but, except where regulations otherwise provide, only with his consent and to another contracted-out scheme.

(2) Where under the rules of a scheme transfer credits have been allowed in respect of an earner's accrued rights to guaranteed minimum pensions under another scheme, the reference in Article 37(1) to contracted-out employment by reference to the scheme shall include a reference to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

(3) In this Order—

“accrued rights”, in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for him and his widow in accordance with Articles 35 and 38, and references to an earner's accrued rights to guaranteed minimum pensions shall be construed accordingly;

“transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme.

(4) For the purposes of this Order any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

(a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; and

(b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme, except that, for any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.

Commutation, surrender and forfeiture

41.—(1) Where the annual rate of a pension required to be provided by a scheme in accordance with Article 35 or 38 would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension.

(2) A scheme may, with the approval of the Occupational Pensions Board, provide for the payment to the earner of a lump sum instead of any part of the pension required to be provided for him under Article 35 which exceeds the guaranteed minimum; but—

(a) the manner in which the amount of the lump sum is arrived at under the scheme must be satisfactory to the Board; and

(b) the Board shall not give their approval under this paragraph unless they are satisfied that it will not result in the benefits of the scheme, taken as a whole, being less favourable to the earner than would otherwise have been the case.

(3) Without prejudice to paragraph (1), a scheme may, in relation to a case where the earner dies before attaining pensionable age, provide for the payment of a lump sum instead of any part of the pension required to be provided for his widow in accordance with Article 38 which exceeds her

guaranteed minimum, being a lump sum equal to not less than eleven times what would have been the annual rate of that part; and paragraph (8) of that Article shall have effect in relation to any such lump sum as it has effect in relation to any part of a pension in excess of the widow's guaranteed minimum.

(4) Neither Article 35 nor Article 38 shall preclude a scheme from providing—

- (a) for any part of a pension in excess of the earner's or widow's guaranteed minimum, as the case may be, to be forfeited or surrendered or to be subject to any charge, lien or set-off; or
- (b) for the earner's or widow's guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

Financing and assurance of benefits

42.—(1) For an occupational pension scheme to be contracted-out the resources of the scheme must be derived in whole or in part from—

- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
- (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

(2) For an occupational pension scheme, other than a public service pension scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the scheme complies with—

- (a) regulations prescribing the means by which guaranteed minimum pensions under contracted-out schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means); and
- (b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;

and generally as to the arrangements in force or to be in force from time to time for securing those pensions.

(3) For an occupational pension scheme to be contracted-out it must contain a rule whereby any liabilities of the scheme in respect of—

- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (b) any such benefits as are excluded by Article 35(5) from earners' guaranteed minimum pensions;
- (c) pensions and other benefits (whether or not within sub-paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and
- (d) state scheme premiums,

are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect.

This does not apply to public service pension schemes, nor to schemes falling within any category or description prescribed as being exempt from the requirements of this paragraph.

(4) For an occupational pension scheme to be contracted-out it must, if it provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, so provide that there shall be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

Sufficiency of resources

43.—(1) For an occupational pension scheme, other than a public service scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the resources of the scheme are sufficient—

- (a) for meeting from time to time all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, having regard to the expected extent of the scheme's resources and its other liabilities at any time when claims may be expected to arise; and
- (b) for paying state scheme premiums in respect of all persons at any time entitled to, or having accrued rights to, guaranteed minimum pensions under the scheme; and
- (c) for meeting in full, in the event of an immediate winding up, the liabilities accorded priority in accordance with Article 42(3) and the expenses of administration so far as those expenses are payable out of the resources of the scheme.

(2) Where contracting-out or continued contracting-out depends on the Board being satisfied as mentioned in paragraph (1), the scheme may be contracted-out or continue to be contracted-out, as the case may be, in relation to any employment subject to such conditions as the Board think fit to impose for securing—

- (a) that the Board are kept informed as to any matters affecting the security of the minimum pensions guaranteed under the scheme;
- (b) that the resources of the scheme are brought to and maintained at a level satisfactory to the Board;

and non-compliance with any condition imposed by the Board under this paragraph shall be grounds on which the Board may cancel a contracting-out certificate issued in respect of any employment within the application of the scheme.

(3) Conditions imposed by the Board for the purpose mentioned in paragraph (2)(b) may require steps to be taken, at the instance of the Board, to increase the scheme's resources at any time after contracting-out, including a time when the scheme has ceased to be contracted-out.

(4) With a view to enforcing a condition imposed for that purpose, the Board may by order require an employer to make such payments as the Board think necessary to bring the resources of the scheme to a satisfactory level; and in the case of an employer failing to make any payment required by such an order—

- (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
- (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.

(5) In considering a scheme by reference to the considerations of paragraph (1), the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of contracting-out or continued contracting-out that—

(a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;

(b) there shall be realised, before the expiration of a specified period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;

and non-compliance with any such condition shall be a ground on which the Board may withhold or cancel a contracting-out certificate in respect of any employment within the application of the scheme.

State scheme premiums

Premium on termination of contracted-out employment

44.—(1) This Article has effect as to the cases in which an earner's employer may pay a state scheme premium where—

(a) the earner's service in contracted-out employment by reference to an occupational pension scheme is terminated before he attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which he attains pensionable age; and

(b) he has served for less than five years in contracted-out employment by reference to the scheme;

and a premium under this Article may be referred to as a "contributions equivalent premium".

(2) If—

(a) the earner's service is terminated in any way except by his death or by the scheme's ceasing to be contracted-out; and

(b) his period of service is not one in respect of which the scheme conforms to the appropriate extent with the preservation requirements of Part V,

his employer may elect to pay a contributions equivalent premium with a view to extinguishing the earner's accrued rights to guaranteed minimum pensions under the scheme.

(3) If the earner's service is terminated by his death and he dies leaving a widow, his employer may elect to pay a contributions equivalent premium with a view to extinguishing any such accrued rights in respect of the widow.

Premium under Article 44: additional provisions

45.—(1) The amount of a contributions equivalent premium shall be the equivalent, as certified by the Department, of the amount by which the Class 1 contributions payable in respect of the earner's employment in contracted-out employment by reference to the scheme have fallen short of what would have been payable if the employment had not been contracted-out; and in certifying any amount under this Article the Department may make such adjustments as it considers necessary for avoiding fractional amounts.

(2) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the references in Article 44(1), and in paragraph (1), to contracted-out employment by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

(3) For the purposes of Article 44(2), a scheme conforms to the appropriate extent with the preservation requirements of Part V if—

- (a) it entitles the earner to short service benefit within the meaning of those requirements; or
- (b) it makes any provision which under those requirements is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).

(4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making elections under Article 44 (2) or (3), discriminate between different earners on any grounds other than their respective lengths of relevant service; and if the Occupational Pensions Board consider that an employer is contravening this paragraph, they may cancel any contracting-out certificate held by him in respect of the scheme in question.

(5) In paragraph (4) "relevant service" means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.

(6) An election by an employer under Article 44 (2) or (3) must be made within the prescribed period in the prescribed manner; and where an employer elects to pay a premium in respect of an earner, he shall pay it to the Department within the prescribed period.

(7) Payment of a premium under Article 44 (2) shall operate to extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme; and payment of a premium under Article 44(3) shall operate to extinguish any right to guaranteed minimum pension in respect of the widow.

(8) Subject to regulations made under paragraph 1 of Schedule 2, an employment which is terminated by the death of the employer shall be treated for the purposes of Article 44 as terminated immediately before the death.

Premium on termination of contracted-out scheme

46.—(1) In the case of an occupational pension scheme which is contracted-out, the Occupational Pensions Board may, for the event of its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

- (a) of earners' accrued rights to guaranteed minimum pensions under the scheme;
- (b) of the liability for the payment of guaranteed minimum pensions thereunder in respect of persons who have then become entitled to receive them.

(2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) then—

- (a) in respect of each earner whose accrued rights to guaranteed minimum pensions under the scheme are not subject to approved arrangements; and
- (b) in respect of each person who has then become entitled to receive a guaranteed minimum pension under the scheme and whose guaranteed minimum pension rights are not so subject,

a state scheme premium shall be payable by the prescribed person.

(3) A premium under paragraph (2)(a) may be referred to as an “accrued rights premium”; and a premium under paragraph (2)(b) may be referred to as a “pensioner’s rights premium”; and in each case the premium shall be paid within the prescribed period to the Department.

(4) For the purposes of paragraph (2), an earner’s accrued rights or, as the case may be, a person’s guaranteed minimum pension rights are subject to approved arrangements if (either before or after the scheme ceased to be contracted-out) the Occupational Pensions Board have approved arrangements under paragraph (1) which operate as respects him and the rights in question, and have not since withdrawn their approval.

(5) The amount—

- (a) of an accrued rights premium shall be the cost (as certified by the Department) of providing guaranteed minimum pensions for the earner and his widow in accordance with his accrued rights under the scheme; and
- (b) of a pensioner’s rights premium shall be the cost (as so certified) of providing or continuing to provide any guaranteed minimum pension thereunder, whether for the earner (or former earner) or for his widow.

(6) The costs referred to in paragraph (5) (a) and (b) shall, unless the person liable for the premium otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under Article 23) the relevant earnings factors have been increased by 12 per cent. per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.

(7) In calculating those costs, the Department shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be contracted-out) is applicable in accordance with the regulations prescribing the tables.

(8) In certifying any amount under paragraph (5), the Department may make such adjustments as it considers necessary for avoiding fractional amounts.

(9) Payment of an accrued rights premium shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the scheme; and payment of a pensioner’s rights premium shall extinguish any right to receive guaranteed minimum pensions thereunder, whether for the earner (or former earner) or for his widow.

Premium where guaranteed minimum pension excluded from full revaluation

47.—(1) Where an earner's service in contracted-out employment by reference to an occupational pension scheme is terminated before he attains the scheme's normal pension age and the weekly rate of the guaranteed minimum pensions to which he has accrued rights under the scheme will fall to be determined in accordance with provisions included in the scheme by virtue of Article 37(7), then, unless either—

- (a) a state scheme premium is payable in respect of him under Article 44 or 46; or
- (b) those provisions conform with such additional requirements as may be prescribed,

the earner's employer shall in respect of the earner pay a state scheme premium (which may be referred to as a "limited revaluation premium").

(2) Such a premium shall be paid to the Department within the prescribed period; and its amount shall be the difference, as certified by the Department, between the cost of providing the guaranteed minimum pensions in accordance with the provisions included in the scheme by virtue of Article 37(7) and what would have been the cost of providing them if no such provision had been included.

(3) Where a state scheme premium is payable in respect of an earner under this Article, and the case is one in which his service in contracted-out employment is terminated in consequence of the relevant scheme ceasing to be contracted-out, the costs referred to in paragraph (2) shall, unless the employer otherwise elects in the prescribed manner, be calculated on the basis that (disregarding any orders made under Article 23) the relevant earnings factors have been increased by 12 per cent. per annum in each of the five complete tax years before that in which the scheme ceases to be contracted-out.

(4) In calculating the costs referred to in paragraph (2), the Department shall apply whichever of the prescribed actuarial tables (as in force at the time when the earner's service in contracted-out employment is terminated) is applicable in accordance with the regulations prescribing the tables; and—

- (a) the tables shall be so framed as to embody the assumption that the increase of weekly equivalent required by Article 37(7) is 5 per cent. compound for each relevant year after that in which the earner's service is terminated; and
- (b) that assumption shall prevail over any different provision made by the scheme.

(5) In certifying any amount under paragraph (2) the Department may make such adjustments as it considers necessary for avoiding fractional amounts.

(6) References in this Article to the termination of an earner's employment do not include references to its termination by his death; and, subject to regulations made under paragraph 1 of Schedule 2, an employment which is terminated by the death of the employer shall be treated for the purposes of this Article as terminated immediately before the death.

Deduction of premium from refund of contributions

48.—(1) Where an earner's service in contracted-out employment is terminated and—

- (a) he (or by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him for the purposes of the relevant scheme towards the provision of benefits under the scheme; and

(b) a state scheme premium falls to be paid by any person in respect of him under this Part,

then, subject to the provisions of this Article, the person by whom the premium falls to be paid shall be entitled on paying it to recover the certified amount (and on paying any part of it to recover a proportionate part of the certified amount) from the person liable for the refund.

(2) For the purposes of this Article the certified amount in relation to a premium paid in respect of any person who is or was an earner or whose husband was an earner shall be such amount as may be certified by the Department as the amount by which the primary Class 1 contributions payable in respect of the earner's employment in—

(a) contracted-out employment by reference to the relevant scheme; and

(b) employment in any period of linked qualifying service which was contracted-out employment by reference to another scheme,

have fallen short of what would have been payable if the employment or employments had not been contracted-out; and in certifying any amount under this paragraph the Department may make such adjustments as it considers necessary for avoiding fractional amounts.

(3) The amount recoverable under this Article shall not exceed the amount of the refund or so much of it as has not been made.

(4) Where the period taken into account in arriving at the certified amount does not coincide with that in respect of which the refund is to be made, the sum recoverable under this Article shall be determined by reference to so much of that amount and of the refund as are referable to the same period.

(5) The amount which may be recovered under this Article in respect of any premium shall be increased by such amount as may be prescribed where the refund—

(a) is made in respect of more than one period of service, and one or more of those periods are periods of previous linked qualifying service; and

(b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme.

(6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this Article from another person liable for the refund.

(7) The amount of the refund shall be reduced by any amount recovered or retained under this Article; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this Article to be exercised, and any provision so made shall have effect notwithstanding anything in any enactment relating to the making of the refund.

(8) Where an earner's service in contracted-out employment is terminated and—

(a) he (or by virtue of a connection with him any other person) is entitled to a refund of any payments made by or in respect of him under the relevant scheme in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme; and

(b) a state scheme premium falls to be paid in respect of him and the period taken into account in arriving at the certified amount includes the period of the previous contracted-out employment,

then in respect of that premium the person liable for it shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under the foregoing provisions of this Article where a state scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is made; and paragraph (7) shall apply accordingly.

(9) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a state scheme premium from any earner in respect of whom it is payable or, except in accordance with this Article, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

(10) The foregoing provisions of this Article shall apply in relation to such a refund as is referred to in paragraph (1)(a) which becomes payable after the termination of an earner's service in contracted-out employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in paragraph (1)(a).

(11) For the purposes of paragraph (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—

- (a) is made or to be made otherwise than out of the resources of the scheme; or
- (b) is made or to be made out of those resources but by way of distribution on a winding-up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of paragraph (10).

(12) In this Article, "the relevant scheme" in relation to any employment means the contracted-out scheme by reference to which that employment is or was contracted-out employment in relation to the earner concerned.

Supplementary

Guaranteed minimum pensions to be inalienable

49.—(1) Where a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme and the person's entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme—

- (a) every assignment of or charge on that pension; and
 - (b) every agreement to assign or charge that pension,
- shall be void.

(2) Paragraph (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

(3) On the bankruptcy of a person who is entitled or prospectively entitled as mentioned in paragraph (1), any guaranteed minimum pension the assignment of which is or would be made void by that paragraph shall not pass to any trustee or other person acting on behalf of his creditors.

(4) The reference in paragraph (3) to a person's bankruptcy shall be read as including the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857 (a).

Supervision of schemes which have ceased to be contracted-out

50.—(1) The provisions of this Article shall apply in respect of any occupational pension scheme, other than a public service scheme, where—

- (a) the scheme has ceased to be a contracted-out scheme otherwise than by being wound up; and
- (b) premiums have not been paid under Article 46 in respect of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme;

and those provisions shall continue to apply so long as there is any such person.

(2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—

- (a) the matters in respect of which they are required to be satisfied for contracting-out purposes under Articles 42(2) and 43(1); and
- (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of Article 43(1));

and where the scheme was contracted-out subject to such conditions as are referred to in Article 43(2) and (5) those conditions shall continue to be binding notwithstanding that there is no contracting-out certificate in force.

(3) For the purposes of paragraph (2)(a) the Board may (either by way of enforcement of such conditions as are referred to in Article 43(2) or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the guaranteed minimum pensions under the scheme; and in the case of an employer failing to make any payment required by such an order—

- (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
- (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.

(4) In so far as the Board are not satisfied as mentioned in paragraph (2)(b), they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the guaranteed minimum pensions under the scheme are adequately secured to its beneficiaries, both present and future.

(a) 1857 c. 60.

(5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in Articles 35 to 43, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.

(6) Where the Board are satisfied that the guaranteed minimum pensions under the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—

- (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
- (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;

and, on a winding-up in pursuance of an order of theirs under this paragraph, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under paragraph (5) in relation to other rules.

(7) In relation to a scheme of any prescribed category, the references in paragraph (3) to employers shall include such persons as may be prescribed as among those to whom an order of the Board under that paragraph may be directed in the case of a scheme of that category after it has ceased to be contracted-out.

Alteration of rules of contracted-out schemes

51.—(1) Where in respect of any employment a contracting-out certificate has been issued, no alteration of the rules of the relevant contracted-out scheme shall be made so as to affect any of the matters dealt with in this Part without the consent of the Occupational Pensions Board; and subject to paragraph (2) any such alteration made without that consent shall be void.

(2) A consent given by the Board for the purposes of this Article shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this Article.

(3) This Article shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme.

Information as to guaranteed minimum pensions

52. The Department may from time to time furnish the trustees or managers of an occupational pension scheme and such other persons as may be prescribed with information as to the amount of the guaranteed minimum pension to which it appears to the Department that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

Contracting-out regulations

53. Schedule 2 shall have effect for enabling regulations to be made in relation to the operation and administration of this Part.

PART V

OCCUPATIONAL PENSIONS

Protection of employees in relation to occupational pension schemes

Employees not bound to join unsatisfactory schemes

54. The Department may make such regulations as it considers appropriate for securing that earners, notwithstanding their terms of employment, are freed from any liability to be or become members of, or to contribute to, an occupational pension scheme—

- (a) which is not for the time being contracted-out in relation to any employment; and
- (b) in whose case the Occupational Pensions Board are satisfied that the benefits of the scheme are not adequately secured, or that it is otherwise unsound in respect of its management or financing.

Equal access to occupational pension schemes

Equal access requirements

55.—(1) The provisions of Articles 56 to 58 shall have effect with a view to securing that the rules of occupational pension schemes conform with the equal access requirements.

(2) Subject to paragraph (3), the equal access requirements, in relation to a scheme are that membership of the scheme is open to both men and women on terms which are the same as to the age and length of service needed for becoming a member and as to whether membership is voluntary or obligatory.

(3) Regulations may—

- (a) provide for the equal access requirements to apply whether to an occupational pension scheme, or to terms of employment relating to membership of it, or to both with such modifications and exceptions as the Department considers necessary for particular cases or classes of case;
- (b) modify those requirements in any manner which the Department considers appropriate with a view to securing the orderly implementation of the provisions of Articles 56 to 58 and to obtaining general compliance with those provisions.

(4) A rule does not contravene the equal access requirements only because it confers on the scheme's trustees or managers, or others, a discretion whose exercise may result in a person being more or less favourably treated than he otherwise would be, so long as the rule does not provide for the discretion to be exercised in any discriminatory manner as between men and women.

(5) This Article and Articles 56 to 58 shall have effect in relation to any occupational pension scheme which is in force on, or comes into force after, the day on which this Article comes into operation, being a scheme whose resources are derived as mentioned in Article 42 (1).

(6) Regulations may make provision—

- (a) for the Equal Pay Act (Northern Ireland) 1970 (a) (“the Equal Pay Act”) to have effect, in relation to terms of employment relating to membership of an occupational pension scheme, with such modifications as may be prescribed;
- (b) for imposing requirements on employers as to the payment of contributions and otherwise in case of their failing or having failed to comply with any such terms;
- (c) for the consequential modification of a scheme’s rules where there has been an alteration under the Equal Pay Act of any such terms.

(7) A reference in this Article to terms of employment includes (where the context permits)—

- (a) any collective agreement or pay structure;
- (b) a wages regulation order within section 4 of the Equal Pay Act; and
- (c) an agricultural wages order within section 5 of that Act.

Duty to bring schemes into conformity with equal access requirements

56.—(1) Where the rules of an occupational pension scheme do not comply with the equal access requirements it shall be the responsibility of—

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration, to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

(2) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in paragraph (1), advise whether the rules of a scheme do or do not in the Board’s opinion conform with the equal access requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

Determination of questions whether scheme conforms with equal access requirements

57.—(1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the equal access requirements.

(2) The persons competent to make an application under this Article in respect of a scheme are—

- (a) the trustees or managers of the scheme;

(a) 1970 c. 32 (N.I.).

- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) any person who is an employer of persons in service in an employment to which the scheme applies;
- (d) any member or prospective member of the scheme;
- (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this Article in respect of a scheme of that category.

(3) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application to them under paragraph (1); and this paragraph applies in particular to a scheme which the Board are considering with a view to contracting-out and one in respect of which an application has been made to them under Article 60 for an order authorising the modification of the scheme or modifying it.

(4) Any question arising in proceedings before any court or tribunal whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to the Occupational Pensions Board and determined by that Board.

(5) At any time when the Occupational Pensions Board are concerned with a scheme for the purpose of issuing a determination under this Article, they may include a determination (whether or not applied for) as to any of the particular matters specified in paragraph (2) of Article 55 or in that paragraph as modified by regulations under paragraph (3) of that Article.

Modification of schemes to secure conformity

58.—(1) If the Occupational Pensions Board determine under Article 57 that the rules of a scheme do not conform with the equal access requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—

- (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in paragraph (2)(b) of that Article, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
- (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in paragraph (2)(c) of that Article) to make that modification; or
- (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.

(2) The Board may exercise their powers under paragraph (1) from time to time in relation to any scheme in respect of which they have issued a determination under Article 57, and may exercise the powers together or separately.

(3) Any modification of a scheme made in pursuance of an order of the Board under paragraph (1)(b) or (c) shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—

- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
- (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.

(4) An order of the Board under paragraph (1)(a) may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under paragraph (1)(b) or (c) may operate retrospectively; and in this paragraph “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this Article.

Preservation of benefit under occupational pension schemes

Requirements relating to preservation of benefits

59.—(1) The requirements of this Part relating to preservation of benefit under occupational pension schemes (“the preservation requirements”) are those set out in Part I of Schedule 3; and Part II of that Schedule shall have effect for enabling the Department to make regulations modifying the preservation requirements and generally in relation to the preservation of benefit under occupational pension schemes.

(2) This Article shall have effect for securing that occupational pension schemes in force at the commencement of this Article or coming into force thereafter conform with the preservation requirements in so far as conformity can be achieved by the use of powers conferred by this Article (in addition to any powers otherwise exercisable) on those concerned with such schemes and on the Occupational Pensions Board.

(3) It is hereby declared that nothing in the foregoing provisions of this Article or in Schedule 3 is to be taken—

- (a) to apply with direct effect to any scheme (whether having effect before or after this Article comes into force), or to the rights or liabilities of any person in, under or by virtue of a scheme; or
- (b) to preclude a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in the Schedule) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.

(4) In the case of an occupational pension scheme whose resources are derived as mentioned in Article 42 (1), it shall be the responsibility—

- (a) of the trustees and managers of the scheme or, in the case of a public service pension scheme, of the Minister, government department or other person or body concerned with its administration, to take such steps as are open to them for bringing the scheme into conformity (if it does not otherwise conform) with the preservation requirements; and

- (b) of the Occupational Pensions Board to advise the trustees and managers, or, if it is a public service pension scheme, the Minister, department or others concerned with the scheme as to whether it does or does not (in the Board's opinion) conform with those requirements and, if the Board are of opinion that the scheme does not conform, to indicate the steps which they consider should be taken with a view to securing conformity;

and the following provisions of this Article shall have effect in relation to schemes whose resources are so derived, but not in relation to public service pension schemes.

(5) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the scheme conforms with the preservation requirements; and the persons competent to make such an application in respect of a scheme are—

- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) any person who is an employer of persons in service in an employment to which the scheme applies;
- (d) any member or prospective member of the scheme;
- (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this Article in respect of a scheme of that category.

(6) The Board may at any time of their own motion issue, in respect of a scheme which has come to their notice (including in particular a scheme which they are considering with a view to contracting-out, or one in respect of which an application has been made to them under Article 60 for an order authorising the modification of the scheme, or modifying it), any determination which they could issue in the case of that scheme on an application to them under paragraph (5).

(7) If the Board determine, in the case of a scheme, that it does not conform with the preservation requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—

- (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in paragraph (5)(b), to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
- (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in paragraph (5)(c)) to make that modification; or
- (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.

(8) The Board may exercise their powers under paragraph (7) from time to time in relation to any scheme in respect of which they have issued a determination under this Article, and may exercise the powers together or separately.

(9) Any modification of a scheme made in pursuance of an order of the Board under paragraph (7)(b) or (c) shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—

- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
- (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.

(10) An order of the Board under paragraph (7)(a) may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under paragraph (7)(b) or (c) may operate retrospectively; and in this paragraph “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than 5th September 1973.

(11) At any time when the Board are concerned with an occupational pension scheme for the purposes of issuing a determination under this Article, they may include a determination (whether or not applied for) as to any of the particular matters specified in Part I of Schedule 3 (including that Part as modified by regulations under Part II of that Schedule).

(12) For the purpose of arriving at a determination under this Article in respect of a scheme the Board may, if they think it expedient having regard—

- (a) to the structure and character of the scheme; and
- (b) to any anomalous or impractical consequences that may be expected to follow from its modification to achieve conformity with any particular provision of Part I of Schedule 3 (including that Part as modified under Part II of that Schedule),

disregard that provision in relation to the scheme, or direct that it be applied with such modification as may be specified in their determination.

(13) This Article applies to persons employed by or under the Crown in like manner as if such persons were employed by a private person.

Modification and winding-up of schemes

Modification and winding-up by order of Occupational Pensions Board

60.—(1) On an application made to them in respect of an occupational pension scheme by persons competent to make such an application in respect of it the Occupational Pensions Board may make an order—

- (a) authorising the modification of the scheme with a view to achieving any one or more of the purposes specified in paragraph (3);

- (b) modifying the scheme with a view to achieving any one or more of those purposes; or
 - (c) directing or authorising the scheme to be wound up on grounds specified in paragraph (4).
- (2) Nothing in this Article applies to public service pension schemes.
- (3) The purposes referred to in paragraph (1)(a) and (b) are those of enabling the scheme—
- (a) to be so treated that an employment to which it applies may be contracted-out employment by reference to it;
 - (b) to qualify for the approval of the Inland Revenue for the purposes of Chapter II of Part II of the Finance Act 1970(a) or to provide benefits enhanced up to the limits suitable in a scheme for which such approval is sought;
 - (c) to provide for the transfer of accrued rights to another scheme with a view to the acquisition, for those whose rights are transferred, of rights under the other scheme in connection with change of employment or otherwise, and for the allowance of transfer credits;
 - (d) to comply with the preservation requirements (without prejudice, however, to anything in Article 59(5) to (12));
 - (e) to comply with the equal access requirements specified in Article 55 but without prejudice to anything in Article 58;
 - (f) to provide for accrued entitlement to benefit (whether in payment or not), so far as payable out of the resources of the scheme, to be surrendered by beneficiaries (at their option and not otherwise, so long as the scheme remains in force and is not being, or to be, wound up) in exchange for other rights assured by means of one or more policies of insurance or annuity contracts, or by other means;
 - (g) to qualify under Article 65 or to have included in, or removed from, it provisions designed to avoid the effect of the rules of law relating to perpetuities,

or of enabling the trustees or managers of the scheme, or others concerned with, or having rights under, it to enter into alternative arrangements having regard to any provision of this Order, or of any other enactment (passed, enacted or made or to be passed, enacted or made) amending or replacing any such provision, or making provision for similar purposes.

(4) The grounds on which the Board may direct or authorise a scheme to be wound up, on an application made to them in that behalf under paragraph (1), are that, having regard to any provision of this Order, or to any other enactment (passed, enacted or made or to be passed, enacted or made) amending or replacing any such provision or making provision for similar purposes the scheme ought to be replaced (in whole or in part) by a different scheme, or is no longer required.

(5) In relation to an occupational pension scheme, the persons competent to make an application to the Board under this Article are—

- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;

(a) 1970 c. 24.

- (c) any person who is an employer of persons in service in an employment to which the scheme applies; and
- (d) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this Article in respect of a scheme of that category.

(6) The Board shall not entertain an application for an order by them under this Article unless they are satisfied that the purposes of the application (whether the modification or the winding-up of the scheme in question)—

- (a) cannot be achieved otherwise than by means of such an order; or
- (b) can only be achieved in accordance with a procedure which is liable to be unduly complex or protracted, or involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty;

but subject to this the Board may on such an application make (with the consent of the applicants) any one or more such orders as are specified in paragraph (1) and may exercise any of the powers of this Article from time to time; and the extent of their powers under this Article is not limited, in relation to any purposes for which they are exercisable, to the minimum necessary to achieve those purposes.

(7) The Board shall not make an order under this Article (whether related to the modification or to the winding-up of a scheme) unless they are satisfied that it is reasonable in all the circumstances to make it; and they shall not make any such order as would or might in their opinion result in any existing or prospective entitlement of a member of the scheme, in respect of a period of service before the coming into force of the order or of any modification which the order authorises, being diminished or curtailed without his consent, unless they are satisfied that it is in the interests of the generality of members that the order should be made.

(8) In considering whether or not to make an order, the Board shall have regard to the structure and character of the scheme and the benefits provided by it, to the provisions of this Order and Chapter II of Part II of the Finance Act 1970, and generally to all the circumstances.

(9) An order of the Board under this Article—

- (a) if it is an order authorising the modification of a scheme, shall be framed so as to confer the power of modification on such persons as the Board think proper (including persons who were not parties to any application made to the Board) and shall include directions indicating the modifications which they consider to be called for;
- (b) if it is an order authorising a scheme to be wound up, shall include directions with respect to the manner and timing of the winding-up;

and any references in this paragraph to directions is to such directions as the Board think appropriate having regard to the purposes of the order.

(10) Paragraph (9) of Article 59 shall apply with the necessary modifications in relation to an order of the Board under this Article as it applies in relation to an order of theirs under paragraph (7)(b) or (c) of that Article, references in paragraph (9) to modification being construed for this purpose as including references to winding-up; and—

(a) an order authorising modification may enable those exercising any power conferred by the order to exercise it retrospectively (whether or not the power could otherwise be so exercised); and

(b) an order modifying a scheme may modify it retrospectively;

and in this paragraph “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, but only such date as may be proposed for the purposes of this paragraph by the persons applying for the order.

Modification, etc., of public service pension schemes

61.—(1) Subject to the provisions of this Article, the appropriate authority shall, in relation to a public service pension scheme, have power to make such provision for the modification or winding-up of the scheme as could be made by an order of the Occupational Pensions Board under this Part in the case of a scheme other than a public service pension scheme; and in this Article “the appropriate authority”, in relation to a scheme, means such Minister of the Crown or government department as may be designated by the Minister for the Civil Service or the Department of Finance as having responsibility for the particular scheme.

(2) The powers of the appropriate authority under this Article shall be exercisable by means of an order—

(a) directly modifying the scheme (without regard, in the case of a scheme contained in, or made under powers conferred by, an enactment, to the terms of the enactment or any of its restrictions);

(b) modifying an enactment under which the scheme was made or by virtue of which it has effect; or

(c) directing that the scheme be wound up and including directions with respect to the manner and timing of the winding-up;

and any such order shall contain such incidental, supplementary and transitional provisions as the appropriate authority considers to be required for the purposes of the order, including provisions adapting, amending or repealing any such enactment as is referred to in sub-paragraph (a) or (b).

Review of, and appeal from, determination of Occupational Pensions Board

Review of Board's determinations

62.—(1) Subject to the provisions of this Article and Article 63, where the Occupational Pensions Board have—

(a) determined to issue, cancel or vary a contracting-out certificate; or

(b) determined to make, or not to make, any order which they have power to make under this Part; or

(c) determined any other question which it is within their functions to determine,

their determination shall be final.

(2) The Board may on the application of a person appearing to them to be interested—

(a) at any time review any such determination of theirs as is mentioned in paragraph (1), or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact;

(b) at any time within a period of six months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.

(3) The Board's powers on a review under this Article shall include power to vary or revoke any determination or order previously made, to substitute a different determination or order, and generally to deal with the matters arising on the review as if they had arisen on the original determination.

References and appeals from the Board

63.—(1) Any question of law arising in connection with—

(a) any matter arising under Part IV or this Part for determination by the Occupational Pensions Board;

(b) any matter which under Article 70(2) falls to be determined by the Board;

(c) any matter arising on an application to the Board for a review of a determination by the Board, or on a review by the Board entered upon without an application,

may, if the Board think fit, be referred for decision to the Court of Appeal.

(2) In the event of the Board determining in accordance with paragraph (1) to refer any question of law to the Court, they shall give notice in writing of their intention to do so—

(a) in a case where the question arises on an application made to the Board, to the applicant; and

(b) in any case, to such persons as appear to the Board to be concerned with the question.

(3) Where—

(a) a person is aggrieved by a determination of the Board given on a review under Article 62, or by the refusal of the Board to review a determination; and

(b) the determination in either case involves a question of law, and that question is not referred by the Board for decision under paragraph (1),

that person may, on that question, appeal from the determination to the Court of Appeal.

(4) The Board shall be entitled to appear and be heard on any reference or appeal under this Article.

(5) Notwithstanding anything in any enactment, the decision of the Court on a reference or appeal under this Article shall be final: and on any such reference or appeal the Court may order the Board to pay the costs of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.

Other provisions

Priority in bankruptcy, etc.

64. Schedule 4 shall have effect for affording priority in cases of insolvency to liabilities in respect of contributions to occupational pension schemes and in respect of state scheme premiums.

Rule against perpetuities

65.—(1) At any time when an occupational pension scheme qualifies under this Article it shall be exempt from the operation of any rules of law relating to perpetuities which would otherwise invalidate, or might be taken to invalidate, any of the trusts of the scheme or any disposition made under it or for its purposes (whether trusts created, or dispositions made, before or after the scheme first qualified under this Article).

(2) A public service pension scheme qualifies under this Article at all times; and otherwise a scheme qualifies at any time when—

- (a) it is contracted-out under Part IV in relation to any employment; or
- (b) it satisfies the requirements of regulations under this paragraph.

(3) Regulations under paragraph (2) may require a scheme—

- (a) to contain provisions in any prescribed form, or to any prescribed effect; or
- (b) to have, or to be such that it may be expected to qualify for, tax-exemption or tax-approval;

and the regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.

(4) In paragraph (3), “tax-exemption” and “tax-approval” mean respectively exemption from tax and approval of the Inland Revenue in either case under any such provision of the Income Tax Acts as may be prescribed by regulations.

(5) Regulations may include provision whereby a scheme which ceases to be contracted-out, or ceases to satisfy the requirements of regulations under paragraph (2), may nevertheless be treated as continuing to qualify under this Article for a further period of 2 years from the cesser, or for such longer period as the Occupational Pensions Board consider to be reasonable in the case of a particular scheme.

(6) As respects the operation of the rules of law referred to in paragraph (1)—

- (a) this Article does not validate with retrospective effect any trusts created or dispositions made under or for the purpose of a scheme if (taking into account, where applicable, section 3(1) of the Perpetuities Act (Northern Ireland) 1966(a)) those trusts or dispositions were already required to be treated as void under the rules before the scheme qualified under this Article; and
- (b) if a scheme ceases to qualify, trusts so created and dispositions so made shall then again be subject to the rules as if the scheme had never qualified (but without prejudice to any rights which vested during the period of qualification).

(a) 1966 c. 2 (N.I.).

(7) The Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928(a) shall cease to have effect, but regulations may provide, in relation to a scheme whose fund was registered under the Act immediately before its repeal took effect, for the scheme to retain the benefit of the Act, subject to prescribed conditions and either indefinitely or for a prescribed period.

(8) The said Act of 1928 shall, until its repeal by paragraph (7), have effect with the following modifications—

- (a) no new application shall be made under section 3 of the Act for the registration of any fund (without prejudice to the effectiveness of any application previously made or pending); and
- (b) the registration of a fund may be cancelled notwithstanding that the fund has not been wound up, if the trustees apply in writing to the registrar stating that they desire its cancellation.

Legal restrictions of doubtful application

66.—(1) This Article has effect for the removal of doubt as to the application, or possible application, of certain enactments in relation to occupational pension schemes.

(2) Nothing in the Truck Acts (Northern Ireland) 1831 to 1940(b) or the Hosiery Manufacture (Wages) Act 1874(c) has, or ever has had, effect so as to prevent the deduction from a person's earnings, on their payment to him, of his contributions to an occupational pension scheme, or of sums to be applied for the purpose of acquiring rights under such a scheme, whether for himself or for his widow or dependants.

(3) An occupational pension scheme is not, nor ever has been, a shop club or thrift fund for the purposes of the Shop Clubs Act 1902 (d).

Friendly societies

67.—(1) The Department may, after consultation with the Registrar of Friendly Societies for Northern Ireland, make such regulations as it considers appropriate for enabling a registered society to conduct approved group insurance business with a view to the establishment of occupational pension schemes.

(2) The power to make regulations under this Article shall extend to enabling registered societies to conduct such business as is mentioned in paragraph (1) freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.

(3) Regulations under this Article may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Department considers to be necessary or expedient for achieving the purposes referred to in paragraph (1).

(a) 1928 c. 6 (N.I.).

(b) 1831 c. 37; 1887 c. 46; 1896 c. 44; 1940 c. 21 (N.I.).

(c) 1874 c. 48.

(d) 1902 c. 21.

(4) In this Article—

“the relevant legislation” means the Friendly Societies Act (Northern Ireland) 1970(a),

“registered society” has the same meaning as in that Act, and

“approved group insurance business” has the same meaning as in paragraph 11(5) of Schedule 2 to that Act.

Fees for official services to schemes

68. Where at the request of the trustees or managers of an occupational pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Department or by the Occupational Pensions Board on its behalf, the Department may require the payment of fees for the provision of those services.

Increase of official pensions

69.—(1) Where by virtue of Article 25 a direction is given that the sums which are the additional components in the rates of long-term benefits are to be increased by a specified percentage, the Department of Finance shall by order provide that the annual rate of an official pension may, if a qualifying condition is satisfied or the pension is a widow's pension, be increased in respect of any period beginning on or after the date on which the direction takes effect—

(a) if the pension began before the beginning of the base period for that direction, by the same percentage as that specified in the direction;

(b) if the pension began during the base period, by that percentage multiplied

by $\frac{A}{B}$ where A is the number of complete months in the period between

the beginning of the pension and the end of the base period and B is the number of complete months in the base period.

(2) Where an order is made under this Article in consequence of any such direction as aforesaid the order shall, in addition to the provision required by paragraph (1), authorise the payment of an increase in respect of any lump sum that becomes payable during the base period for that direction, being an increase

equal to the percentage specified in the direction multiplied by $\frac{A}{B}$ where—

(a) A is the number of complete months in the period between the beginning date for the lump sum (or, if later, the date from which it was last authorised to be increased by an order under this Article) and the date on which it becomes payable; and

(b) B is the number of complete months in that base period.

(a) 1970 c. 31 (N.I.).

(3) In the case of the first order made under this Article in consequence of any such direction as aforesaid, paragraph (1) shall have effect as if the increase required to be authorised in the case of any pension (whether beginning before or during the base period) were an increase equal to the percentage specified in

the direction multiplied by $\frac{A}{B}$ where—

- (a) A is the number of complete months in the period between the beginning of the pension (or, if later, the date from which it was last authorised to be increased by an order under section 2 of the Pensions (Increase) Act (Northern Ireland) 1971 (a) (“the Act of 1971”)) and the end of the base period for that direction; and
- (b) B is the number of complete months in that base period.

(4) In the case of the first order so made under this Article, paragraph (2) shall have effect as if—

- (a) for the reference to any lump sum that becomes payable during the base period there were substituted a reference to any lump sum that becomes or has become payable before the end of the base period but after the date from which official pensions were last increased by an order under section 2 of the Act of 1971; and
- (b) the reference in sub-paragraph (a) of the paragraph to the date from which the lump sum was last authorised to be increased were a reference to the date specified in sub-paragraph (a) of this paragraph.

(5) The increases in the rate of a pension that may be provided for by an order under this Article are to be calculated by reference to the basic rate of the pension as authorised to be increased by section 1 of the Act of 1971 or by any order under section 2 of that Act or this Article; but where a person is entitled to a guaranteed minimum pension when an order under this Article comes into force, the amount by reference to which any increase authorised by that or any subsequent order is to be calculated shall be reduced by an amount equal to the rate of the guaranteed minimum pension.

(6) Any order under this Article shall be laid before the Assembly after being made.

(7) In this Article—

“base period”, in relation to any such direction as is mentioned in paragraph (1), means the period ending with the coming into force of that direction and beginning with the coming into force of the last previous such direction or, if there was none, with the first day of the second tax year for which lower and upper earnings limits are specified under Article 3;

“beginning date”, in relation to a lump sum, shall be construed in accordance with sections 8(2) and 9(2)(a) of the Act of 1971;

“lump sum” includes an instalment of a lump sum;

and this Article and the Act of 1971 shall have effect as if this Article were contained in Part I of that Act.

(a) 1971 c. 35 (N.I.).

PART VI

GENERAL

Determination of questions

70.—(1) The questions to which section 93(1) of the principal Act applies (questions for determination by the Department) shall include—

- (a) any question as to which surpluses are to be taken into account under Article 8(2);
- (b) any question as to the amount of a person's guaranteed minimum for the purposes of Article 35 or 38;
- (c) any question whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium.

(2) Any question arising under this Order whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Department to the Occupational Pensions Board and determined by that Board.

(3) Neither the said section 93(1) nor section 98(1) of the principal Act (questions for determination by insurance officers) shall apply to any such question as is mentioned in paragraph (2).

Regulations and orders

71.—(1) Section 156 of the principal Act shall have effect as if subsection (1) (regulations and orders subject to confirmatory procedure) included—

- (a) regulations made wholly or partly by virtue of—
 - (i) paragraph 5(6) or (7) of Schedule 3 to that Act (contribution conditions for Category A and B retirement pensions, widowed mother's allowance and widow's pension);
 - (ii) Article 5 or 11(3);
- (b) regulations prescribing actuarial tables for the purposes of Articles 46(7) and 47(4);
- (c) orders made by virtue of Article 23.

(2) Subsection (4) of the said section 156 (regulations and orders subject to negative resolution) shall not apply to any regulations or order to which paragraph (1) applies, or any order which under any provision of this Order is required to be laid before the Assembly after being made.

(3) Section 155(1) of the principal Act (power to make orders to be exercisable by statutory rule) shall not apply to any power of the Occupational Pensions Board to make orders under this Order.

(4) Where any provision of Part IV or V allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Department, any regulations made by virtue of that provision may provide for those matters to be dealt with by the Occupational Pensions Board in their discretion or to be determined in accordance with the exercise by the Board of

a discretion vested in them by the regulations and for the Board's discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.

Transitional provisions

72.—(1) Regulations may make provision for any transitional matter connected with the coming into force of this Order.

(2) Without prejudice to the generality of paragraph (1), regulations may in particular—

- (a) make provision whereby a contribution paid or credited before (or in respect of a period before) commencement is treated, for the purposes of entitlement to or the calculation of any benefit, as having been paid or credited at a specified time or in respect of earnings of a specified amount;
- (b) make provision whereby a person who has satisfied any contribution condition before commencement is treated as having satisfied any contribution condition having effect by virtue of this Order;
- (c) modify any contribution condition in cases where the period in relation to which it is to be satisfied begins before and ends after commencement;
- (d) modify any provision of this Order in relation to persons who have attained the age of 16 before commencement;
- (e) make provision with respect to the operation of Schedule 1 in relation to persons who have attained pensionable age before commencement but have not then retired from regular employment;
- (f) make provision for effecting orderly transition between Part III of the National Insurance Act (Northern Ireland) 1966 (a) and Part IV of this Order, including provision modifying for that purpose any provision of those Parts;
- (g) make provision for enabling the Occupational Pensions Board to issue contracting-out certificates on the basis of such undertakings and information as may be prescribed;
- (h) make provision for the preservation of rights under any provision repealed or modified by this Order or otherwise for securing continuity between any such provision and any provision of this Order.

(3) In paragraph (2) “commencement” means the time of the coming into force of any provision of this Order specified in the regulations in question.

Financial provisions

73.—(1) Subsection (5) of section 129 of the principal Act (reimbursement of expenses out of the National Insurance Fund) shall have effect in relation to the administrative expenses of the Department or any other government department in carrying this Order into effect (excluding expenses attributable to the carrying into effect of provisions of this Order relating to benefits which are not payable out of the National Insurance Fund) as it has effect in relation to the expenses mentioned in subsection (3) (a) of that section.

(a) 1966 c. 6 (N.I.).

(2) Any state scheme premium received by the Department under this Order shall be paid by it into the National Insurance Fund.

Amendments and repeals

74.—(1) The enactments mentioned in Schedule 5 shall have effect with the amendments there specified (which include amendments consequential on the Northern Ireland Constitution Act 1973 (a)).

(2) The enactments mentioned in Schedule 6 (which include provisions of the Pensions (Increase) Act (Northern Ireland) 1971, Schedule 2, which have been superseded by the Pensions Increase (Northern Ireland Reserved Services) Regulations 1974 (b)) are hereby repealed to the extent specified in the third column of that Schedule.

(3) Without prejudice to any provision made by Schedule 5, references in any enactment to benefit under the principal Act shall, except where the context otherwise requires, be construed as including references to benefit under Part III of this Order.

N. E. Leigh

(a) 1973 c. 36. (b) S.I. 1974/1741 (1974 III, p. 6207).

SCHEDULES

SCHEDULE 1

Article 14.

DEFERRED RETIREMENT

Increase of pension where pensioner defers retirement

1. Where a person defers his retirement from regular employment after attaining pensionable age, the rate of his Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 2, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.

2.—(1) Subject to paragraph 3, a person is entitled to an increment under this paragraph for each complete incremental period in his period of deferment.

(2) In this Schedule—

- (a) “incremental period” means any period of six consecutive days, excluding Sunday (Monday therefore being treated as the next consecutive day following Saturday); and
- (b) “period of deferment”, in relation to any person, means the period beginning with the day on which he attains pensionable age and ending with the day before that of his retirement.

(3) Subject to paragraph 3, the amount of the increment for any such incremental period shall be $\frac{1}{8}$ th per cent. of the weekly rate of the Category A or Category B retirement pension to which that person would have been entitled for the period if he had retired on attaining pensionable age.

(4) For the purposes of sub-paragraph (3) the weekly rate of the pension for any period shall be taken to be the rate that would have applied on the last day of that period, including any increase under section 28(7) of the principal Act (invalidity) and any increase under paragraph 4 but not any increase under section 41, 45 or 46 of the principal Act (child and adult dependants) or any graduated retirement benefit.

(5) Where one or more orders have come into force under section 120 of the principal Act (increases in rates of benefit) during the period of deferment the rate for any incremental period shall be determined under sub-paragraph (4) as if the order or orders had come into force before the beginning of the period of deferment.

3. Regulations may provide that a day shall be treated in relation to any person or his pension as not being a day of increment and—

- (a) if any incremental period in that person’s period of deferment consists wholly of days that fall to be so treated in relation to him or his pension, he shall not be entitled to any increment for that incremental period under sub-paragraph (1) of paragraph 2;
- (b) if any such incremental period contains one or more such days, the amount of the increment for the period under sub-paragraph (3) of that paragraph shall be proportionately reduced.

Increase of pension where pensioner’s deceased spouse has deferred retirement

4.—(1) Where a woman is entitled to a Category A or Category B retirement pension and—

- (a) she has had a husband and he has died, and she was married to him when he died; and
- (b) the husband either—
 - (i) was entitled to a Category A or Category B retirement pension with an increase under this Schedule; or
 - (ii) would have been so entitled if he had retired on the date of his death,

the rate of her pension shall be increased by an amount equal to the increase to which he was or would have been entitled.

(2) Where a man is entitled to a Category A or Category B retirement pension and—

- (a) he has had a wife and she has died, and he was married to her when she died; and
- (b) he was over pensionable age when she died; and
- (c) the wife either—
 - (i) was entitled to a Category A or Category B retirement pension with an increase under this Schedule; or
 - (ii) would have been so entitled if she had retired on the date of her death,the rate of his pension shall be increased by an amount equal to the increase to which she was or would have been entitled.

Married women

5.—(1) For the purposes of paragraphs 1 to 3 in their application to a Category B retirement pension to which a married woman is entitled by virtue of her husband's contributions, a married woman who retires (or is deemed by virtue of section 27(5) of the principal Act to retire) before her husband shall be treated as deferring her retirement until he retires and her period of deferment shall accordingly be treated as ending with the day before that of his retirement.

(2) References in sub-paragraph (1) to the retirement of a woman's husband shall, where the marriage is terminated before he retires, be construed as references to the termination of the marriage.

(3) In the case of—

(a) a Category B retirement pension to which a married woman is entitled by virtue of her husband's contributions; or

(b) a married woman's Category A retirement pension with an increase under Article 12(2) attributable to her husband's contributions,

the reference in paragraph 2(3) to the pension to which a person would have been entitled if he had retired on attaining pensionable age shall be construed as a reference to the pension to which she would have been entitled if she and her husband had so retired.

(4) Paragraph 4(2)(c) shall not apply to a Category B retirement pension to which the wife was or would have been entitled by virtue of the man's contributions; and where the Category A retirement pension to which the wife was or would have been entitled includes an increase under Article 12(2) attributable to his contributions, the increase to which he is entitled under that paragraph shall be calculated as if there had been no increase under that Article.

CONTRACTING-OUT REGULATIONS

General regulations

1. In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which such employments are or have been contracted-out, provision may be made by regulations—

- (a) for treating an earner's employment, where it ends before a person succeeds to the business of the earner's employer, as having been employment under the employer's successor;
- (b) for disregarding changes in an earner's employment due to the death of an employer or other cause, or any cesser of contracted-out employment so due, or for treating employment under one employer as a continuation of that under another and treating any contracting-out certificate issued to, or election made by, the former employer as issued to or made by the latter;
- (c) for disregarding temporary interruptions in an earner's employment or contracted-out employment, and for treating the employment in either case as continuing during the interruption; and
- (d) generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end;

and references in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.

2. Regulations may enable the Occupational Pensions Board to determine, in prescribed circumstances, that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date earlier than would otherwise be the case, not being, in the case of an earner within the scope of the determination, a date earlier than that on which his relevant employment began or a contracting-out certificate was issued in respect of it, whichever is the later.

3. Provision may be made by regulations for requiring an employer to give notice to the Department when an earner's employment becomes or ceases to be contracted-out employment and when an earner's employment in contracted-out employment begins or ends.

Requisite benefits

4.—(1) Regulations may, in relation to any method adopted in an occupational pension scheme for making ascertainable its requisite benefits, provide for adjusting figures so as to avoid fractional amounts and otherwise to facilitate computation.

(2) Regulations may require employers of earners (whether or not for the time being in contracted-out employment) to notify earners and others, in the prescribed manner, of the method by which the requisite benefits of any occupational pension scheme fall to be calculated under the scheme and any regulations applicable thereto.

Modification of Part IV in certain cases

5.—(1) Regulations may modify the provisions of Part IV in their application to cases in which a person is employed at the same time in two or more employments (whether or not under the same employer), being employments of which at least one is contracted-out employment but which are not all contracted-out employments, with a view to enabling the employments to be treated either separately or together for the purposes of that Part.

(2) Regulations may modify the provisions of Part IV in their application to cases in which—

- (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits;

- (b) earners qualify for the benefits of a scheme by reference not only to service in contracted-out employment but also to service in the same or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment;

and regulations under this paragraph may include provision for securing that in such cases an earner's employment does not cease to be contracted-out employment only because his service for the time being does not qualify him for the requisite benefits.

State scheme premiums

6.—(1) Regulations may make provision for requiring persons to furnish the Department or the Occupational Pensions Board with such information as the Department or the Board may require for the purposes of Articles 44 to 51.

(2) In relation to employed earners who, in any period of service in contracted-out employment—

- (a) have been paid earnings in any income tax week by more than one person in respect of different employments; or
- (b) have worked under the general control or management of a person other than their immediate employer;

and in relation to any other case for which it appears to the Department that such provision is needed, regulations may provide that for the purposes of Articles 44 to 47 the prescribed person shall be treated as the employer of any earners.

(3) Regulations may, in relation to state scheme premiums, provide—

- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- (b) for treating a premium payable in respect of any person as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, that person;
- (c) for treating a premium wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the principal Act;
- (d) for the return of premiums paid in error or, in prescribed circumstances, of premiums as to which the Department is satisfied that they ought to be repaid;
- (e) for the Department, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;
- (f) for any other matters incidental to the payment, collection or return of premiums.

Centralised schemes

7.—(1) Regulations may modify Articles 33 to 50 in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.

(2) Regulations under this paragraph may provide—

- (a) for the trustees or managers of the scheme instead of the employer to be subject to the liabilities imposed by Articles 44 to 47;
- (b) for the adjustment (whether as a consequence of any provision made under paragraph (a) or otherwise) of rights and liabilities as between employers, earners and the trustees or managers.

Special provisions for certain public service pension schemes

8.—(1) In relation to employments of any class to which this paragraph applies, the Department may by regulations—

- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by the appropriate government department instead of by the employer;

- (b) make provision for other things which by or under Part IV are required or authorised to be done by or to an employer to be done instead by or to the appropriate government department;
- (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
- (d) make provision for the recovery by the appropriate government department of any state scheme premium from any person where it has been paid by it instead of by that person.

(2) Before making any regulations under this paragraph the Department shall consult with such bodies concerned with employments of the class in question as appear to it fairly to represent the interests of the employers and earners in those employments.

(3) Subject to sub-paragraphs (4) and (5), the employments in which an earner's service qualifies him for benefit under any of Articles 9 to 12 of the Superannuation (Northern Ireland) Order 1972 (a) shall constitute a class to which this paragraph applies.

(4) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (3) but for regulations having effect under the said Order of 1972 which allow arrangements made in connection with a previous employment to continue in force, the employment shall be treated for the purposes of this paragraph as falling within the class to which that enactment relates and as not falling within any other class to which this paragraph applies.

(5) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (3), that provision shall be deemed to be included among the enactments so specified.

(6) In this paragraph "the appropriate government department" in relation to any class of employment qualifying a person for benefit under any Article of the Superannuation (Northern Ireland) Order 1972 means the department which has power to make regulations under that Article.

Incidental matters

9. Regulations may make provision for any incidental matters connected with the provisions of Part IV in relation to any employment which is, has been or may become contracted-out employment and for any incidental matters otherwise connected with the provisions of that Part or this Schedule.

(a) S.I. 1972/1073 (N.I. 10).

REQUIREMENTS AS TO PRESERVATION OF BENEFIT UNDER
OCCUPATIONAL PENSION SCHEMES

PART I

Interpretation

1. The following four paragraphs have effect for the interpretation of this Schedule.
2. "Scheme" means an occupational pension scheme; and in relation to a scheme—
 - (a) "relevant employment" means any employment to which the scheme applies;
 - (b) "long service benefit" means the benefits which will be payable under the scheme, in accordance with legal obligation, to or in respect of a member of the scheme on the assumption that he remains in relevant employment until he attains normal pension age;and in paragraph (b) "benefits" means retirement benefit for the member himself at normal pension age or benefit for his wife or widow, or dependants, or others, on his attaining that age or his death thereafter, or both such descriptions of benefit.
- 3.—(1) "Pensionable service", in relation to a scheme and a member of it, means service in relevant employment which qualifies the member (on the assumption that it continues for the appropriate period) for long service benefit under the scheme, including service before the appointed day.
 - (2) There shall be taken into account as pensionable service only actual service; that is to say—
 - (a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service; and
 - (b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.
- 4.—(1) In relation to a scheme and a member's pensionable service under it "normal pension age" is to be construed as follows.
 - (2) Where the scheme provides for the member only requisite benefits, "normal pension age" means the earliest age at which the member is entitled to receive his requisite benefits on retirement from relevant employment.
 - (3) In any other case "normal pension age" means the earliest age at which the member is entitled to receive benefits (other than requisite benefits) on his retirement from such employment.
 - (4) For the purposes of this paragraph there is to be disregarded any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise.
- 5.—(1) "Supplementary credits", in relation to a scheme and a member's entitlement to its benefits, means any increase of benefit or additional benefit to which the member may become entitled—
 - (a) in consequence of any provision made by or under the scheme after he becomes a member of it (to the extent that it applies to any previous pensionable service of his);
 - (b) by reference to previous service of his (whether or not pensionable service); or
 - (c) in such other circumstances as may be prescribed,including under paragraph (b) any transfer credits.
 - (2) "Purchased credits" means supplementary credits for which, under the rules of the scheme, a member may or must make payment in whole or in part (whether by means of additional contributions, or of deduction from benefit, or otherwise, and whether separately for each credit or by one or more payments for one or more credits).
 - (3) "Bonus credits" means supplementary credits other than purchased credits or transfer credits.

Basic principle as to short service benefit

6.—(1) A scheme must provide so that where a member's service in relevant employment is terminated before normal pension age and—

- (a) he has attained the age of 26; and
- (b) he has at least 5 years' qualifying service,

he is entitled to benefit (calculated in accordance with the following provisions of this Schedule and there referred to as "short service benefit"), consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or for others.

(2) Subject to the following sub-paragraph, short service benefit must be made payable as from normal pension age or, if in the member's case that age is earlier than 60, then from the age of 60.

(3) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time thereafter as long service benefit payable on or in respect of his death would be payable.

(4) In applying sub-paragraphs (2) and (3) no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.

(5) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.

Qualifying service

7.—(1) "5 years' qualifying service" means 5 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 5 years) in which the member was at all times employed either—

- (a) in pensionable service under the scheme; or
- (b) in service in contracted-out employment by reference to the scheme; or
- (c) in linked qualifying service under another scheme,

no regard being had to whether or not it was the same description of service in the whole of the 5 years.

(2) A period of service previously terminated is not to count towards the 5 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

No discrimination between short service and long service beneficiaries

8.—(1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.

(2) The above does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, except a rule made after the termination of a member's pensionable service and resulting, or capable of resulting, for him in any treatment less favourable than that to which he would have been entitled but for the rule; nor does it apply to a rule merely conferring a discretion on the scheme's trustees or managers, or others, so long as it is not a rule requiring the discretion to be exercised in any discriminatory manner against members in respect of their short service benefit.

Form of short service benefit and its alternatives

9.—(1) Subject to the following sub-paragraph, a member's short service benefit must either be payable (as mentioned in paragraph 6(2)) directly out of the resources of the scheme or be assured to him by such means as may be prescribed.

(2) Subject to the following sub-paragraphs, a scheme may, instead of providing short service benefit, provide—

(a) for the member's accrued rights to be transferred to another scheme (whether contracted-out or not) with a view to the acquisition for him of transfer credits under the other scheme; or

(b) for such alternatives to short service benefit as may be prescribed.

(3) Either of the alternatives specified in sub-paragraph (2)(a) and (b) may be by way of complete or partial substitute for short service benefit, but (except in such cases as may be prescribed) only with the member's consent.

(4) An alternative prescribed under sub-paragraph (2)(b) must not include any payment by way of return of contributions, except in respect of—

(a) a period of service before the appointed day; or

(b) a period of service of less than 5 years after that day if (and only if) there has been such a payment in respect of a period of service before that day.

Computation of benefit

10.—(1) A scheme must provide for short service benefit to be computed on the same basis as long service benefit.

(2) For this purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.

(3) This paragraph does not apply to so much of any benefit as—

(a) accrues at a higher rate, or otherwise more favourably, in the case of members with a period of pensionable service of some specified minimum length, or of those remaining in pensionable service up to some specified minimum age; or

(b) is of an amount, or at a rate, unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member;

nor does it apply to any category of schemes or members, or description of benefit, excluded from this paragraph by regulations.

11. So far as any short service benefit is not required to be computed in accordance with paragraph 10, it must be computed on the basis of uniform accrual, bearing the same proportion to long service benefit at the time when pensionable service is terminated as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.

12.—(1) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before, the time when his pensionable service is terminated.

(2) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

Credits

13.—(1) If a scheme provides for long service benefit to include supplementary credits, it must provide for such credits to be included in short service benefit, and provide for all credits to be so included, subject to the following sub-paragraphs.

(2) Where purchased credits have not been paid for in full at or before termination of pensionable service—

(a) if they were to be paid for by a fixed amount, the benefit must include so much of the whole of the credits as bears the same proportion to them as the amount which the member has paid bears to the full amount payable by him;

(b) if they were to be paid for otherwise than by a fixed amount, the benefit must

include such part of the credits as bears the same proportion to the whole as the period between the time when the first payment became due and the termination of the member's pensionable service bears to the whole period over which payment was to be made.

(3) If the benefit includes bonus credits, or credits for which payment is to be made by deduction from that or another benefit, the credits to be included in the benefit and (where applicable) the amount of the deduction must be computed on the basis of the following assumptions—

(a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age;

(b) that entitlement to any credit, and also the amount of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.

(4) Where any such deduction from benefit as is referred to in sub-paragraph (3) is a percentage of benefit, the percentage must be the same for short service as for long service benefit.

(5) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

Pension increases

14.—(1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards re-valuation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.

(2) Where provision to this effect is made in such a way as to involve the exercise of a discretion in relation to increase of long service benefit, a corresponding discretion must be conferred in relation to short service benefit.

(3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.

(4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, so long as the rate is not less than 3 per cent. a year compound.

Assignment, surrender and commutation of benefit

15.—(1) Except as provided by this paragraph, a scheme must contain rules preventing assignment of short service benefit, and must not enable such benefit to be surrendered or commuted.

(2) Provisions enabling assignment are permissible (whether assignment before or after the benefit comes into payment) if it is assignment in favour of the member's widow or a dependant of his.

(3) Provisions enabling surrender (at the option of the member) are permissible where it is—

(a) to provide benefit for the member's widow or a dependant of his;

(b) to acquire for the member entitlement to transfer credits under another scheme;

(c) to acquire for the member entitlement to further benefits under the same scheme, relating both to a period of pensionable service previously terminated and also to a subsequent period of service in relevant employment.

(4) Provision may be made for a member's benefit to be commuted, but only—

(a) in a case where he opts (at any time) to commute at or after normal pension age; or

(b) in exceptional circumstances of serious ill-health; or

(c) in such other circumstances as may be prescribed;

and where a scheme provides benefit for a member's widow or dependant, it may provide for commutation by the beneficiary in such circumstances as may be prescribed.

(5) In respect of any of the benefits or rights alternative to short service benefit provided in accordance with paragraph 9(2), this paragraph shall apply with such modifications as may be prescribed.

Forfeiture, etc.

16.—(1) Except so far as permitted by this paragraph, and subject to paragraph 17, a scheme must not contain any provision for forfeiture of short service benefit.

(2) Provision may be made for forfeiture of the whole or part of any short service benefit by reference to an event occurring after the benefit becomes payable, but only an event by reference to which long service benefit would be forfeited; and such a provision must not be in terms which in the opinion of the Occupational Pensions Board appear to discriminate against members entitled to short service benefit.

(3) Provision may be made for forfeiture by reference to—

- (a) the assignment or attempted assignment of the benefit contrary to the provisions of the scheme;
- (b) the member's bankruptcy or, in the case of benefit for a widow or dependant of the member, the beneficiary's bankruptcy;

and in this case forfeiture may be by reference to an event occurring either before or after the benefit would otherwise be payable, so long as the like provision is made in relation to long service benefit.

(4) Provision for forfeiture may be made—

(a) in a public service pension scheme, by reference to the member being convicted of an offence—

- (i) committed by him before the benefit becomes payable and in connection with relevant employment, and
- (ii) certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service;

(b) in any case, by reference to the member having been convicted of any offence committed before the benefit becomes payable, being—

- (i) an offence of treason, or
- (ii) one or more offences under the Official Secrets Acts 1911 to 1939 (a) for which the member has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

17.—(1) No rule must operate so as to deprive a person of short service benefit (whether a member himself, or his widow or a dependant) by reference to—

- (a) failure by him or any other person to make a claim for the benefit or for any payment due as benefit; or
- (b) failure by him or any other person, at any time after termination of relevant employment, to give any notice, or comply with any formality, required by the scheme as a condition of entitlement.

(2) Sub-paragraph (1)(a) is not to prevent reliance on any enactment relating to the limitation of actions; and in cases of failure to claim, the scheme may provide for the right to receive any payment to be forfeited in the event of its not being claimed within 6 years of the date on which it became due.

18.—(1) A scheme must contain no rule enabling a member's employer to exercise any description of charge or lien on, or set-off against, short service benefit, to the extent that it includes transfer credits; but a charge or lien on, or set-off against, a member's short service benefit is permissible (insofar as it does not include transfer credits) for the purpose of enabling the employer to obtain the discharge by the member of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by the member.

(a) 1911 c.28; 1920 c.75; 1939 c.121.

(2) No rule is to permit the employer to recover from, or retain out of, the resources of the scheme any sum in respect of a monetary or other obligation due to him from any member, except an obligation arising as mentioned in sub-paragraph (1); and rules permitting such recovery or retainer must so provide that—

- (a) in respect of any such obligation, recovery or retainer is limited to the actuarial value of the member's actual or prospective benefits at that time, or the amount of the obligation, whichever is the less (subject to any different agreement in writing between the employer and the member); and
- (b) the member is entitled to a certificate showing the amount retained or recovered and its effect on his benefits or prospective benefits; and
- (c) in the event of any dispute as to the amount to be retained or recovered, the employer is not entitled to enforce the charge, lien or set-off except after the obligation has become enforceable under an order of a competent court or the award of an arbitrator.

19. In respect of any of the benefits or rights alternative to short service benefit provided in accordance with paragraph 9(2), paragraphs 16 to 18 shall apply with such modifications as may be prescribed.

PART II

SUPPLEMENTARY REGULATIONS

20. Regulations may, in respect of any specified provision contained in Part I, provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of that provision.

21. Regulations may modify Part I in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.

22. Regulations may make provision as to the circumstances in which, for the purposes of Part I—

- (a) a period of a person's service in two or more different employments is to be treated as a period of service in one or more of those employments;
- (b) a person's service in any employment is to be treated as terminated or not terminated.

23. Regulations may modify Part I in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment and these regulations may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.

24. Regulations may make such provision modifying Part I as the Department considers fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up.

25. Regulations may modify Part I in any manner which the Department considers appropriate with a view to securing the orderly implementation of the provisions of Article 59 and to obtaining general compliance with that Article; and regulations made under this paragraph may include incidental and supplementary provisions, including provisions appearing to the Department to be required in consequence of different provisions of Part I being brought into force at different times.

26. Without prejudice to any of the foregoing provisions, regulations may provide for the preservation requirements to apply with such modifications and exceptions as the Department considers to be necessary for particular cases or classes of cases.

PRIORITY IN BANKRUPTCY, ETC.

Earners' contributions to occupational pension scheme

1. Section 144 of the principal Act shall have effect as if the debts specified in subsection (2) of that section included any sum owed on account of an earner's contributions to an occupational pension scheme, being contributions deducted from earnings paid in the period of four months immediately preceding the date of the relevant event or otherwise due in respect of earnings paid or payable in that period.

Employer's contributions to occupational pension scheme

2.—(1) The said section 144 shall have effect as if the debts specified in subsection (2) of that section also included any sum owed on account of an employer's contributions to a contracted-out scheme, being contributions payable—

- (a) in the period of 12 months immediately preceding the date of the relevant event; and
- (b) in respect of earners in contracted-out employment by reference to the scheme towards the provision for those earners of guaranteed minimum pensions under the scheme.

(2) In so far as contributions cannot from the terms of the scheme be identified as falling within sub-paragraph (1), the amount of the debt having priority by virtue of that sub-paragraph shall be deemed to be an amount equal to—

- (a) 7 per cent. of the total reckonable earnings paid or payable, in the period of 12 months referred to in that sub-paragraph, to or for the benefit of non-contributing earners; or
- (b) 4.5 per cent. of the total reckonable earnings paid or payable in that period to or for the benefit of contributing earners.

(3) For the purposes of sub-paragraph (2)—

- (a) the earnings to be taken into account as reckonable earnings are those paid or payable to or for the benefit of earners in contracted-out employment (by reference to the scheme) in the whole or any part of the said period of 12 months; and
- (b) earners are to be identified as contributing or non-contributing in relation to service of theirs in contracted-out employment by reference to the scheme according to whether or not in the period in question they were liable under the terms of the scheme to contribute in respect of that service towards the provision of pensions under the scheme.

(4) In this paragraph "employer" shall be construed in accordance with regulations made under Article 2(4) and "reckonable earnings", in relation to any employment, means the earner's earnings from that employment so far as those earnings—

- (a) were comprised in any payment of earnings made to him or for his benefit at a time when the employment was contracted-out employment; and
- (b) exceeded the current lower earnings limit but not the current upper earnings limit.

State scheme premiums

3.—(1) The said section 144 shall have effect as if the debts specified in subsection (2) of that section also included any sum owed on account of a state scheme premium payable at any time before, or in consequence of, the occurrence of the relevant event.

(2) Where any such premium is payable in respect of a period of service of more than 12 months (taking into account any previous linked qualifying service), the amount to be paid in priority by virtue of this paragraph shall be limited to the amount of the premium that would have been payable if the service had been confined to the last 12 months taken into account in fixing the actual amount of the premium.

(3) Where—

- (a) by virtue of this paragraph the whole or part of a premium is required to be paid in priority to other debts of the debtor or his estate; and
- (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under Article 48 or under any provision made by the relevant scheme for the purposes of that Article or otherwise,

that other person shall be liable for any part of the premium for the time being unpaid; but so that no person shall be liable by virtue of this sub-paragraph for an amount in excess of the sum which might thereunder be recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under this sub-paragraph.

(4) The payment under sub-paragraph (3) of any amount in respect of a premium shall have the same effect on the rights and liabilities of the person making it (other than his liabilities under that sub-paragraph) as if it had been a payment of that amount on account of the sum recoverable from him in respect of a premium as mentioned in sub-paragraph (3)(b).

Interpretation

4. In this Schedule “the relevant event” has the meaning assigned to it by Schedule 15 to the principal Act in relation to section 144(2) of that Act; and references to a contracted-out scheme, contracted-out employment and a state scheme premium include references to a contracted-out scheme, contracted-out employment and a state scheme premium within the meaning of any provisions in force in Great Britain and corresponding to the provisions of this Order.

AMENDMENTS

The Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 (c.13)
 1. In section 6(6) of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 for “paid out of moneys provided by Parliament” substitute “charged on and paid out of the Consolidated Fund of the United Kingdom”.

The Agricultural Wages (Regulation) Act (Northern Ireland) 1939 (c.25)
 2. In section 2A(2) of the Agricultural Wages (Regulation) Act (Northern Ireland) 1939 for paragraph (e) substitute—
 “(e) may provide for account to be taken, in arriving at the minimum rate of wages, of any benefits payable under the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975.”.

The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c.23)
 3. In section 3(1) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 for “or the Social Security Act 1975” substitute—
 “, the Social Security Pensions (Northern Ireland) Order 1975 or any corresponding provisions in force in Great Britain”.

The Administration of Justice Act (Northern Ireland) 1954 (c.9)
 4. In section 12(2) and (4) of the Administration of Justice Act (Northern Ireland) 1954, in each case, for “Parliament” substitute “the Parliament of the United Kingdom”.

The Companies Act (Northern Ireland) 1960 (c.22)
 5. In section 287(1) of the Companies Act (Northern Ireland) 1960 for paragraph (e) substitute—
 “(e) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all the debts specified in section 144(2) of the Social Security (Northern Ireland) Act 1975, Schedule 4 to the Social Security Pensions (Northern Ireland) Order 1975 and any corresponding provisions in force in Great Britain.”.

The Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 (c.32)
 6. In section 1(1) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 for paragraphs (e) and (ee) substitute—
 “(e) all the debts specified in section 144(2) of the Social Security (Northern Ireland) Act 1975, Schedule 4 to the Social Security Pensions (Northern Ireland) Order 1975 and any corresponding provisions in force in Great Britain.”.

The Family Allowances Act (Northern Ireland) 1966 (c.8)
 7. In section 8(3) of the Family Allowances Act (Northern Ireland) 1966 after “the Social Security (Northern Ireland) Act 1975” insert —
 “or the Social Security Pensions (Northern Ireland) Order 1975”.

The Supplementary Benefits &c. Act (Northern Ireland) 1966 (c.28)
 8. In section 17(1)(a) of the Supplementary Benefits &c. Act (Northern Ireland) 1966 after “1975” insert—
 “or Part III of the Social Security Pensions (Northern Ireland) Order 1975”.

9. In section 26(4) of that Act after “1975” insert—
 “or Part III of the Social Security Pensions (Northern Ireland) Order 1975”.

10. In Schedule 2 to that Act, in paragraph 24—
- (a) after sub-paragraph (2)(d) insert—
 - “(e) any guaranteed minimum pension within the meaning of the Social Security Pensions (Northern Ireland) Order 1975.”;
 - (b) in sub-paragraph (3) after “1975” insert—
 - “or Part III of the Social Security Pensions (Northern Ireland) Order 1975.”;
 - (c) in sub-paragraphs (4)(a) and (5)(a) for the words from “the rate” to the end of the sub-paragraph substitute (in each case)—
 - “the sum specified in Article 8(1)(a) of the Social Security Pensions (Northern Ireland) Order 1975”.

The Public Expenditure and Receipts Act (Northern Ireland) 1968 (c.8)

11. In section 4 of the Public Expenditure and Receipts Act (Northern Ireland) 1968—
- (a) references to the Ministry of Home Affairs and the Ministry of Finance shall be construed as references to, respectively, the Secretary of State and the Minister for the Civil Service;
 - (b) in subsection (2) for “Parliament” substitute “the Parliament of the United Kingdom”.

The Equal Pay Act (Northern Ireland) 1970 (c.32)

12. In section 6 of the Equal Pay Act (Northern Ireland) 1970—
- (a) in subsection (1) omit the words from “nor” to the second “death”;
 - (b) after subsection (1) insert—
 - “(1A) The requirement mentioned in section 1(1) and the requirements of section 3(4)—
 - (a) shall operate in relation to terms and conditions relating to membership of an occupational pension scheme (within the meaning of the Social Security Pensions (Northern Ireland) Order 1975) so far as those terms and conditions relate to any matter in respect of which the scheme has to conform with the equal access requirements of Part V of that Order; but
 - (b) subject to this, shall not operate in relation to terms and conditions related to death or retirement, or to any provision made in connection with death or retirement.
 - (1B) Subsection (1A) shall apply as if the references to death or retirement in paragraph (b) included a reference to sums payable on marriage in pursuance of a contract of employment made before the commencement of this subsection, or the commutation, at any time, of the right to such sums.
 - (1C) In subsection (1B), in relation to service within section 1(9), for the reference to a contract of employment made before the commencement of that subsection there shall be substituted a reference to terms of service entered into before that time.”.

The Family Income Supplements Act (Northern Ireland) 1971 (c.8)

13. In section 8(4) of the Family Income Supplements Act (Northern Ireland) 1971 for the words from “benefit” to “1975” substitute—
- “benefit under the Social Security (Northern Ireland) Acts 1975”.

The Social Services (Parity) Act (Northern Ireland) 1971 (c.21)

14. In section 2 of the Social Services (Parity) Act (Northern Ireland) 1971 after “1975” insert—
- “and by Article 73(1) of the Social Security Pensions (Northern Ireland) Order 1975”.

15. In Schedule 1 to that Act, after the entry for the Industrial Injuries and Diseases (Old Cases) Act 1975 insert—

“The Social Security Pensions Act 1975”.

The Pensions (Increase) Act (Northern Ireland) 1971 (c.35)

16. In section 5(3) of the Pensions (Increase) Act (Northern Ireland) 1971 for “in relation to a particular review under section 2” substitute—

“for any particular purpose”.

The National Insurance Measure (Northern Ireland) 1974 (c.4)

17. In section 5(1) of the National Insurance Measure (Northern Ireland) 1974 for “or the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975” substitute—

“, the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975, the Social Security Pensions (Northern Ireland) Order 1975”.

The Social Security (Northern Ireland) Act 1975 (c.15)

18. In section 4 of the Social Security (Northern Ireland) Act 1975—

(a) in subsection (1) for the words following paragraph (b) substitute—

“and those limits shall be such amounts as may be specified for that year under Article 3 of the Social Security Pensions (Northern Ireland) Order 1975 (in this Act referred to as ‘the Pensions Order’);”

(b) in subsection (6) after “subject to regulations under sections 123 to 126 below” insert—

“and to Article 29 of the Pensions Order”.

19. In section 12(1)(f) of that Act after “payable to a woman by virtue of her husband’s contributions” insert—

“or payable to a man by virtue of his late wife’s contributions”.

20. In section 13 of that Act—

(a) in subsection (2) after paragraph (b) insert—

“and

(c) of calculating the additional component in the rate of a long-term benefit”;

(b) at the beginning of subsection (3) insert—

“Subject to Article 5 of the Pensions Order”.

21. In section 14 of that Act—

(a) for subsection (2)(c) substitute—

“(c) the person—

(i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but

(ii) has made an election for the purposes of section 30(3) of this Act and has not revoked the election.”;

(b) for subsection (6)(a) substitute—

“(a) any increase under Article 12(2) of or Schedule 1 to the Pensions Order;”.

22. In section 15 of that Act—

(a) for subsection (2)(b) substitute—

“(b) the person—

(i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but

(ii) has made an election for the purposes of section 30(3) of this Act and has not revoked the election.”;

- (b) in subsection (3) for the words from “at the weekly rate” onwards substitute—
“at the rate specified in Article 16 of the Pensions Order”;
 - (c) for subsection (4)(a) substitute—
“(a) any increase under Article 12(2) of or Schedule 1 to the Pensions Order;”.
23. In section 25(1) of that Act for “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 6” substitute—
“at the rate specified in Article 15 of the Pensions Order”.
24. In section 26(1) of that Act for “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 7” substitute—
“at the rate specified in Article 15 of the Pensions Order”.
25. In section 28(1) of that Act for “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8” substitute—
“at the rate specified in Article 8 of the Pensions Order”.
26. In section 29(7) of that Act in paragraph (a)(i) omit “lower”, and in paragraphs (a)(ii) and (b) for “at the higher rate so specified” substitute—
“at the rate specified in Article 9 of the Pensions Order”.
27. In section 30(4)(b) of that Act insert at the end—
“or Category A with an increase by virtue of that husband’s contributions under Article 12(2) of the Pensions Order”.
28. In section 33(3) of that Act after “Schedule 4 to this Act” insert—
“or Part III of the Pensions Order”.
29. In section 34(1) of that Act, after paragraph (c), insert—
“(cc) mobility allowance”.
30. In section 42(3) of that Act after “Category A” insert—
“, B”.
31. In section 119(4) of that Act, after paragraph (c) insert—
“(cc) modifying those subsections in relation to payments by way of a mobility allowance in respect of any person, where the benefit was not paid to him but to some other person on his behalf”.
32. In section 129(2) of that Act, after paragraph (c) insert—
“(cc) a mobility allowance”.
33. In section 134(1) of that Act, after paragraph (b) insert—
“(bb) payments to or in respect of persons suffering from physical disability such that they are unable to walk or virtually unable to do so”.
34. In section 135(2)(c) of that Act after “contributions under this Act” insert—
“or a state scheme premium under Part IV of the Pensions Order”.
35. In section 136 of that Act—
- (a) in subsection (1)(a) after “this Act” insert—
“or any state scheme premiums under Part IV of the Pensions Order”;
 - (b) in subsection (2)(e) after “contributions” insert—
“or premiums”.

36. In section 137(1) of that Act after "Act to pay" insert—
 "or any state scheme premium which is payable by him under Part IV of the Pensions Order".
37. In section 139(1)(b) of that Act after "Revenue)" insert—
 "or of a state scheme premium".
38. In section 141(1) of that Act after "contribution" (in both places) insert—
 "or premium".
39. In section 142 of that Act—
 (a) in subsection (1) for "reserve scheme contributions or premiums under the 1973 Act" substitute—
 "state scheme premiums under Part IV of the Pensions Order";
 (b) in subsection (3) for "reserve scheme contributions or premiums" substitute—
 "state scheme premiums".
40. In section 143 of that Act for subsection (6) substitute—
 "(6) Sums recovered by the Department under the provisions mentioned in subsection (2) above, so far as representing state scheme premiums, are to be treated for all purposes of the Pensions Order (including in particular Articles 48 and 73(2)) as premiums paid to the Department under that Order in respect of the persons in respect of whom they were originally payable."
41. In Schedule 1 to that Act, in paragraph 6(1)(f) for "section 8(3) of this Act" and "reserve scheme contributions or a reserve scheme premium" substitute respectively—
 "Article 7 of the Pensions Order" and
 "a state scheme premium".
42. In Part I of Schedule 4 to that Act, for paragraph 9 substitute—
 "9. Category B retirement pension where section £6.90"
 29(7)(a)(i) applies.
43. In Part V of Schedule 4 to that Act, in paragraph 13, for "the weekly rate for the time being of a widow's pension as specified in Part I of this Schedule, paragraph 7" substitute—
 "the sum specified in Article 8(1)(a) of the Pensions Order".
44. In Schedule 17 to that Act the following definitions shall be inserted at the appropriate points—
- | | |
|------------------------------|--|
| "long-term benefit" | A Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or an invalidity pension."; |
| "The Pensions Order" | The Social Security Pensions (Northern Ireland) Order 1975."; |
| "Qualifying earnings factor" | An earnings factor equal to the lower earnings limit for the tax year in question multiplied by 52."; |
- and in the second column of that Schedule in the definition of "Week", after "45(3)" insert—
 "of this Act and Article 37(6) of the Pensions Order"

REPEALS

Chapter or Number	Short Title	Extent of Repeal
1955 c. 29.	The Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955.	In Schedule 2 the words "The Social Security Act 1973 (1973 c. 38)".
1965 c. 19.	The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965.	In section 4(8), paragraph (c) together with the word "and" immediately preceding it.
1967 c. 25.	The Births and Deaths Registration Act (Northern Ireland) 1967.	In Schedule 2 the words "The Social Security Act 1973 (1973 c. 38)".
1971 c. 35.	The Pensions (Increase) Act (Northern Ireland) 1971.	Section 2, but without prejudice to any existing order under that section. Section 9(3), (4) and (4A). In Schedule 2, paragraphs 4, 5, 9 and 10.
S.I. 1972/1073 (N.I. 10).	The Superannuation (Northern Ireland) Order 1972.	Article 20.
1973 c. 38.	The Social Security Act 1973.	Section 1(7), (8) and (9). Section 23(1). In section 51, subsections (1), (2), (4) and (6) to (10). Sections 52 to 65. Sections 67(1), (2) and (3). Section 69, except so far as it relates to so much of the Superannuation and other Trust Funds (Validation) Act 1927 as extends to Northern Ireland. Sections 70 to 72. Sections 85 and 86. Section 88. Section 91. In section 92, subsections (1) and (2); in subsection (4) the words from "the recovery" onwards; and subsections (5) to (7).

Chapter or Number	Short Title	Extent of Repeal
1973 c. 38. (<i>contd.</i>)	The Social Security Act 1973 (<i>contd.</i>)	<p>Section 93.</p> <p>In section 95, in subsection (1) the words "and III", subsection (2), in subsection (3) in paragraph (a) the figure "91" and paragraph (b), and subsection (4).</p> <p>In section 96(1) the words "a power of the Northern Ireland Ministry, or".</p> <p>In section 99, in subsection (1) all the definitions except those of "earnings", "employment", "the Inland Revenue", "the Northern Ireland Ministry", "occupational pension scheme", "prescribed" and "public service pension scheme", and subsections (4), (6), (7), (10), (13), (14) and (16).</p> <p>Schedules 15 and 16.</p> <p>Schedule 22.</p> <p>In Schedule 23, paragraph 5, and from paragraph 7 to the end.</p> <p>Schedules 24 and 25.</p> <p>In Schedule 27, paragraphs 109, 112 and 163.</p>
1974 c. 14.	The National Insurance Act 1974.	In Schedule 4, paragraphs 33 to 36.
S.I. 1974/1267 (N.I. 2).	The Pensions (Increase) (Northern Ireland) Order 1974.	In Article 5, paragraph (1) and in paragraph (3)(a) the figure "2(1)".
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	<p>In section 4(6)(a) the words "or 2 per cent. according to whether the earner is liable to contribute at the standard rate or the reduced rate".</p> <p>Sections 5 and 6.</p> <p>Section 7(2) and (3).</p> <p>In section 8, in subsection (2), paragraph (b) together with the word "and" immediately preceding it, and subsection (3).</p> <p>In section 9(5)(b) the words following "pensionable age".</p>

Chapter or Number	Short Title	Extent of Repeal
1975 c. 15. (<i>contd.</i>)	The Social Security (Northern Ireland) Act 1975 (<i>contd.</i>)	<p>In section 27(6), the words from “but where” onwards.</p> <p>Section 28(2) to (6) and (8)(a).</p> <p>In section 29, in subsection (7)(a)(i) the word “lower”, and subsections (10) to (12).</p> <p>In section 42(4)(a) the words in brackets.</p> <p>Section 125(2) and (3).</p> <p>In section 127(6), in paragraph (a) the words “the Reserve Pension Fund or” and in paragraph (b) the words “out of the Reserve Pension Fund or”.</p> <p>In section 156(2)(a) the entry relating to section 5(3) and (4).</p> <p>In Schedule 4, in Part I, paragraphs 2, 6, 7 and 8.</p> <p>Schedule 7.</p> <p>In Schedule 17 the definitions of “Reserve Pension Fund”, “Reserve scheme contributions” and “Reserve scheme premiums”.</p>
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	<p>In Schedule 2, paragraphs 51, 53 to 57, 59, 60, 62 to 66, 71, 79, 82(a)(ii) and 106.</p> <p>In Schedule 3, in paragraph 9(1)(a) the word “(respectively)” and paragraph (ii) together with the word “and” immediately preceding it.</p>
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	<p>In Part II of Schedule 1 the words “The Reserve Pension Board”.</p>

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes for Northern Ireland provisions corresponding to those of the Social Security Pensions Act 1975 (which provides for certain pensions and other benefits to be earnings-related, for the contracting-out from full social security contributions and benefits of persons adequately provided for by occupational pensions schemes, for equality of access of men and women to such schemes, for a new non-contributory benefit called "mobility allowance", and for other matters relating to social security and occupational pensions). The Order also re-enacts for Northern Ireland certain provisions of the Social Security Act 1973 relating to occupational pensions and makes repeals in that Act and other legislation in consequence of the repeal, by the Social Security Pensions Act 1975, of the provisions of the Social Security Act 1973 relating to the reserve pension scheme.

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