

SCHEDULES

SCHEDULE 1

Article 9(6).

ABOLITION OF EARNINGS RULE, ETC.

Category A and Category B retirement pensions

1. In section 27 of the principal Act, subsections (3), (4) and (5) (retirement from regular employment) shall cease to have effect.

2.—(1) In section 30 of that Act, in subsection (3) (election to be treated as if entitlement to retirement pension had not commenced) the following shall cease to have effect—

- (a) in paragraph (a) the words “retired from regular employment or has otherwise”; and
- (b) the words “retired or”.

(2) For subsection (5) of that section (advance notice of retirement) substitute the following subsection—

“(5) In any case where—

- (a) a person claims a Category A or Category B retirement pension; and
- (b) the date specified in the claim as the date on which entitlement to the pension is to commence falls after the date when the claim was made,

such a pension may be awarded as from the date so specified but, if so awarded, shall be conditional on the person’s not ceasing to be entitled to the pension in consequence of any election under subsection (3) above.”.

(3) Subsection (6)(a) of that section (power to vary 5 year period in sections 27(5) and 30(1)) shall cease to have effect.

Deferred entitlement to retirement pension

3.—(1) In Schedule 1 to the Pensions Order (deferred retirement), for the words from the beginning of the Schedule to “age” in paragraph 1 substitute the following—

“SCHEDULE 1

INCREASE OF PENSION WHERE ENTITLEMENT IS DEFERRED

Increase of pension where pensioner’s entitlement is deferred

1. Where a person’s entitlement to a Category A or Category B retirement pension is deferred”.

(2) In paragraph 2 of that Schedule, in sub-paragraph (1), for “period of deferment” substitute “period of enhancement”.

(3) For sub-paragraph (2) of that paragraph (definitions) substitute the following sub-paragraph—

“(2) In this Schedule—

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“incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this Schedule in relation to the person and the pension in question; and

“the period of enhancement”, in relation to that person and that pension, means the period which—

- (a) begins on the same day as the period of deferment in question; and
- (b) ends on the same day as that period or, if earlier, on the day before the fifth anniversary of the beginning of that period.”.

(4) In sub-paragraph (3) of that paragraph, for “if he had retired on attaining pensionable age” substitute “if his entitlement had not been deferred”.

(5) In sub-paragraph (5) of that paragraph, for “period of deferment” in both places where it occurs substitute “period of enhancement”.

(6) In sub-paragraph (6) of that paragraph, for “if he had retired from regular employment” substitute “if his entitlement had not been deferred”.

(7) In paragraph 3 of that Schedule—

- (a) for “period of deferment” substitute “period of enhancement”; and
- (b) for “if he had retired from regular employment” substitute “if his entitlement to the pension had commenced”.

(8) In the cross-heading preceding paragraph 4 of that Schedule, for “deferred retirement” substitute “deferred entitlement”; and in that paragraph—

- (a) in sub-paragraph (1)(b)(ii) for “if he had retired on the date of” substitute “if his period of deferment had ended on the day before”; and
- (b) in sub-paragraph (2)(c)(ii) for “if she had retired on the date of” substitute “if her period of deferment had ended on the day before”.

(9) In paragraph 5 of that Schedule (married women), for sub-paragraphs (1) and (2) substitute the following sub-paragraphs—

“(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 would have become entitled to such a pension on an earlier day if her husband’s entitlement to his Category A retirement pension had not been deferred shall be treated as having (in addition to any other period of enhancement) a period of enhancement which begins on that earlier day and ends on the same day as her husband’s period of enhancement.

(2) The reference in sub-paragraph (1) to the day on which the woman’s husband’s period of enhancement ends shall, where the marriage is terminated before that day, be construed as a reference to the day on which the marriage is terminated.”.

(10) In sub-paragraph (3) of that paragraph—

- (a) for “if he had retired on attaining pensionable age” substitute “if his entitlement had not been deferred”; and
- (b) for “if she and her husband had so retired” substitute “if neither her nor her husband’s entitlement to a retirement pension had been deferred”.

(11) In Schedule 17 to the principal Act (glossary of expressions) insert the following at the appropriate places—

““Deferred” and “period of deferment” (in relation to entitlement to a Category A or Category B retirement pension). See Article 14 of the Pensions Order.”

““Period of deferment” (in relation to a Category A or Category B retirement pension). See “deferred” and “period of deferment” above.”.

Unemployment and sickness benefit

4.—(1) In section 14 of the principal Act, in subsection (2) (conditions of entitlement for unemployment and sickness benefit), for paragraphs (b) and (c) substitute the following paragraphs—

“(b) on that day the person—

- (i) is over pensionable age, but not more than five years over that age; and
- (ii) would be entitled to a Category A retirement pension (section 28) if his entitlement had not been deferred or if he had not made an election under section 30(3) below; or

(c) on that day the person—

- (i) is over pensionable age, but not more than five years over that age; and
- (ii) would be entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but for any such deferment or election.”.

(2) In subsection (6) of that section (rate of benefit: disregard of certain increases) the words following paragraph (c) shall cease to have effect.

Invalidity pension

5.—(1) In section 15 of that Act (invalidity pension), in subsection (1)(b)(ii) for “and not having retired from regular employment” substitute “, but not more than five years over it”.

(2) For subsection (2) of that section (additional conditions for those over pensionable age) substitute the following subsection—

“(2) The conditions of this subsection are that on that day—

- (a) the person would be entitled to a Category A retirement pension (section 28) if his entitlement had not been deferred or if he had not made an election under section 30(3) below; or
- (b) the person would be entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but for any such deferment or election.”.

(3) In subsection (6)(a) of that section (regulations making provision for persons over pensionable age corresponding to section 50A) the words “but have not retired from regular employment” shall cease to have effect.

Category C retirement pension

6. In section 39(1)(b) of that Act (Category C pension for retired woman over pensionable age whose husband is entitled to such pension) the words “and has retired from regular employment” shall cease to have effect.

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Increases for dependants

7. Section 48(2) and (3) of that Act (application of earnings rule in connection with increase of Category A pension in respect of dependants) shall cease to have effect.

Industrial injuries benefit

8.—(1) In section 50A of that Act (sickness benefit in respect of industrial injury), in subsection (3)(b) for “but has not retired from regular employment” substitute “but who is not for the time being entitled to a Category A or Category B retirement pension”.

(2) In section 59B of that Act (retirement allowance, etc.), in subsection (1)—

- (a) in paragraph (b), for the words from the beginning to “from” substitute “gives up”;
- (b) in paragraph (c), for “retired or is deemed to have retired” substitute “gave up such employment”; and
- (c) in the words following that paragraph, for the words from “retires” onwards substitute “gives up regular employment and may become entitled to it again only if he returns to regular employment”.

(3) In subsection (3) of that section (duration of entitlement) for “Unless he makes an election in accordance with regulations under section 30(3) above” substitute “Unless he returns to regular employment”.

(4) For subsection (4) of that section substitute the following subsection—

“(4) If he returns to regular employment, his entitlement to retirement allowance shall cease on the day on which he does so; but he may again become entitled to reduced earnings allowance or, if he again gives up regular employment, retirement allowance.”.

(5) In subsection (5) of that section (rate of benefit), for paragraph (a) substitute the following paragraph—

“(a) 25 per cent. of the weekly rate at which he was last entitled to reduced earnings allowance; or”.

(6) After subsection (6) of that section add the following subsections—

“(7) Regulations may—

- (a) make provision with respect to the meaning of “regular employment” for the purposes of this section; and
- (b) prescribe circumstances in which, and periods for which, a person is or is not to be regarded for those purposes as having given up, or returned to, such employment.

(8) Regulations under subsection (7) above may, in particular—

- (a) provide for a person to be regarded—
 - (i) as having given up, or as not having returned to, regular employment, notwithstanding that he is or intends to be an earner; or
 - (ii) as having returned to, or as not having given up, regular employment, notwithstanding that he has or may have one or more days of interruption of employment; and
- (b) prescribe circumstances in which a person is or is not to be regarded as having given up, or returned to, regular employment by reference to—
 - (i) the level or frequency of his earnings during a prescribed period; or
 - (ii) the number of hours for which he works during a prescribed period calculated in a prescribed manner.”.

(7) In Article 4 of the Social Security (Northern Ireland) Order 1988(1), for paragraph (7) (which provides that no retired person over pensionable age shall be entitled to reduced earnings allowance except under paragraph (3) of that Article) substitute the following paragraphs—

“(7) Paragraph (3) shall, in prescribed circumstances, cease to apply in the case of a person who is engaged in regular employment; and, subject to regulations, any subsequent entitlement of his to reduced earnings allowance or retirement allowance shall be determined as if that paragraph had never been made.

(7A) In paragraph (7), “regular employment” has the same meaning as it has in section 59B of the principal Act (retirement allowance) and regulations may prescribe circumstances in which a person is or is not to be regarded as engaged in such employment.”.

(8) Paragraph (8) of that Article (definitions relating to retirement) shall cease to have effect.

Category B retirement pension for widower

9.—(1) In Article 10 of the Pensions Order, in paragraph (1) (conditions of entitlement for widower’s Category B pension) the words “who has retired from regular employment” shall cease to have effect.

(2) For paragraph (3) of that Article (period of entitlement) substitute the following paragraph—

“(3) Subject to the provisions of the principal Act, a man shall become entitled to a Category B retirement pension on the day on which the conditions of entitlement become satisfied in his case and his entitlement shall continue throughout his life.”.

Invalidity pensions for widows and widowers

10.—(1) In Article 17 of that Order, in paragraph (5) (disentitlement to widow’s invalidity pension)—

- (a) for “and has retired from regular employment” substitute “and is entitled to a Category A or Category B retirement pension”; and
- (b) for “she retires from regular employment, having attained” substitute “she has attained”.

(2) In Article 18 of that Order, in paragraph (5) (disentitlement to widower’s invalidity pension)—

- (a) for “and has retired from regular employment” substitute “and is entitled to a Category A or Category B retirement pension”; and
- (b) for “he retires from regular employment, having attained” substitute “he has attained”.

Occupational and personal pensions

11. In Article 31 of that Order (contracted-out rates of benefit), in paragraph (2) (circumstances in which a person is treated as entitled to a guaranteed minimum pension), before “if” in each of the places where it occurs insert respectively “(a)”, “(b)” and “(c)”; and at the end of that paragraph add “or

(d) if its commencement had not been postponed, as mentioned in Article 35(3)..”