SCHEDULES

SCHEDULE 5

EMPLOYMENT-RELATED SCHEMES FOR PENSIONS OR OTHER BENEFITS: EQUAL TREATMENT FOR MEN AND WOMEN

PART II

AMENDMENT OF PROVISIONS RELATING TO EMPLOYMENT

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

13. In section 6 (equality clauses and pensions, etc.), in subsection (1A)(a) for the words following "1975)" substitute "which is also an employment-related benefit scheme, within the meaning of Schedule 5 to the Social Security (Northern Ireland) Order 1989, so far as those terms relate to any matter in respect of which the scheme has to comply with the principle of equal treatment in accordance with that Schedule; but".

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

14.—(1) In Article 6(1) (victimisation of complainants, etc.)—

(a) in sub-paragraphs (a), (b) and (c) after "Equal Pay Act" insert "or Part I of Schedule 5 to the Social Security (Northern Ireland) Order 1989"; and

(b) at the end of sub-paragraph (d) add "or proceedings under Part I of Schedule 5 to the Social Security (Northern Ireland) Order 1989".

(2) In Article 8, in paragraph (4) (disapplication of certain provisions in relation to death or retirement), for the words from "except" to "retirement, they" substitute

"except as provided in paragraphs (4A) and (4B).

(4A) Paragraph (4) does not prevent the application of paragraphs (1)(b) and (2) to provision in relation to retirement in so far as those paragraphs."

(3) After paragraph (4A) of that Article insert the following paragraphs—

"(4B) Paragraph (4) does not prevent the application of paragraphs (1)(b) and (2) to provision in relation to death or retirement in so far as those paragraphs render it unlawful for a person to discriminate against a woman—

(a) in such of the terms on which he offers her employment as make provision in relation to the way in which he will afford her access to any benefits, facilities or services under an occupational pension scheme; or

(b) in the way he affords her access to any such benefits, facilities or services; or

(c) by refusing or deliberately omitting to afford her access to any such benefits, facilities or services; or

(d) by subjecting her to any detriment in connection with any such scheme,

but an act of discrimination is rendered unlawful by virtue of this paragraph only to the extent that the act relates to a matter in respect of which an occupational pension scheme has to comply with the principle of equal treatment in accordance with Part I of Schedule 5 to the Social Security (Northern Ireland) Order 1989.

(4C) In the application of paragraph (4B) to discrimination against married persons of either sex, Part I of Schedule 5 to the Social Security (Northern Ireland) Order 1989 shall be taken to apply to less favourable treatment of married persons on the basis of their marital status as it applies in relation to less favourable treatment of persons on the basis of sex, and references to persons of either sex shall be construed accordingly.".

(4) At the end of that Article add the following paragraph—

"(8) In this Article "occupational pension scheme" means an occupational pension scheme, within the meaning of the Social Security Pensions (Northern Ireland) Order 1975, which is also an employment-related benefit scheme, within the meaning of Schedule 5 to the Social Security (Northern Ireland) Order 1989.".

The Industrial Relations (No. 2) (Northern Ireland) Order 1976 (NI 28)

15. In Article 28, at the end of paragraph (2)(b) (rights on return to work after maternity absence) add "but subject to the requirements of paragraph 5 of Schedule 5 to the Social Security (Northern Ireland) Order 1989 (credit for the period of absence in certain cases)".