

SCHEDULES

SCHEDULE 4

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

PART II

MISCELLANEOUS AMENDMENTS

Contracting-out conditions: age at which pension or annuity is to commence under a money purchase scheme

5.—(1) In Article 34 of the Pensions Order, in paragraph (2B) (modifications of Schedule 1 to the 1986 Order in its application for the purpose of determining whether a money purchase scheme can be contracted-out), in sub-paragraph (d) after head (ii) insert the following head—

“(iii) for the references in sub-paragraphs (3)(a) and (7)(a)(i) to the date on which the member attains pensionable age there shall be substituted a reference to a date not earlier than that on which he attains the age of 60 nor later than that on which he attains the age of 65; and”.

(2) The amendment made by sub-paragraph (1) shall be taken to have come into operation on 17th May 1990.

Contracting-out conditions: guaranteed minimum for married women and widows paying reduced rate contributions

6.—(1) In Article 35 of the Pensions Order, in paragraph (1A) (special conditions in the case of married women and widows liable to pay reduced rate contributions), in sub-paragraph (a) after “if she attains pensionable age” insert “and does not have a guaranteed minimum under Article 37”.

(2) In Article 37 of that Order, after paragraph (2) (calculation of guaranteed minimum by reference to earnings factors derived from earnings on which primary Class 1 contributions have been paid) insert the following paragraph—

“(2ZA) In determining the guaranteed minimum in a case where—

- (a) earnings such as are mentioned in paragraph (1) have been paid to a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of Article 5, and
- (b) the tax week in which those earnings are paid falls in the tax year 1991—92 or any subsequent tax year,

the married woman or widow shall be treated for the purposes of this Article as having such earnings factors derived from those earnings as she would have had if primary Class 1 contributions had been payable, and paid, upon them otherwise than at a reduced rate.”.

(3) If, immediately before the commencement of this paragraph, there is in force in relation to an occupational pension scheme a contracting-out certificate under Part IV of the Pensions Order

then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2), they shall be overridden by that provision.

Protection of earner's and widow's pensions

7.—(1) Articles 43A and 43B of the Pensions Order (protection of earner's and widow's pension) shall have effect, and be taken at all times on and after 23rd August 1989 to have had effect, with the amendments made by sub-paragraphs (2) to (7), which are in substitution for the amendments made by paragraphs 2 and 3 of Schedule 6 to the 1989 Order; and those paragraphs shall be taken never to have come into operation.

(2) In Article 43A of the Pensions Order, in paragraph (1C) (which defines the "relevant aggregate"), after sub-paragraph (c) add "; and

(d) where the scheme provides that part of the earner's pension shall accrue after the termination of employment date by reason of employment after that date, the later earnings addition".

(3) After paragraph (2) of that Article insert the following paragraphs—

"(2A) In this Article "the later earnings addition" means the amount (if any) by which (R2–G2) exceeds (R1–G1), where—

R1 is the relevant sum;

G1 is the earner's guaranteed minimum on the day after his termination of employment date;

R2 is the amount that would have been the relevant sum, had the weekly rate of the benefit which determines that sum been calculated by reference to the earner's later earnings level; and

G2 is that amount which bears to R2 the proportion which G1 bears to R1.

(2B) For the purposes of paragraph (2A), the earner's "later earnings level" is the level of earnings by reference to which the weekly rate of the benefit which determines the relevant sum would have been calculated, had the termination of employment date fallen on the earlier of—

(a) the commencement of payment date, or

(b) the date on which the earner ceased to be in pensionable service under the scheme."

(4) In paragraph (11) of that Article (definitions), for "short service benefit" is substituted "pensionable service" and "short service benefit" are.

(5) In Article 43B of the Pensions Order, in paragraph (1A) (which defines the "relevant aggregate"), after sub-paragraph (c) add "; and

(d) where the scheme provides that part of the widow's pension shall accrue after the termination of employment date by reason of the earner's employment after that date, the later earnings addition".

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

"(3A) In this Article "the later earnings addition" means the amount (if any) by which (R2–G2) exceeds (R1–G1), where—

R1 is the relevant sum;

G1 is one half of the earner's guaranteed minimum on the day after his termination of employment date;

R2 is the amount that would have been the relevant sum, had the weekly rate of the pension which determines that sum been calculated by reference to the earner's later earnings level; and

G2 is that amount which bears to R2 the proportion which G1 bears to R1.

(3B) For the purposes of paragraph (3A), the earner's "later earnings level" is the level of earnings by reference to which the weekly rate of the pension which determines the relevant sum would have been calculated, had the earner's termination of employment date fallen on the earlier of—

- (a) the earner's commencement of payment date, or
- (b) the date on which the earner ceased to be in pensionable service under the scheme."

(7) After paragraph (5) of that Article add the following paragraph—

"(6) In this Article "pensionable service" shall be construed in accordance with Schedule 3."

(8) In Article 43A, in paragraph (1), for "relevant date" substitute "commencement of payment date" and paragraphs (1A) and (1B) shall cease to have effect.

(9) In consequence of this paragraph, regulation 2(1) and (2) of the Occupational Pension Schemes (Transitional Provisions and Savings) Regulations (Northern Ireland) 1989(1) shall be deemed never to have been made.

(10) If, before 23rd August 1989, an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Articles 43A and 43B of the Pensions Order shall apply in relation to the earner and the earner's widow or widower as if neither this paragraph nor paragraphs 2 and 3 of Schedule 6 to the 1989 Order had been made.

(11) Expressions used in sub-paragraph (10) and the Pensions Order have the same meaning in that sub-paragraph as they have in that Order.

Provisions for the suspension or forfeiture of pensions

8.—(1) In Article 43C(3) of the Pensions Order—

- (a) in sub-paragraph (a), omit head (ii) and for the word "or" immediately preceding it substitute "and"; and
- (b) in sub-paragraph (d) (provisions about commutation of pensions to be included among the provisions which are not overridden by Articles 43A and 43B of that Order), for "commutation" substitute "the commutation, suspension or forfeiture".

(2) After that sub-paragraph insert—

“; and

- (e) any provision of a scheme whereby, as respects so much of a widow's or widower's pension as exceeds the guaranteed minimum pension—
 - (i) no pension, or a pension at a reduced rate, is payable if the earner and the widow or widower married not more than six months before the earner's death;
 - (ii) the whole or any part of the pension is not paid to the widow or widower, but instead comparable benefits are provided for one or more dependants of the deceased earner; or

- (iii) no pension, or a pension at a reduced rate, is payable to the widow or widower (or, where a provision such as is mentioned in head (ii) operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner”.

(3) In paragraph 7(4) of Schedule 1A to the Pensions Order, in head (a) (adaptations of Article 43C(3) in its application for certain purposes to schemes which are not contracted-out), after sub-head (iii) add the following sub-head—

“(iv) from sub-paragraph (e), the words from “as respects” to “guaranteed minimum pension””; and omit head (b) (which made, in relation to schemes which are not contracted-out, similar provision to that made by sub-paragraph (2) as modified by this sub-paragraph).

(4) The amendments made by sub-paragraph (1) shall be deemed to have come into operation on 1st December 1986 (the date on which certain amendments relating to commutation, suspension and forfeiture took, or are deemed to have taken, effect).

The insurance companies which may take transfer values

9. In Article 53C of the Pensions Order (extinguishment of scheme’s liability for pensions appropriately secured by insurance policies or annuity contracts), in paragraph (4) (meaning of “appropriately secured”), for sub-paragraph (a) substitute the following sub-paragraph—

- “(a) the insurance company with which it is or was taken out or entered into—
- (i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and
 - (ii) satisfies, or satisfied at the relevant time, prescribed requirements; and”.

Grants by the Occupational Pensions Board to advisory bodies

10. After the Article 63A of the Pensions Order inserted by paragraph 3 insert the following Article—

“Grants by the Occupational Pensions Board to advisory bodies, etc.

63B.—(1) The Occupational Pensions Board may make grants on such terms and conditions as they think fit to any person providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.

(2) The Department may pay to the Occupational Pensions Board such sums as the Department may think fit towards any expenditure of the Board in making grants under this Article.”.

*Levy towards meeting cost of the Pensions Ombudsman,
the Registry and certain grants made by the Board*

11. After Article 70 of the Pensions Order insert the following Article—

“Levy towards meeting certain expenditure under this Order

70ZA.—(1) For the purpose of meeting some or all of the expenditure under Article 63B, Part VA and Article 69J, regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.

(2) Any levy imposed under this Article shall be payable to the Department by or on behalf of—

- (a) the administrators of such public service pension schemes as may be prescribed,
 - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed, or
 - (c) such other persons as may be prescribed,
- at such rates and at such times as may be prescribed.

(3) The amount payable by any person on account of the levy shall be a debt due from him to the Department and shall be recoverable accordingly.

(4) Regulations under this Article may include provision relating to the collection and recovery of amounts payable by way of levy under this Article, but this paragraph is without prejudice to the generality of paragraph (1).”.

Preservation of rights for persons opting out of schemes

12.—(1) In Schedule 3 to the Pensions Order, in sub-paragraph (1) of paragraph 6 (short service benefit where member’s service in relevant employment terminates before normal pension age, etc.), for “service in relevant employment” substitute “pensionable service”.

(2) At the end of that paragraph add the following sub-paragraph—

“(6) In any case where—

- (a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending immediately before the commencement of this sub-paragraph, otherwise than on the termination of his service in relevant employment, and
- (b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,

sub-paragraph (1) shall be taken at all times on and after 6th April 1988 (the date on which Article 17 of the Social Security (Northern Ireland) Order 1986 came into operation for occupational pensions) to have had effect in relation to that member and his rights under the scheme with the amendment made by paragraph 12(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1990 (which substituted the words “pensionable service” for the words “service in relevant employment”).”.

(3) In paragraph 15(4) of that Schedule (commutation of widow's, widower's or dependant's benefit by the beneficiary), for “by the beneficiary” substitute “of that benefit”.

(4) In consequence of the amendment made by sub-paragraph (1)—

- (a) in paragraph 2(b) of that Schedule (definition of “long service benefit”), after “remains in relevant employment” insert “, and continues to render service which qualifies him for benefits,”;
- (b) in paragraph 17(1)(b) of that Schedule, for “relevant employment” substitute “pensionable service”;
- (c) in Schedule 1A to the Pensions Order (revaluation of pensions and transfer values) the following provisions shall cease to have effect—
 - (i) in paragraphs 1(1)(b), 2(2)(d) and 11(1)(b), sub-head (ii) and the word “or” immediately preceding it;
 - (ii) in paragraphs 1(4) and 11(2), the words ““relevant employment””; and
 - (iii) paragraph 12(1)(b) and the word “or” immediately preceding it.

Revaluation: extension of certain provisions to widowers

13. In Article 11(4) of the 1986 Order, in sub-paragraph (i) (which was inserted by paragraph 14(b) of Schedule 6 to the 1989 Order and which specifies certain provisions in Schedule 1A to the Pensions Order which are to be construed as if “widow” included “widower”), after “paragraphs” insert “2(2)(e).”.

Overriding effect of certain 1989 Order amendments

14.—(1) In paragraph 16 of Schedule 6 to the 1989 Order (which made minor amendments to the requirements specified in Schedule 1 to the 1986 Order which appropriate schemes must satisfy), after sub-paragraph (2) add the following sub-paragraph—

“(3) If immediately before the commencement of paragraph 14(1) of Schedule 4 to the Social Security (Northern Ireland) Order 1990 there is in force in relation to an occupational or personal pension scheme either—

- (a) a contracting-out certificate under Part IV of the Pensions Order which states that the scheme is contracted-out by virtue of Article 34(2A), or
- (b) an appropriate scheme certificate under Part II of the 1986 Order,

then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2), they shall be overridden by that provision.”.

(2) In paragraph 17 of Schedule 6 to the 1989 Order (amendments relating to the manner of giving effect to protected rights), after sub-paragraph (3) add the following sub-paragraph—

“(4) If immediately before the commencement of paragraph 14(2) of Schedule 4 to the Social Security (Northern Ireland) Order 1990 there is in force in relation to an occupational or personal pension scheme either—

- (a) a contracting-out certificate under Part IV of the Pensions Order which states that the scheme is contracted-out by virtue of Article 34(2A), or
- (b) an appropriate scheme certificate under Part II of the 1986 Order,

then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraphs (1) to (3), they shall be overridden by that provision.”.