

## SCHEDULES

### SCHEDULE 9

Article 273.

#### DEFERRAL OF RETIREMENT PENSIONS AND SHARED ADDITIONAL PENSIONS

#### PART 1

#### PRINCIPAL AMENDMENTS OF CONTRIBUTIONS AND BENEFITS ACT

1. Schedule 5 to the Contributions and Benefits Act (increase of pension where entitlement is deferred) is amended as follows.

2. For the heading, substitute “PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED”.

3. Before paragraph 1 insert—

“Choice between increase of pension and lump sum where pensioner’s entitlement is deferred

**A1.**—(1) Where a person’s entitlement to a Category A or Category B retirement pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—

- (a) that paragraph 1 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
- (b) that paragraph 3A (entitlement to lump sum) is to apply in relation to the period of deferment.

(2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).

(3) Regulations—

- (a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (1)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 1 by reference to that period, may for the purpose of avoiding duplication of payment—
  - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or

(ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 3A.

(4) Where the Category A or Category B retirement pension includes any increase under paragraphs 5 to 6, no election under sub-paragraph (1) applies to so much of the pension as consists of that increase (an entitlement to an increase of pension in respect of such an increase after a period of deferment being conferred either by paragraphs 1 and 2 or by paragraph 2A).”.

4. For paragraph 1 (increase of pension where pensioner’s entitlement is deferred) substitute—

“1.—(1) This paragraph applies where a person’s entitlement to a Category A or Category B retirement pension is deferred and one of the following conditions is met—

- (a) the period of deferment is less than 12 months, or
- (b) the person has made an election under paragraph A1(1)(a) in relation to the period of deferment.

(2) The rate of the person’s 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.”.

5.—(1) In paragraph 2 (calculation of increment), in sub-paragraph (5)(b), for “83 or” substitute “83A or”.

(2) In relation to any incremental period (within the meaning of Schedule 5 to the Contributions and Benefits Act) beginning before 6th April 2010, the reference in paragraph 2(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

6. After paragraph 2 insert—

“2A.—(1) This paragraph applies where—

- (a) a person’s entitlement to a Category A or Category B retirement pension is deferred,
- (b) the pension includes an increase under paragraphs 5 to 6, and
- (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.

(2) The rate of the person’s 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 sub-paragraph (3).

(3) For each complete incremental period in the person’s period of deferment, the amount of the increment shall be 1/5th per cent. of the weekly rate of the increase to which the person would have been entitled under paragraphs 5 to 6 for the period if his entitlement to the Category A or Category B retirement pension had not been deferred.”.

7.—(1) After paragraph 3 insert—

“Lump sum where pensioner’s entitlement is deferred

3A.—(1) This paragraph applies where—

- (a) a person’s entitlement to a Category A or Category B retirement pension is deferred, and

- (b) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.
- (2) The person is entitled to an amount calculated in accordance with paragraph 3B (a “lump sum”).

#### Calculation of lump sum

**3B.**—(1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.

(2) In this paragraph—

“accrued amount” means the amount calculated in accordance with sub-paragraph (3);

“accrual period” means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is—

$$(A + P) \times 52 \sqrt{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the Category A or Category B retirement pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate 2 per cent. higher than the Bank of England base rate, or
- (b) such higher rate as may be prescribed in regulations under paragraph 7C(2).

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purposes of the calculation of the lump sum, the amount of Category A or Category B retirement pension to which the person would have been entitled for an accrual period—

- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
- (b) does not include—
  - (i) any increase under section 83A or 85 or paragraphs 5 to 6 of this Schedule,
  - (ii) any graduated retirement benefit, or
  - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.

(6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 42(5) of the Pensions Act were disregarded.”.

(2) In relation to any accrual period (within the meaning of Schedule 5 to the Contributions and Benefits Act as amended by this paragraph) ending before 6th April 2010 the reference in paragraph

3B(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

8. After paragraph 3B (inserted by paragraph 7) insert—

“Choice between increase of pension and lump sum where pensioner’s deceased spouse has deferred entitlement

**3C.**—(1) Subject to paragraph 8, this paragraph applies where—

- (a) a widow or widower (“W”) is entitled to a Category A or Category B retirement pension,
- (b) W was married to the other party to the marriage (“S”) when S died,
- (c) S’s entitlement to a Category A or Category B retirement pension was deferred when S died, and
- (d) S’s entitlement had been deferred throughout the period of 12 months ending with the day before S’s death.

(2) W shall within the prescribed period elect in the prescribed manner either—

- (a) that paragraph 4 (entitlement to increase of pension) is to apply in relation to S’s period of deferment, or
- (b) that paragraph 7A (entitlement to lump sum) is to apply in relation to S’s period of deferment.

(3) If no election under sub-paragraph (2) is made within the period prescribed under that sub-paragraph, W is to be treated as having made an election under sub-paragraph (2)(b).

(4) Regulations—

- (a) may enable a person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-paragraph (3) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (2)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 4 by reference to that period, may for the purpose of avoiding duplication of payment—
  - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
  - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 7A.

(5) The making of an election under sub-paragraph (2)(b) does not affect the application of paragraphs 5 to 6 (which relate to an increase in pension where the pensioner’s deceased spouse had deferred an entitlement to a guaranteed minimum pension).”.

9.—(1) Paragraph 4 (increase of pension where pensioner’s deceased spouse has deferred entitlement) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) Subject to paragraph 8, this paragraph applies where a widow or widower (“W”) is entitled to a Category A or Category B retirement pension and was married to the other party to the marriage (“S”) when S died and one of the following conditions is met—

- (a) S was entitled to a Category A or Category B retirement pension with an increase under this Schedule,
  - (b) W is a widow or widower to whom paragraph 3C applies and has made an election under paragraph 3C(2)(a), or
  - (c) paragraph 3C would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.
- (1A) Subject to sub-paragraph (3), the rate of W’s pension shall be increased—
- (a) in a case falling within sub-paragraph (1)(a), by an amount equal to the increase to which S was entitled under this Schedule, apart from paragraphs 5 to 6,
  - (b) in a case falling within sub-paragraph (1)(b), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from paragraphs 5 to 6, if the period of deferment had ended immediately before S’s death and S had then made an election under paragraph A1(1)(a), or
  - (c) in a case falling within sub-paragraph (1)(c), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from paragraphs 5 to 6, if the period of deferment had ended immediately before S’s death.”.

**10.—(1)** After paragraph 7 insert—

“Entitlement to lump sum where pensioner’s deceased spouse has deferred entitlement

**7A.—(1)** This paragraph applies where a person to whom paragraph 3C applies (“W”) has made (or is treated as having made) an election under paragraph 3C(2)(b).

(2) W is entitled to an amount calculated in accordance with paragraph 7B (a “widowed person’s lump sum”).

Calculation of widowed person’s lump sum

**7B.—(1)** The widowed person’s lump sum is the accrued amount for the last accrual period beginning during the period which—

- (a) began at the beginning of S’s period of deferment, and
- (b) ended on the day before S’s death.

(2) In this paragraph—

“S” means the other party to the marriage;

“accrued amount” means the amount calculated in accordance with sub-paragraph (3);

“accrual period” means any period of seven days beginning with a prescribed day of the week, where that day falls within S’s period of deferment.

(3) The accrued amount for an accrual period for W is—

$$(A + P) \times 52 \sqrt{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period mentioned in sub-paragraph (1), zero);

P is—

- (a) the basic pension, and
- (b) half of the additional pension,

to which S would have been entitled for the accrual period if his entitlement had not been deferred during the period mentioned in sub-paragraph (1);

R is—

- (a) a percentage rate 2 per cent. higher than the Bank of England base rate, or
- (b) such higher rate as may be prescribed in regulations made under paragraph 7C(2).

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purposes of the calculation of the widowed person's lump sum, the amount of Category A or Category B retirement pension to which S would have been entitled for an accrual period—

- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
- (b) does not include—
  - (i) any increase under section 83A or 85 or paragraphs 5 to 6 of this Schedule,
  - (ii) any graduated retirement benefit, or
  - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.

(6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 42(5) of the Pensions Act were disregarded.

(7) In any case where—

- (a) there is a period between the death of S and the date on which W becomes entitled to a Category A or Category B retirement pension, and
- (b) one or more orders have come into force under section 132 of the Administration Act during that period,

the amount of the lump sum shall be increased in accordance with that order or those orders.”.

(2) In relation to any accrual period (within the meaning of Schedule 5 to the Contributions and Benefits Act) ending before 6th April 2010 the reference in paragraph 7B(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

**11.** After paragraph 7B (inserted by paragraph 10) insert—

“Supplementary

**7C.**—(1) Any lump sum calculated under paragraph 3B or 7B must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.

(2) Where the Secretary of State makes regulations prescribing a percentage rate for the purposes of paragraphs 3B and 7B of Schedule 5 to the Great Britain Contributions and Benefits Act, the Department may make corresponding regulations for Northern Ireland.”.

**12.** For the heading immediately preceding paragraph 8 substitute “Married couples”.

**13.** In paragraph 8 (married couples)—

(a) in sub-paragraph (3) for “the reference in paragraph 2(3) above” substitute “the references in paragraphs 2(3) and 3B(3) and (5)”, and

(b) for sub-paragraph (4) substitute—

“(4) The conditions in paragraph 3C(1)(c) and 4(1)(a) are not satisfied by a Category B retirement pension to which S was or would have been entitled by virtue of W’s contributions.

(5) Where the Category A retirement pension to which S was or would have been entitled includes an increase under section 51A(2) attributable to W’s contributions, the increase or lump sum to which W is entitled under paragraph 4(1A) or 7A(2) is to be calculated as if there had been no increase under that section.

(6) In sub-paragraphs (4) and (5), “W” and “S” have the same meaning as in paragraph 3C, 4 or 7A, as the case requires.”.

14. After Schedule 5 to the Contributions and Benefits Act insert—

“SCHEDULE 5A

PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT  
TO SHARED ADDITIONAL PENSION IS DEFERRED

*Choice between pension increase and lump sum where entitlement to shared additional pension is deferred*

1.—(1) Where a person’s entitlement to a shared additional pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—

(a) that paragraph 2 (entitlement to increase of pension) is to apply in relation to the period of deferment, or

(b) that paragraph 4 (entitlement to lump sum) is to apply in relation to the period of deferment.

(2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).

(3) Regulations—

(a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and

(b) if they enable a person to make an election under sub-paragraph (1)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 2 by reference to that period, may for the purpose of avoiding duplication of payment—

(i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or

(ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 4.

*Increase of pension where entitlement deferred*

2.—(1) This paragraph applies where a person’s entitlement to a shared additional pension is deferred and either—

- (a) the period of deferment is less than 12 months, or
- (b) the person has made an election under paragraph 1(1)(a) in relation to the period of deferment.

(2) The rate of the person's shared additional pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 3, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.

*Calculation of increment*

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

(2) The amount of the increment for an incremental period shall be 1/5th per cent. of the weekly rate of the shared additional pension to which the person would have been entitled for the period if his entitlement had not been deferred.

(3) Amounts under sub-paragraph (2) shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.

(4) Where an amount under sub-paragraph (2) would, apart from this sub-paragraph, be a sum less than 1/2p, the amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.

(5) In this paragraph "incremental period" means any period of six days which are treated by regulations as days of increment for the purposes of this paragraph in relation to the person and pension in question.

(6) Where one or more orders have come into force under section 132 of the Administration Act during the period of deferment, the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the period of deferment.

(7) The sums which are the increases in the rates of shared additional pension under this paragraph are subject to alteration by order made by the Department under section 132 of the Administration Act.

*Lump sum where entitlement to shared additional pension is deferred*

4.—(1) This paragraph applies where—

- (a) a person's entitlement to a shared additional pension is deferred, and
- (b) the person has made (or is treated as having made) an election under paragraph 1(1)(b) in relation to the period of deferment.

(2) The person is entitled to an amount calculated in accordance with paragraph 5 (a "lump sum").

*Calculation of lump sum*

5.—(1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.

(2) In this paragraph—

"accrued amount" means the amount calculated in accordance with sub-paragraph (3);

"accrual period" means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.

(3) The accrued amount for an accrual period for a person is—



$$(A + P) \times 52 \sqrt{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the shared additional pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate 2 per cent. higher than the Bank of England base rate, or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5 to this Act, that higher rate.

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purposes of the calculation of the lump sum, the amount of the shared additional pension to which the person would have been entitled for an accrual period does not include, in prescribed circumstances, such amount as may be prescribed.

(6) The lump sum must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.”.

## PART 2

### CONSEQUENTIAL AMENDMENTS

#### *The Contributions and Benefits Act*

**15.** The Contributions and Benefits Act is amended as follows.

**16.** In section 62(1) (graduated retirement benefit)—

- (a) in paragraph (a), for “paragraphs 1 to 3” substitute “paragraphs A1 to 3B and 7C”, and
- (b) after paragraph (b) insert—

“(c) for amending that section in order to make provisions corresponding to those of paragraphs 3C, 4(1) and (1A) and 7A to 7C of Schedule 5 to this Act enabling a widowed person to elect to receive a lump sum, rather than an increase in the weekly rate of retirement pension, in respect of the graduated retirement benefit of his or her deceased spouse.”.

**17.** In section 121(1) (interpretation of Parts I to VI)—

- (a) before the definition of “beneficiary” insert—

““Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

- (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section;” and
- (b) for the definitions of “deferred” and “period of deferment” substitute—
  - ““deferred” and “period of deferment”—
  - (a) in relation to a Category A or Category B retirement pension, have the meanings given by section 55(3), and
  - (b) in relation to a shared additional pension, have the meanings given by section 55C(3);”.

*The 1999 Order*

**18.** The 1999 Order is amended as follows.

**19.** In Article 47, omit paragraph (2) (which amends provisions relating to the deferment of shared additional pensions and is superseded by Part 1 of this Schedule).

**20.** In Article 49(2) (power to make regulations preserving rights in respect of additional pensions), in sub-paragraph (b)—

- (a) after “increase of pension” insert “or payment of lump sum”, and
- (b) after “constituent element of an increase” insert “or of a lump sum”.

## PART 3

### TRANSITIONAL PROVISIONS

*Widowers' entitlement to increase of pension or widowed person's lump sum*

**21.** In the case of a widower who attains pensionable age before 6th April 2010, paragraphs 3C, 4 and 7A of Schedule 5 to the Contributions and Benefits Act (entitlement to increase of pension or widowed person's lump sum) shall not apply unless he was over pensionable age when his wife died.

*Transitional provision*

**22.**—(1) The Department may by regulations make such transitional provision as it thinks fit in connection with the coming into operation of this Schedule.

(2) Regulations under this paragraph may, in particular, modify the preceding provisions of this Schedule in relation to cases where the retirement pension or shared additional pension of a person is deferred and the period of deferment begins before 6th April 2005 and continues on or after that day.

(3) In this paragraph “deferred” and “period of deferment” are to be read in accordance with section 55 or 55C of the Contributions and Benefits Act, as the case requires.