

## SCHEDULES

### SCHEDULE 10

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

#### PENSIONS

##### *Social Security Act 1973 (c. 38)*

- 1 The Social Security Act 1973 shall be amended as follows.
- 2 In section 58(2) (linked qualifying service)—
  - (a) the following paragraph shall be substituted for paragraph (a)—
    - “(a) under the rules of a scheme applying to him in the earlier period of service—
      - (i) there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; or
      - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service;”;
  - (b) in paragraph (b), for the words “ that transfer ” there shall be substituted the words “ the transfer of his accrued rights to the second scheme. ”.
- 3 In section 64 (modification of occupational pension scheme by order of Occupational Pensions Board) the following subsection shall be inserted after subsection (1)—

“(1A) The Board shall also have power on such an application to make an order—

  - (a) authorising the modification of the scheme with a view to achieving any one or more of such other purposes as may be prescribed ; or
  - (b) modifying the scheme with a view to achieving any one or more of those purposes.”.
- 4 In section 66—
  - (a) in subsection (1)(a), for the words “ and the Pensions Act ” there shall be substituted the words “ , the Pensions Act and Part I of the Social Security Act 1986 ” ;
  - (b) in subsection (7)(a), after the words “ contracting-out certificates ” there shall be inserted the words “ and appropriate scheme certificates ” ; and
  - (c) the following subsection shall be substituted for subsection (10)—

“(10) References in this section—

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- (a) to this Part of this Act, the Pensions Act and Part I of the Social Security Act 1986 include references to any provisions in force in Northern Ireland and corresponding to provisions of this Part of this Act, the Pensions Act or Part I of the Social Security Act 1986 ; and
- (b) to contracting-out certificates and appropriate scheme certificates include references to contracting-out certificates and appropriate scheme certificates within the meaning of any such provisions.”.
- 5 In section 67(1)(a) (review of determinations by Board) after the words "contracting-out certificate" there shall be inserted the words "or an appropriate scheme certificate ".
- 6 In section 69 (rule against perpetuities)—
- (a) in subsection (1), for the words " an occupational" there shall be substituted the words "a personal or occupational ";
- (b) in subsection (2), for the words "under this Part of this Act" there shall be substituted the words "or an appropriate scheme under Part I of the Social Security Act 1986 " ; and
- (c) in subsection (5), for the words " which ceases to be contracted-out, or " there shall be substituted the words
- “which ceases—
- (a) if it is an occupational pension scheme, to be contracted-out ; or
- (b) if it is a personal pension scheme, to be an appropriate scheme,
- or”.
- 7 Sections 70 (legal restrictions of doubtful application), 71 (friendly societies) and 72 (fees for official services to schemes) shall have effect in relation to personal pension schemes as they have effect in relation to occupational pension schemes.
- 8 In section 99(1) the following definitions shall be inserted at the appropriate places—
- “" appropriate scheme " shall be construed in accordance with Part I of the Social Security Act 1986 ;” ; and
- “" personal pension scheme " has the same meaning as in the Social Security Act 1986 ; ”.
- 9 In paragraph 4 of Schedule 16 (preservation of benefits under occupational pension schemes)—
- (a) for the words " requisite benefits " in the first place where they occur in sub-paragraph (2) and in sub-paragraph (3) there shall be substituted the words "a guaranteed minimum pension " ; and
- (b) for the words " his requisite benefits " in sub-paragraph (2) there shall be substituted the words "the guaranteed minimum pension ".
- Social Security Act 1975 (c. 14)*
- 10 In paragraph 6(1)(h) of Schedule 1 to the Social Security Act 1975 (regulations about return of contributions) after the word " of ", in the first place where it occurs, there shall be inserted the words "the whole or any prescribed part of any ".

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*Social Security Pensions Act 1975 (c. 60)*

- 11 The Social Security Pensions Act 1975 shall be amended as follows.
- 12 In section 26 (contracting-out)—
- (a) in subsection (1), for the words " the requisite benefits "there shall be substituted the words "a guaranteed minimum pension "; and
  - (b) in subsection (2), for the words from the beginning to " such pension" there shall be substituted the words "'Guaranteed minimum pension " means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 33 and 36 below ".
- 13 In section 27(4) (contracted-out rates of Class 1 contributions) for the words from the beginning to " that employment" there shall be substituted the words
- “Where—
- (a) an earner has ceased to be employed in an employment; and
  - (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased,
- that employment”.
- 14 In section 29 (contracted-out rates of benefit)—
- (a) in subsection (1)(a), for the words " or a widow's pension" there shall be substituted the words ", a widow's pension or a widower's invalidity pension under section 16 above ";
  - (b) in subsection (2)—
    - (i) after the words " this section " there shall be inserted the words "and sections 16(2B), 28(7A) and 59(1A) of the principal Act "; and
    - (ii) at the end there shall be added the words "or if as a result of a transfer payment or transfer under regulations made by virtue of section 38 below he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer is made and has not as a result of the transfer payment or transfer become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer is made."
- 15 In section 30(1)(a) (contracted-out employment) for the words " the requisite benefits of " there shall be substituted the words "a guaranteed minimum pension provided by ".
- 16 In section 32 (contracted-out schemes)—
- (a) in subsection (2)—
    - (i) for the words " the requisite benefits " in paragraph (a); and
    - (ii) for the words " requisite benefits " in paragraph (b), there shall be substituted the words "guaranteed minimum pensions ";
  - (b) in subsection (4) the words " relating to the scheme or its management" shall cease to have effect.
- 17 In section 33 (requirements for contracting-out) the following subsection shall be inserted after subsection (1)—
- “(1A) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 3 of

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- this Act, subject to the provisions of this Part of this Act, for a scheme to be contracted-out in relation to her employment it must—
- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age ; and
  - (b) satisfy such other conditions as may be prescribed.”.
- 18 The following subsection shall be substituted for section 38(1) (transfer of accrued rights)—
- “(1) Regulations may prescribe circumstances in which and conditions subject to which—
- (a) there may be made by one occupational pension scheme to another or by an occupational pension scheme to a personal pension scheme a transfer of or a transfer payment in respect of—
    - (i) an earner's accrued rights to guaranteed minimum pensions under a contracted-out scheme ;
    - (ii) an earner's accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme ; or
    - (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them ;
  - (b) there may be made to an occupational pension scheme or a personal pension scheme a transfer of or a transfer payment in respect of an earner's accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 52C below.”.
- 19 Sections 41(4) and 49(3) and (7) (powers of Occupational Pensions Board which are no longer required) shall cease to have effect.
- 20 In section 41A(4) of that Act (protection of earner's pensions) " 2 " shall be substituted for "5 ".
- 21 In section 42(1X6) (premium on termination of contracted-out employment) for the word " five" there shall be substituted the word "two ".
- 22 In section 43(2A) (linked qualifying service)—
- (a) the following paragraph shall be substituted for paragraph (a)—
    - “(a) under the rules of a scheme applying to him in the earlier period of service—
      - (i) there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; or
      - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service;”;
  - (b) in paragraph (b), for the words " that transfer " there shall be substituted the words "transfer of his accrued rights to the second scheme ".
- 23 (1) In subsection (1) of section 44 (premium on termination of contracted-out scheme) after the word " is" there shall be inserted the words "or has been"and after the words " for the event of" there shall be inserted the words ", or in connection with, ".

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- (2) The following subsections shall be inserted after subsection (1B) of that section (arrangements for scheme's ceasing to be contracted-out)—
- “(1C) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—
- (a) have withdrawn their approval of previously approved arrangements relating to it; or
  - (b) have declined to approve arrangements relating to it,
- the Board may issue a certificate to that effect.
- (1D) A certificate issued under subsection (1C)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.”.
- (3) In subsection (2)(a) of that section, after the word " under ", in the second place where it occurs, there shall be inserted the words "section 52C of or ".
- (4) In subsection (5) of that section, for the words " The amount" there shall be substituted the words "Subject to subsection (5A) below, the amount ".
- (5) The following subsections shall be inserted after that subsection—
- “(5A) Where in calculating the costs referred to in subsection (5) above the Secretary of State cannot readily ascertain the amount of any earnings in a tax week, he may make the calculation as if the amount of those earnings were equal to the upper earnings limit for that tax week, and may certify the costs accordingly.
- (5B) Where—
- (a) the Secretary of State subsequently ascertains the amount of those earnings ; and
  - (b) it appears to him that the amount of the premium would have been less if he had not made the calculation on the basis described in subsection (5A) above,
- he shall refund to the prescribed person the amount by which it would have been less.”.
- 24 The following subsection shall be inserted after section 49(2) of that Act (duty to supervise schemes which have ceased to be contracted-out)—
- “(2A) Where in the case of any scheme the Board have issued a certificate under subsection (1C) of section 44 above which has not been cancelled under subsection (1D) of that section, or a certificate under subsection (2) of section 44ZA above which has not been cancelled under subsection (3) of that section, the Board shall not be under the duty which would otherwise be imposed on them by subsection (2) above in relation to that scheme.”.
- 25 In section 50 (alteration of rules of contracted-out schemes)—
- (a) in subsection (1)—
    - (i) after the word "Board " there shall be inserted the words "unless it is an alteration to which this subsection does not apply "; and
    - (ii) for the words " such alteration " there shall be substituted the words "alteration to which this subsection applies "; and
  - (b) the following subsection shall be inserted after that subsection—

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- “(1A) Subsection (1) above does not apply—
- (a) to an alteration consequential on a provision of the Health and Social Security Act 1984, the Social Security Act 1985 or the Social Security Act 1986 ; or
- (b) to an alteration of a prescribed description.”.
- 26 (1) Section 52C (cases where scheme's liability is discharged) shall have effect and shall be deemed always to have had effect as if the following subsections were substituted for subsections (1) to (3)—
- “(1) A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person either the requisite benefits or short service benefit or any alternative to short service benefit—
- (a) if it is carried out not earlier than the time when that person's pensionable service terminates ; and
- (b) if and to the extent that it results in—
- (i) the requisite benefits ; or
- (ii) short service benefit, or an alternative to short service benefit, for or in respect of that person being appropriately secured ; and
- (c) in a case where the transaction takes place on or after 1st January 1986, if and to the extent that the requirements set out in any one of paragraphs (a), (b) and (c) of subsection (5) below are satisfied.
- (2) This section applies to the following transactions—
- (a) the taking out or the transfer of the benefit of a policy of insurance or a number of such policies ;
- (b) the entry into or the transfer of the benefit of an annuity contract or a number of such contracts.”.
- (2) Subsection (5) of that section shall have effect and shall be deemed always to have had effect as if " (1) " were substituted for "(2)(b) ".
- (3) In relation to transactions which take place after the commencement of section 8 above section 52C(1) of the Social Security Pensions Act 1975 shall have effect with the substitution of the words "guaranteed minimum pensions" for the words " the requisite benefits ", in both places where they occur.
- 27 (1) Subsection (1) of section 52D (Supplementary provisions) shall have effect and shall be deemed always to have had effect—
- (a) as if the following paragraph were substituted for paragraph(b)—
- “(b) either—
- (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section ; or
- (ii) it is carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up ;” ; and

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- (b) as if for the words from " entitled " to " which " there were substituted the words "only entitled to such part (if any) of his or her guaranteed minimum pension as ".
- (2) In that subsection after the words " purposes of " there shall be inserted the words "sections 16(2B), 28(7A) and 59(1A) of the principal Act and ".
- 28 The following definition shall be inserted after the definition of "occupational pension scheme" in section 66(1)—
- “" personal pension scheme " has the meaning assigned to it by section 84(1) of the Social Security Act 1986 ;”.
- 29 At the end of paragraph 5(1) of Part I of Schedule 1A (revaluation of pensions) there shall be added the words "and which is not an average salary benefit ".
- 30 In Part II of Schedule 1A (transfer values)—
- (a) the following sub-paragraphs shall be inserted after paragraph 12(2)—
- “(2A) Where a member continues in employment to which a scheme applies after his pensionable service in that employment terminates—
- (a) if regulations so provide, he only acquires a right to the cash equivalent of such part of the benefits specified in sub-paragraph (1) above as may be prescribed ; and
- (b) if regulations so provide, he acquires no right to a cash equivalent.
- (2B) Regulations may provide for the purposes of sub-paragraph (2A) above that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.”;
- (b) paragraph 12(4) and the reference to it in paragraph 12(3) shall be omitted and shall be deemed never to have been included;
- (c) in paragraph 13—
- (i) in paragraph (c) of sub-paragraph (2), for the words " such other type or types of pension arrangements as may be prescribed " there shall be substituted the words "other pension arrangements which satisfy prescribed requirements "; and
- (ii) the following sub-paragraph shall be inserted after that sub-paragraph—
- “(2A) Without prejudice to the generality of sub-paragraph (2) above, the powers conferred by that sub-paragraph include power to provide that a scheme, an annuity or pension arrangements must satisfy requirements of the Inland Revenue.”;
- (iii) in sub-paragraph (5)(b), for the word " them " there shall be substituted the words "the trustees or managers of the scheme from which he is being transferred "; and
- (d) in paragraph 14—
- (i) in sub-paragraph (1), for the words "The cash equivalents mentioned in paragraph 12(1) above " there shall be substituted the words "Gash equivalents ";

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- (ii) at the end of sub-paragraph (2), there shall be added (but not as part of paragraph (c)) the words "and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body, "; and
- (iii) the following paragraph shall be substituted for sub-paragraph (3) (b)—
  - “(b) that in prescribed circumstances a cash equivalent shall be increased or reduced.”.

*Employment Protection (Consolidation) Act 1978 (c. 44)*

- 31 (1) In the following provisions of the Employment Protection (Consolidation) Act 1978 (which all relate to payments to pension schemes of contributions which are unpaid on employer's insolvency) the words " or a personal pension scheme " shall be inserted after the words "an occupational pension scheme"—
- (a) section 123(1) and (3) ;
  - (b) section 124(2);
  - (c) section 125(3); and
  - (d) section 126(1).
- (2) In section 123(2) of that Act for the words "in accordance with an occupational pension scheme" there shall be substituted the words "to an occupational pension scheme or a personal pension scheme ".
- (3) In section 127(3) of that Act the following definition shall be inserted after the definition of "occupational pension scheme"—
- “" personal 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 so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employees who have made arrangements with the trustees or managers of the scheme for them to become members of the scheme ;”.