
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 333

Teachers' Superannuation Regulations (Northern Ireland) 1998

Part E

Benefits

Overriding provision as to guaranteed minimum pensions

E1.—(1) This regulation applies where a person's pensionable employment is contracted-out employment.

(2) Where this regulation applies it overrides anything in these Regulations that is inconsistent with it, except regulation E14 (abatements on re-employment) and regulation E18 (deferment etc).

(3) Where this regulation applies and the person in relation to employment up to 6th April 1997, has a guaranteed minimum in relation to benefits under these Regulations—

- (a) unless on the cessation of the pensionable employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to his guaranteed minimum;
- (b) if he attains state pensionable age while in pensionable employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals his guaranteed minimum;
- (c) in the case of a man who dies at any time and leaves a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in section 13 of the Pensions Act(1), entitled to a pension at a weekly rate equal to half his guaranteed minimum; and
- (d) in the case of a woman who dies at any time leaving a widower who is not entitled to a widower's pension at a higher rate, in circumstances prescribed under section 13(6) of the Pensions Act, the widower is entitled to a pension payable for the period so prescribed.

(4) The weekly rate of a widower's pension payable under paragraph (3)(d) is half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and ending with the tax year 1996-7.

(5) In paragraph (4) "earnings factors" means the earnings factors referred to in section 10(2) of the Pensions Act.

Nature of retirement benefits

E2. Retirement benefits consist of—

- (a) a retirement pension; and
- (b) a retirement lump sum,

calculated in accordance with this Part.

Qualification for retirement benefits

E3.—(1) A person is qualified for retirement benefits if—

- (a) immediately before 6th April 1988 he would but for his age have been entitled under regulation 48 of the 1977 Regulations to payment of an annual allowance and an additional allowance; or
- (b) an appropriate qualifying period has been completed.

(2) A qualifying period, which may be discontinuous, comprises every period of a kind described in Schedule 8 excluding any contributions refund period.

(3) If the person—

- (a) was in pensionable employment, or paying contributions for a current period under regulation 27 of the 1977 Regulations on 6th April 1988; or
- (b) entered pensionable employment after 6th April 1988 without having been in such employment before that date,

any qualifying period of 2 years is an appropriate one.

(4) If paragraph (3) does not apply but the person was in pensionable employment before 6th April 1988 and subsequently entered pensionable employment again after that date, any qualifying period of—

- (a) two years beginning on or after 6th April 1988; or
- (b) such period beginning on or after 6th April 1988 as will, when taken with every period before 6th April 1988 of a kind described in Schedule 4 to the 1977 Regulations, amount to 5 years whichever is the shorter, is an appropriate one.

(5) For the purposes of paragraph (4) any period of the kind described in paragraph 3 of Schedule 8 (transfer value accepted) shall be treated as having begun after 5th April 1988.

(6) Notwithstanding that an appropriate qualifying period has not been completed, a person is qualified for retirement benefits—

- (a) subject to paragraph (7), if he has a guaranteed minimum in relation to benefits under these Regulations; or
- (b) if a transfer value was paid in respect of him by the Department to the superannuation scheme of the Commission of the European Communities and one has since been received by the Department from that scheme.

(7) If a contributions equivalent premium is paid by the Department, paragraph (6)(a) shall be treated as not having applied.

Entitlement to payment of retirement benefits

E4.—(1) Subject to regulation E33(2) (payment of benefits), a person qualified for retirement benefits becomes entitled to payment of them in any of the Cases described in this regulation.

(2) In Case A (normal age retirement) the person—

- (a) has attained the age of 60;
- (b) has ceased to be in pensionable employment; and
- (c) is not within Case B, C, D, E or F.

(3) In Case B (female early age retirement) the person—

- (a) has not attained the age of 60;

- (b) has attained the age of 55;
 - (c) is female;
 - (d) first entered pensionable employment prior to 1st April 1972;
 - (e) has ceased to be in pensionable employment;
 - (f) has been in pensionable employment or employed in external service as defined in regulation 5 of the 1972 Regulations as originally made or qualifying service as defined in regulation 6 of the 1972 Regulations as originally made for a total of not less than 30 years of which not less than 10 years was reckonable service or employment in external service as so defined; and
 - (g) is not within Case F.
- (4) In Case C (infirmity retirement) the person—
- (a) has ceased after 31st March 1972 and before attaining the age of 60 to be in pensionable employment;
 - (b) is incapacitated and became so before attaining the age of 60; and
 - (c) is not within Case F;

and where the pensionable employment ceased on or after 2nd November 1998, the Department has not notified him in writing that it has exercised, or is considering the exercise of its powers under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997(2) to prohibit or restrict his employment or further employment on grounds of his misconduct;

- (5) In Case D (infirmity retirement at normal retirement age where incapacitated before that age) the person—
- (a) has attained the age of 60;
 - (b) has ceased after 31st March 1972 (and after attaining that age) to be in pensionable employment, but would have ceased to be in such employment before attaining that age had not the employment continued beyond the attainment of that age due to a period of paid sick leave; and
 - (c) has become incapacitated before attaining that age; and
 - (d) is not within case F,

and where the pensionable employment ceased on or after 2nd November 1998, the Department has not notified him in writing that it has exercised, or is considering the exercise of its powers under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997 to prohibit or restrict his employment or further employment on grounds of his misconduct.

- (6) In Case E the person—
- (a) has attained the age of compulsory retirement; and
 - (b) is in an employment which would be pensionable employment but for regulation B3(1)(a).
- (7) In Case F (premature retirement) the person—
- (a) has not attained the age of 60;
 - (b) has attained the age of 50;
 - (c) has ceased after attaining the age of 50 to be—
 - (i) in pensionable employment;
 - (ii) in excluded employment; or

(iii) in employment which would be pensionable but for the fact that the person has not made an election under B1(4); and

(d) is not within Case B or C; and

his employer has notified the Department in writing that his pensionable employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions.

(8) Where the employer has notified the Department in Case F that employment is to be terminated in the interests of the efficient discharge of the employer's functions the Department shall approve the reason for such termination.

(9) In Cases A, B and E the entitlement takes effect as soon as the person falls within the Case.

(10) In Cases C and D the entitlement takes effect—

(a) where immediately before the person became incapacitated he was in employment of the type described in paragraph (7)(c)(ii) or (iii), on the day after the last day of his employment; and

(b) as soon as the person falls within the Case or would have fallen within the Case had the Department not notified him that it had exercised, or was considering the exercise of its powers, under regulation 9 of the Teachers' (Eligibility) Regulations (Northern Ireland) 1997; or

(c) if later, 6 months before the date of the last of any medical reports considered by the Department in determining under regulation H6 that the person has become incapacitated.

(11) In Case F the entitlement takes effect as from the day after the end of the employment.

(12) In no Case shall a person be regarded as having ceased to be in pensionable employment until not less than one day has passed without that person being in pensionable employment.

Amount of retirement pension

E5.—(1) Subject to paragraphs (2) to (4) and regulations E7 to E10 and regulation H1, the annual rate of a person's retirement pension is 1/80th of his average salary multiplied by his effective reckonable service.

(2) If—

(a) the person is entitled to count a period as reckonable service by virtue of regulation D3 (past period purchased by additional contributions); and

(b) by reason of regulation E32(4) part of that period does not count in calculating his retirement lump sum,

the annual rate calculated in accordance with paragraph (1) is, in respect of each year comprised in that part, increased by 1/350th of his average salary.

(3) If—

(a) the person has a guaranteed minimum in relation to employment up to 6th April 1997; and

(b) **A exceeds B,**

where—

A is the annual equivalent of his guaranteed minimum pension together with that of any equivalent pension benefits; and

B is the annual rate calculated in accordance with paragraphs (1) and (2),

the annual rate of his retirement pension is A.

(4) If a contributions equivalent premium has been paid in respect of the person and has not been refunded (and his entitlement to a guaranteed minimum pension is therefore extinguished) the

annual rate of his retirement pension is reduced by the annual equivalent of the guaranteed minimum pension to which he would otherwise have been entitled.

Amount of retirement lump sum

E6.—(1) Subject to paragraph (2) and regulations E7 and E8, the amount of a person's retirement lump sum is

$$A \times (B + C)$$

where—

A is 3/80ths of his average salary;

B is his effective reckonable service (except any falling within C); and

C is any period which he is entitled to count as reckonable service by virtue of regulation D3.

(2) If the person's effective reckonable service is restricted by regulation E32(2), the part of his retirement lump sum that is attributable to service before he attained the age of 60 shall not exceed his average salary multiplied by 1½.

Limitation of retirement benefits where salary reduced

E7.—(1) Paragraphs (2) to (5) apply to a person who has made an election under regulation C1(6) (reduced salary treated as having continued at previous rate) and whose average salary falls to be calculated by reference to the notional rate.

(2) The annual rate of the person's retirement pension shall not exceed the fraction of the appropriate sum ascertained, by reference to the relevant age, from the following Table:

TABLE

<i>Relevant age</i>	<i>Fraction</i>
Under 50	12
50	25
51	310
52	15
53	110
54	114

(3) Where the person has been in pensionable employment for less than 20 years, his retirement lump sum shall not exceed 3/80ths of the appropriate sum multiplied by the total of his reckonable service and the period ascertained, by reference to the number of complete years he has been in pensionable employment, from the following Table:

TABLE

<i>Years in pensionable employment</i>	<i>Period of years</i>
19	17
18	15
17	13

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Years in pensionable employment</i>	<i>Period of years</i>
16	11
15	9
14	7
13	5
12	4
11	3
10	2
9	1
Fewer than 9	0

(4) Where the person has been in pensionable employment for 20 years or more his retirement lump sum shall not exceed the appropriate sum multiplied by $1\frac{1}{2}$.

(5) The appropriate sum referred to in paragraph (4) is the greater of—

- (a) the person's contributable salary for the best one of his last 5 years in pensionable employment; and
- (b) $\frac{1}{3}$ rd of his aggregate contributable salary for his best 3 consecutive years in pensionable employment within the 10 years ending with its cessation,

and for the purposes of paragraph (2) the relevant age is his age when he first entered pensionable employment, unless he was not continuously in pensionable employment in which case it is the figure obtained by subtracting the number of years in pensionable employment from 60.

Enhancement of retirement benefits in case of incapacity

E8.—(1) This regulation applies to a person who has become entitled to payment of retirement benefits by virtue of regulation E4(4) or (5) by reason of his having become incapacitated while still employed in pensionable employment, but only if—

- (a) he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period; and
- (b) the application for payment required by regulation E33(2) is made within 6 months after the end of his pensionable employment.

(2) Subject to regulation E32(2) (limitation of effective reckonable service to 45 years, etc) for the purpose of calculating his retirement benefits the effective reckonable service of a person to whom this regulation applies shall be treated as having been increased by the appropriate period.

(3) If the person's relevant service amounts to less than 10 years, the appropriate period is the shorter of—

- (a) the length of his relevant service; and
- (b) the period beginning when his pensionable employment ended and ending immediately before his 65th birthday.

(4) If his relevant service amounts to 10 years or more, the appropriate period is the longer of period A and period B.

(5) In paragraph (4)—

- (a) period A is the shortest of—
 - (i) the period by which his relevant service falls short of 40 years;

- (ii) the period beginning when his pensionable employment ended and ending immediately before his 60th birthday; and
 - (iii) 6 years and 243 days.
- (b) period B is so much of the period beginning when his pensionable employment ended and ending immediately before his 65th birthday as would not cause his effective reckonable service to be increased to more than 20 years.
- (6) A person's relevant service is so much of his effective reckonable service as does not consist of periods that count by virtue of regulation D3 (past period purchased by additional contributions) or by virtue of the application to him of regulation 4 of the 1977 Regulations.
- (7) For the purposes of this regulation a person shall be treated as having been in pensionable employment during any period for which he was paying additional contributions under regulation C6 or C7.

Avoidance of duplicate pensions

E9.—(1) This regulation applies where a person's effective reckonable service includes a period that also counts towards another pension payable directly or indirectly out of moneys provided by or under any statutory provision or raised by a rate ("the double period").

(2) Subject to paragraphs (3) and (4), where this regulation applies the person's retirement benefits are reduced by so much as is necessary to secure that

A is reduced by B,

where—

A is the actuarial value of the retirement benefits in respect of the double period; and

B is the actuarial value of the other pension in respect of that period.

(3) A shall not be reduced to less than the actuarial value of
(C + D),

where—

C is the contributions paid by the person in respect of the double period, including any paid under regulation C6 or C7; and

D is interest on those contributions at 3 per cent per annum, compounded with yearly rests, beginning with and including the first day of the financial year following that in which they were paid to the date on which he became entitled to payment of the retirement pension.

(4) A retirement pension shall not be reduced so that so much of it as is attributable to the double period falls below the rate of any equivalent pension benefits attributable to that period.

(5) For the purposes of this regulation, "another pension" includes any sum payable, whether as a continuing allowance or as a lump sum, by way of pension, superannuation allowance, compensation for loss or abolition of office or otherwise in respect of retirement.

National Insurance modification of pensions

E10. Part I of Schedule 9 has effect for modifying the retirement pensions of persons who were in pensionable employment before 1st April 1980.

Allocation of part of retirement pension

E11.—(1) A person who has become qualified for retirement benefits may, unless he becomes entitled to payment of them by virtue of regulation E4(4) or (5) (incapacity), allocate part of his retirement pension to the provision of an alternative benefit.

(2) The alternative benefit may be either—

- (a) an annuity for life, commencing on the death of the person making the allocation (“the allocator”), for a surviving spouse or dependant; or
- (b) an annuity payable to the allocator while the allocator and a spouse are both alive, and if the spouse is the survivor a subsequent annuity for life, at twice the rate of the first annuity, for the spouse.

(3) The rates of the annuities mentioned in paragraph (2) shall be determined in accordance with tables prepared by the Government Actuary.

(4) An allocation shall be made by delivering a declaration to the Department, and in paragraph (2) “spouse” refers to status at the time of its delivery.

(5) Further provisions as to allocations under this regulation are contained in Schedule 10.

Duration of retirement pension

E12. Subject to regulations E13 to E15 and E18, a retirement pension continues to be payable, at the rate at which it initially became payable in accordance with regulation E5, until the death of the person entitled to it.

Pensioner ceasing to be incapacitated

E13.—(1) This regulation applies where a person who became entitled to payment of a teacher’s pension by virtue of regulation E4(4) ceases to be incapacitated.

(2) On his ceasing to be incapacitated the pension ceases to be payable, but any equivalent pension benefits continue to be payable.

(3) Subject to paragraph (4) and to regulation E33(2) (application for payment), the pension becomes payable again—

- (a) from his 60th birthday; or
- (b) if earlier, from the start of any renewed incapacity.

(4) Paragraph (3) shall not apply if a person has been in pensionable employment at any time after he first became entitled to payment of the pension.

(5) If the pension becomes payable again under paragraph (3)(a) it shall be treated for the purposes of regulation E14 as one to the payment of which he has become entitled by virtue of regulation E4(2).

Abatement of retirement pension during further employment

E14.—(1) This regulation applies while a person who has become entitled to payment of a teacher’s pension is employed—

- (a) in pensionable employment, comparable service, or in employment which would have been pensionable employment but for—
 - (i) his having made an election under regulation B4;
 - (ii) his having attained the age of compulsory retirement; or
 - (iii) regulation B3(3);

- (b) in part-time employment in a capacity described in Part I of Schedule 2.
- (2) If the person is concurrently both in employment falling within paragraph (1)(a) and in employment falling within paragraph (1)(b) this regulation applies only in respect of the former.

(3) Where this regulation applies the annual rate of the pension is reduced—

- (a) if A equals or exceeds
 $(C + D - E)$,

, to zero; and

- (b) in any other case, by the amount (if any) which is necessary to secure that
 $(A + B)$

does not exceed

$$(C + D - E),$$

where—

A is the initial annual rate of the person's salary in the employment;

B is the reduced annual rate of the pension as increased under the Pensions (Increase) Act (Northern Ireland) 1971(3);

C is, or where his previous pensionable employment was part-time is the full-time equivalent of, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he became entitled to payment of the pension, or, if applicable, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is the greater;

D is the amount (if any) by which, immediately before the first day of the employment, C would have been increased if it had been the annual rate of an official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning, and first qualifying for increases under that Act, on the same date as the pension; and

E is any part of the pension allocated under regulation E11.

Retirement benefits on cessation of further employment

E15.—(1) This regulation applies to a person who—

- (a) became entitled to payment of a teacher's pension ("the first pension");
- (b) was subsequently in pensionable employment ("the further employment"); and
- (c) has ceased to be in the further employment.

(2) Subject to paragraph (3), if the first pension is not enhanced under regulation E8 (enhancement of retirement benefits in cases of incapacity) the person—

- (a) ceases to be entitled to payment of the first pension; and

(3) 1971 c. 35 (N.I.). Part 1 of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264)). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)); Article 10(3) Part I of the Act has also been amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

- (b) becomes entitled to payment of retirement benefits (“combined benefits”) calculated, subject to paragraph (8), by reference to the total of his reckonable service in the further employment and the reckonable service taken into account in calculating the first pension.
- (3) If the average salary by reference to which combined benefits would fall to be calculated is less than that by reference to which the first pension was calculated, he—
 - (a) remains entitled to the first pension; and
 - (b) subject to paragraph (7), becomes entitled to payment of retirement benefits calculated by reference to his reckonable service in the further employment.
- (4) Subject to paragraph (7), if the first pension was enhanced under regulation E8 he becomes entitled to payment of the first pension and of additional retirement benefits in respect of the further employment.
- (5) The additional retirement benefits shall be calculated—
 - (a) in respect of pensionable employment before attaining the age of 60, as if regulation E8 had applied and the further employment had begun when he became entitled to payment of the first pension; and
 - (b) in respect of other pensionable employment, in accordance with regulations E5 and E6, but the additional retirement lump sum is subject to reduction under paragraph (8).
- (6) If in the application of regulation E8 to the calculation of the first pension the appropriate period was Period B (as defined in regulation E8(5)(b)), paragraph (5)(a) applies with the substitution for “60” of “65”.
- (7) If he ceased to be in the further employment before attaining the age of 60 and regulation E4(4) (incapacity) or regulation E4(7) (premature retirement) did not apply, he does not become entitled to payment of retirement benefits under paragraph (3)(b) or (4) until he attains that age.
- (8) A retirement lump sum payable under paragraph (2)(b), and an additional retirement lump sum payable under paragraph (4), is reduced by the amount of the retirement lump sum to which the person became entitled when he became entitled to payment of the first pension, of any lump sum to which he had previously become entitled under this regulation, and of any short service incapacity grant paid to him under regulation E17.

Short service annuity

E16.—(1) A person who—

- (a) has not been in pensionable employment at any time after 5th April 1980; and
- (b) is not qualified for retirement benefits; and
- (c) would but for regulation 42(2) of the 1977 Regulations have been entitled to be repaid the balance of his contributions,

is entitled to be paid, from his 60th birthday, an annuity for life.

(2) The rate of the annuity is the actuarial equivalent of the balance of his contributions calculated in accordance with regulation C10 as at his 60th birthday.

Short service incapacity grant

E17.—(1) A person who—

- (a) has been in pensionable employment for at least one year; and
- (b) has become incapacitated; and
- (c) had not attained the age of compulsory retirement when he became incapacitated; and

(d) is not entitled to payment of retirement benefits the aggregate value of which exceeds the relevant amount,
is entitled, if he applies for payment within 6 months after the end of his pensionable employment, to an incapacity grant.

(2) The aggregate value of retirement benefits is the total of the retirement lump sum and the actuarial equivalent of the retirement pension.

(3) In this regulation, the relevant amount is

$$\frac{A \times B}{12}$$

where—

A is his average salary; and

B is the length of his reckonable service.

(4) The amount of the incapacity grant is the difference between the relevant amount and the aggregate value of any retirement benefits to which the person is entitled.

(5) The incapacity grant shall not be paid before the end of the person's pensionable employment.

Deferment, etc, of benefits

E18.—(1) This regulation applies where a person is convicted of—

- (a) an offence of treason; or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989(4) for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years; or
- (c) an offence in connection with pensionable employment which is certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service,

and any benefit under regulations E1 to E17 becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), the Department may—

- (a) defer or as the case may be suspend payment of the benefit for so long; or
- (b) reduce its amount or rate by so much,

as it may determine.

(3) If—

- (a) the person has a guaranteed minimum in relation to benefits under these Regulations; and
- (b) the case does not fall within paragraph (1)(a) or (b),

a determination under paragraph (2) shall not deprive him of his guaranteed minimum pension after he attains state pensionable age.

Commutation: exceptional circumstances of ill health

E19.—(1) Where at the time when a person first becomes entitled to a retirement pension by virtue of regulation E4(4) or (5) there are exceptional circumstances of serious ill health affecting that person the Department may discharge its liability in respect of so much of that pension as

(4) 1911 c. 28; 1920 c. 75; 1939 c. 121 and 1989 c. 6

exceeds the person's guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

(2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum.

Death grants

E20.—(1) Subject to paragraph (6), if at the time of his death a person—

- (a) was in pensionable employment; or
- (b) was paying additional contributions under regulation C6 and C7; or
- (c) had, not more than 12 months earlier, ceased to be in pensionable employment while incapacitated,

a death grant shall be paid.

(2) The amount of a death grant under paragraph (1) shall be twice his average salary less the amount of any retirement lump sum or short service incapacity grant previously paid to him.

(3) Subject to paragraph (6), if a person who has ceased after 31st March 1972 to be in pensionable employment dies without having become entitled to payment of retirement benefits and—

- (a) the qualifying condition referred to in paragraph (4) is satisfied; and
- (b) no death grant could be paid under paragraph (1),

a death grant shall be paid under this paragraph.

(4) The qualifying condition—

- (a) if he ceased to be in pensionable employment before 2nd November 1998, is that he was entitled to count at least 2 years' reckonable service; and
- (b) in any other case, is that he was so entitled and was qualified for retirement benefits,

but where sub-paragraph (a) applies it shall be assumed for the purpose of calculating the death grant that he was qualified for retirement benefits.

(5) The amount of a death grant under paragraph (3) is the amount that would have become payable by way of retirement lump sum if he had become entitled under regulation E4(2) to payment of retirement benefits, less the amount of any retirement lump sum or short service incapacity grant previously paid to him.

(6) If a person who has at any time been in pensionable employment dies and—

- (a) no death grant could be paid under paragraph (1) or (3); or
- (b) the amount of such a death grant would be smaller and no pension becomes payable under regulation E26 to a surviving spouse or a nominated beneficiary,

a death grant equal to the balance of his contributions, calculated in accordance with regulation C10 as at the date of his death, shall be paid.

(7) Where any death grant is paid under this regulation it shall be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination—

- (a) if the deceased is survived by one widow or by a widower, to that widow or widower;
- (b) if there are two or more widows to the widows in equal shares; or
- (c) if there is no widow or widower, to the personal representatives.

(8) Any nomination for the purposes of paragraph (7) shall be made by giving written notice to the Department.

Supplementary death grants

- E21.**—(1) Subject to paragraph (5), this regulation applies where a person dies who—
- (a) has become entitled to payment of retirement benefits; and
 - (b) is not in pensionable employment.
- (2) If—
- (a) at least 10 years' reckonable service was taken into account in calculating his retirement benefits; and
 - (b) the total of the amounts paid in respect of them is less than his average salary,
- a supplementary death grant equal to that deficiency shall be paid.
- (3) If—
- (a) less than 10 years' reckonable service was taken into account in calculating his retirement benefits; and
 - (b) the amount paid in respect of his pension is less than 5 times the annual rate at which it was payable when he died,
- a supplementary death grant equal to that deficiency shall be paid.
- (4) For the purposes of this regulation—
- (a) any amount by which a pension was reduced under regulation E9 (avoidance of duplicate pensions) or E14 (abatement of pension during further employment), and any part of a pension allocated under regulation E11 (allocation of part of retirement pension), shall be treated as having been paid; and
 - (b) a retirement lump sum shall be treated as having been paid without any deduction under these Regulations.
- (5) This regulation does not apply if the person's last employment was of a kind described in Schedule 4 to the 1977 Regulations and, by virtue of regulation E3(1)(b), formed part of the qualifying period for the purposes of regulation E3.
- (6) Where any supplementary death grant is paid under this regulation, it shall be paid to the individual nominated by the deceased to receive the grant or in the absence of such nomination,—
- (a) if the deceased is survived by one widow or by a widower, to the widow or widower;
 - (b) if there are two or more widows, to the widows in equal shares; or
 - (c) if there is no widow or widower, to the personal representatives.
- (7) Any nomination for the purposes of paragraph (6) shall be made by giving written notice to the Department.

Family benefits generally

- E22.**—(1) Pensions are payable in accordance with regulations E24 to E30 to widows, widowers, children and nominated beneficiaries of persons who die in, or after having been in, pensionable employment.
- (2) References in those regulations to a surviving spouse are references to a widow or widower; but
- (a) in the case of a person who has not been in pensionable employment, or paying additional contributions for a current period under regulation C6 or C7 at any time after 5th April 1978, such references, and references to a widow or to a widower, do not include references to a man or woman married by that person after his last day in pensionable employment or, as the case may be, the end of the period for which any such contributions were paid;

- (b) subject to paragraph (3), in the case of a woman who has not been in pensionable employment or paying additional contributions for a current period under regulation C6 or C7 at any time after 5th April 1988, such references and references to a widower do not include references to a man married by that woman after her last day of pensionable employment, or as the case may be, the end of the period for which such contributions were paid.
- (3) Where a woman who nominated a person under regulation E23 subsequently marries, paragraph (2)(b) shall have effect with the substitution of “1978” for “1988”.
- (4) Where those regulations provide for a pension to be payable to a widow and there are two or more widows, the widows are jointly entitled to the pension.
- (5) References in those regulations to a person’s child are to a person who is—
- (a) his legitimate, adopted or illegitimate child; or
 - (b) accepted by him as a member of the family and wholly or mainly dependent on him,
- and who is a child within the meaning given in paragraphs (6) to (8).
- (6) Subject to paragraphs (7), (8), and (10) for the purposes of regulations E23 to E30 a person is a child while he is unmarried and—
- (a) he has not attained the age of 17; or
 - (b) having attained that age he is receiving full-time education or attending a course of not less than 2 years’ full-time training for a trade, profession or calling and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year; or
 - (c) having ceased while incapacitated to fall within sub-paragraph (a) or (b), he continues to be incapacitated.
- (7) For the purposes of paragraph (6)(b) a person shall be treated—
- (a) as receiving full-time education up to and including the week which includes the first Monday in January or the first Monday after Easter Monday or the first Monday in September next following the end of the last term in which he received it; and
 - (b) as not attending a course of training while he is receiving disqualifying remuneration.
- (8) For the purposes of paragraph (7)(b), disqualifying remuneration is remuneration at a rate not less than the annual rate at which an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.
- (9) References in regulations E24 to E30 to a nominated beneficiary are to a person nominated under regulation E23.
- (10) In paragraph (6)(b) the words “and he has been receiving such education or attending such course of training or both continuously since having attained that age without a break at any one time of longer than a year” shall not apply in relation to a provision to or for the benefit of a child of a person who died before the commencement of these Regulations.

Nomination of beneficiaries

E23.—(1) Subject to paragraph (2), an unmarried person (“the appointor”) may at any time before retirement benefits have been paid by written notice given to the Department, nominate an eligible person who is wholly or mainly financially dependent on the appointor and who is not a child to receive a pension under regulations E24 to E30.

(2) A person shall not be eligible to be nominated under paragraph (1) while a previous nomination under this regulation has effect.

- (3) The eligible persons are—
 - (a) a parent, brother or sister of the appointor who is not married and is either widowed or has never been married; and
 - (b) a widowed step-parent of the appointor.
- (4) A nomination under this regulation may be revoked by written notice given to the Department, and if not previously revoked ceases to have effect—
 - (a) on the death or marriage (or as the case may be, remarriage) of the person nominated; and
 - (b) on the marriage of the appointor.

Entitlement to short-term family benefits

- E24.**—(1) Subject to paragraphs (3) and (4), a short-term pension is payable, from the day after that of his death, if a person dies—
- (a) while in pensionable employment; or
 - (b) during a period for which he is paying additional contributions under regulation C6 or C7; or
 - (c) within 12 months after ceasing to be in pensionable employment, or to pay such contributions, as a result of ill-health, but before becoming entitled to payment of retirement benefits; or
 - (d) after becoming entitled to payment of retirement benefits.
- (2) The short-term pension is payable—
- (a) subject to paragraph (4), to any surviving spouse, or if a nomination under regulation E23 had effect at the time of his death, to the nominated beneficiary; or
 - (b) if the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly.
- (3) Where two or more persons confer on the same child or, as the case may be, children, entitlement to a short-term pension, regulation E26(7) shall apply in a like manner to short-term pensions payable by virtue of this regulation.
- (4) No short-term pension is payable—
- (a) to a widower if one is payable to another person as a nominated beneficiary; or
 - (b) to a nominated beneficiary who, at the date of the death of the deceased, was not wholly or mainly dependent on the deceased;
 - (c) if there is no surviving spouse, nominated beneficiary or surviving child; or
 - (d) where paragraph (1)(d) applies, to a person who is not entitled under regulation E26 to a long-term pension.

Amount and duration of short-term family benefits

- E25.**—(1) Subject to paragraph (2), the annual rate of a short-term pension under regulation E24—
- (a) if regulation E24(1)(a) or (c) applies, is the annual rate of the deceased’s contributable salary on his last day in pensionable employment, disregarding any reduction by reason of sick leave or maternity leave;
 - (b) if regulation E24(1)(b) applies, is the annual rate, at the time of his death, of the notional salary described in regulation C6(7) or, as the case may be, C7(4);

- (c) if regulation E24(1)(d) applies, is the annual rate, at the time of his death, of his retirement pension; and
- (d) if regulation E24(1)(a) and (d) both apply, is the total of the rates specified in sub-paragraphs (a) and (c).

(2) If—

- (a) the short-term pension is payable to a surviving spouse; and
- (b) the annual rate calculated in accordance with paragraph (1) is less than that of a long-term pension to which the surviving spouse is prospectively entitled under regulation E26,

the annual rate of the short-term pension is the same as that of the long-term pension.

(3) The duration of the short-term pension payable shall be determined from the following Table and, in that Table “adult pension” means a short-term pension payable to the spouse or nominated beneficiary.

TABLE

<i>Category</i>	<i>Person falling within regulation E24(2)</i>	<i>Duration of pension (months)</i>
1	Spouse or nominated beneficiary.	3
2	One child or more where an adult pension is payable	3
3	One child or more where no adult pension is payable.	6

Entitlement to long-term family benefits

E26.—(1) Long-term pensions are payable in accordance with paragraph (2) if a person dies who—

- (a) has been in pensionable employment at any time after 31st March 1972; and
- (b) has relevant service within the meaning of regulation E27 amounting to at least 2 years,

but in the case of a person who ceased to be in pensionable employment before 6th April 1988 sub-paragraph (b) has effect with the substitution for “2 years” of “5 years”.

(2) If paragraph (1) applies—

- (a) subject to paragraph (3) a long-term pension is payable to any surviving spouse;
- (b) if a nomination under regulation E23 had effect at the time of the death, a long-term pension is payable to the nominated beneficiary provided that at the date of death of the deceased the nominated beneficiary was wholly or mainly dependent on the deceased; and
- (c) if a pension is payable under sub-paragraph (a) or (b) and the deceased is survived by a child or children of his, a long-term pension is payable to or for the benefit of the child or, as the case may be, the children jointly.

(3) Subject to paragraph (5), unless family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6, no long-term pension is payable to a widower if one is payable to another person as a nominated beneficiary.

(4) If when a person dies paragraph (2) does not apply but he—

- (a) has been in pensionable employment at any time after 31st March 1972;
- (b) is qualified for retirement benefits; and

(c) is survived by a child or children of his,
a long-term pension is payable to or for the benefit of the child or, as the case may be, the children jointly.

(5) Subject to paragraph (6), if neither paragraph (2) nor paragraph (4) applies but the deceased had a guaranteed minimum in relation to benefits under these Regulations and leaves a surviving spouse, a long-term pension is payable to the surviving spouse.

(6) If a contributions equivalent premium is paid by the Department, paragraph (5) shall be treated as not having applied.

(7) Where two or more persons, by virtue of this regulation, confer on the same child or, as the case may be, children entitlement to a long-term pension, the child or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of not more than two persons; but where entitlement derives from the relevant service of three or more persons, the child, or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of the two persons which by virtue of their relevant service provide pensions of the largest amounts.

Relevant service

E27.—(1) In the case of a man, and in the case of a woman in relation to a nominated beneficiary or a widower on whose marriage to her a nomination ceased to have effect, relevant service comprises, subject to paragraph (3)—

- (a) any period of pensionable employment after 31st March 1972;
- (b) any period beginning after that date for which additional contributions have been paid under regulation C6 or C7;
- (c) any period for which additional contributions have been paid under regulation C3 or C5(1) in accordance with an election made after 31st March 1974;
- (d) if a transfer value has been received in respect of comparable service, the period that would, immediately before its receipt, have counted for family benefits in the relevant superannuation scheme;
- (e) any period counting as reckonable service by virtue of the receipt of any other transfer value under regulation F4 or under the Teachers' Superannuation (Added Years and Interchange) Regulations (Northern Ireland) 1974(5);
- (f) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part I of Schedule 6; and
- (g) in the case of a member, so much of his credited service as does not exceed the total of his normal service and any additional period, and in addition any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6.

(2) In relation to a widower not falling within paragraph (1), the deceased's relevant service comprises, subject to paragraph (3)—

- (a) so much of the periods described in paragraph (1)(a), (b) and (d) as consists of, or is attributable to, service after 5th April 1988; and
- (b) any period for which additional contributions have been paid under regulation C3 in accordance with an election made after 17th November 1988; and
- (c) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6; and

- (d) if the deceased entered pensionable employment after 5th April 1988, and a transfer value offered in respect of him was accepted under regulation F4, any period counting as reckonable service by virtue of the receipt of the transfer value.
- (3) Relevant service does not include any contributions refund period.

Amounts of spouses' and nominated beneficiaries' long-term pensions

E28.—(1) Subject to paragraph (2), the annual rate of a pension payable under regulation E26 to a surviving spouse or a nominated beneficiary is 1/160th of the deceased's average salary multiplied by the length of his family benefit service.

(2) If—

(a) paragraph 16 of Schedule 6 (retrospective salary increases affecting deductions from terminal sums and amounts of lump sum payments) applies; and

(b) a person entitled to limit the amount of the deduction or lump sum has done so,

the retrospective salary increase shall not be taken into account in calculating the deceased's average salary.

(3) Family benefit service does not include any contributions refund period.

(4) Subject to paragraphs (3) (5), and (8) to (10), if the pension is payable to a nominated beneficiary, to a widower on whose marriage to the deceased a nomination ceased to have effect, or to a woman whom the deceased married before the end of his pensionable employment the deceased's family benefit service comprises—

(a) any period falling within regulation E27(1)(a) to (f);

(b) in the case of a member, his credited service and any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6.

(5) If the member's credited service exceeds the total of his normal service and any additional period, for the purposes of paragraph (4)(b) his credited service is reduced by 1/6th of the excess.

(6) If the deceased had been in pensionable employment after 5th April 1978 and the pension is payable to a woman whom he first married after his last day in pensionable employment, his family benefit service comprises, subject to paragraph (3)—

(a) any period of pensionable employment after 5th April 1978;

(b) any period for which additional contributions have been paid under regulation C3 in accordance with an election made after that date;

(c) if a transfer value has been received after that date in respect of comparable service, any period of reckonable service attributable to comparable service after that date; and

(d) any period counting as reckonable service by virtue of the receipt after that date of any other transfer value.

(7) If the pension is payable to a widower not falling within paragraph (4), the deceased's family benefit service comprises, subject to paragraphs (3) and (8) to (10), the relevant service described in regulation E27(2).

(8) This paragraph applies if the deceased died—

(a) while in pensionable employment; or

(b) during a period for which he was paying additional contributions under regulation C6 or C7; or

(c) within 12 months after ceasing to be in pensionable employment as a result of ill-health but before becoming entitled to payment of retirement benefits; or

(d) after becoming entitled to payment of retirement benefits, if they fell to be enhanced under regulation E8 (enhancement of retirement benefits in case of incapacity).

(9) If paragraph (8) applies and the family benefit service calculated in accordance with paragraphs (3) to (7) is less than his effective reckonable service, his family benefit service is increased by—

$$\frac{A}{B} \times C$$

where—

A is the family benefit service calculated in accordance with paragraphs (3) to (7);

B is his effective reckonable service apart from C; and

C is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of that regulation.

(10) If paragraph (8) applies and A is not less than B, his family benefit service is increased by C.

Amounts of children’s long-term pensions

E29.—(1) Subject to paragraphs (3) to (6), if long-term pensions become payable under regulation E26—

(a) to a surviving spouse or a nominated beneficiary (an “adult pension”); and

(b) to or for the benefit of a child or children (a “children’s pension”),

the annual rate of the children’s pension is the appropriate fraction of the deceased’s average salary multiplied by the length of his family benefit service.

(2) In paragraph (1) the appropriate fraction—

(a) while a children’s pension is payable to or for the benefit of 2 or more children, is 1/160th; and

(b) while a children’s pension is payable to or for the benefit of one child, is 1/320th.

(3) Subject to paragraphs (4) to (6), if—

(a) an adult pension becomes payable to a woman whom the deceased married after his last day in pensionable employment;

(b) before that day he had married another woman; and

(c) the persons to or for whose benefit a children’s pension is payable include a child who was, or children who were, a child or children of the deceased’s at any time during the earlier marriage, the annual rate of the children’s pension is the appropriate fraction of his average salary multiplied by the length of what would have been his family benefit service if regulation E28(4) had applied (“the notional family benefit service”).

(4) If the children’s pension is payable to, or for the benefit of—

(a) one child who was a child of the deceased’s during the earlier marriage; and

(b) one or more children who were not children of his during that marriage,

the annual rate of the children’s pension is

$$A + B,$$

where—

A is 1/320th of his average salary multiplied by the length of the notional family benefit service; and

B is 1/320th of his average salary multiplied by the actual length of his family benefit service.

(5) If—

- (a) no adult pension becomes payable; or
- (b) an adult pension ceases to be payable,

the annual rate of a children's pension is the applicable fraction of the deceased's average salary multiplied by the greater of C and D, or where regulation E28(8) applies, the greater of

C and (D + E),

where—

C is the notional family benefit service;

D is the deceased's effective reckonable service apart from E; and

E is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of that regulation.

(6) In paragraph (5) the applicable fraction—

- (a) while a children's pension is payable to or for the benefit of 2 or more children, is 1/120th; and
- (b) while a children's pension is payable to or for the benefit of one child, is 1/240th.

Commencement and duration of long-term family pensions

E30.—(1) A pension under regulation E26 payable to a surviving spouse or a nominated beneficiary ("an adult pension") shall be paid—

- (a) from the day on which any short-term pension that became so payable under regulation E24 ceases to be payable; or
- (b) if no short-term pension became payable, from the day after that of the death.

(2) Subject to paragraph (3), an adult pension is payable for life.

(3) Unless the Department determines otherwise in any particular case, and subject always to regulation E1(3)(c) and (d) (guaranteed minimum pension for surviving spouse), an adult pension is not payable during or after any marriage or period of cohabitation outside marriage.

(4) A pension under regulation E26 payable to or for the benefit of a child or children ("a children's pension") shall be paid—

- (a) from the day on which any short-term pension that became so payable, or payable to a surviving spouse or a nominated beneficiary, under regulation E24 ceases to be payable; or
- (b) if no short-term pension became payable, from the day after that of the death.

(5) A children's pension ceases to be payable to a person or for his benefit when he ceases to be a child.

Average salary

E31.—(1) Subject to paragraph (10), a person's average salary—

- (a) where the material part of his average salary service is one year or more, is his full salary for the best consecutive 365 days of that part; and
- (b) in any other case, is the average annual rate of his full salary for that part.

(2) In determining, for the purposes of paragraph (1), what are the best consecutive 365 days of the material part of the person's average salary service, days on which the person was not in pensionable employment shall be disregarded.

(3) Average salary service comprises—

- (a) any period spent by the person in pensionable employment;
- (b) any period counting as reckonable service by virtue of regulation D4 (current period purchased by additional contributions); and
- (c) any period of comparable service which began before 1st April 1974 and has not been followed by a period of pensionable employment and for which a transfer value has been received.

(4) The material part of a person's average salary service is—

- (a) where he has less than 3 years of such service, the whole of it; or
- (b) in any other case, the last 3 years of it.

(5) In determining the material part of a person's average salary service periods when the person was not in pensionable employment shall be disregarded and accordingly the period of three years referred to in paragraph (4) may be discontinuous.

(6) For the purposes of paragraphs (2), (3)(a) and (5) a person who is employed under a contract whereby that person is available for work but undertakes work only for periods requested by the employer (and accordingly is paid only for that work) shall not be treated as being in pensionable employment during periods when he is not undertaking work (whether or not such a person would be so treated apart from this paragraph).

(7) Subject to paragraphs (8) and (9), a person's full salary—

- (a) for a period falling within paragraph (3)(a), is his contributable salary for the period of pensionable employment, disregarding any reduction during sick leave or maternity leave;
- (b) for a period falling within paragraph (3)(b), is the notional salary by reference to which the additional contributions paid under regulation C6 or, as the case may be C7, were calculated;
- (c) for a period falling within paragraph (3)(c), is what would have been his salary for the purpose of calculating benefits under the superannuation scheme to which he was subject in the relevant employment.

(8) For—

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulation D4,

beginning after 31st March 1975 and ending before 1st August 1978, a person's full salary includes any sums that would have been payable to him if payment of them had not been withheld, whether by virtue of a statutory provision or otherwise, in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975⁽⁶⁾.

(9) For—

- (a) a period of pensionable employment; or
- (b) a period counting as reckonable service by virtue of regulation D4,

beginning after 31st March 1979 and ending before 1st September 1980, a persons' full salary is the notional salary resulting from the application to him of the Teachers' Superannuation (Notional Salaries) Regulations (Northern Ireland) 1982⁽⁷⁾.

(10) Where a person has during the material part of his average salary service spent any period in part-time employment the full salary for that period shall be the amount which it would have been if the employment had been full time during that period.

⁽⁶⁾ 1975 c. 57

⁽⁷⁾ S.R. 1982 No. 12

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Effective reckonable service

E32.—(1) A person’s effective reckonable service is so much of his reckonable service as counts for the purpose of calculating a benefit under this Part, except a pension under regulation E26.

- (2) Subject to paragraph (3), effective reckonable service does not include—
 - (a) any reckonable service in excess of 45 years; or
 - (b) any reckonable service in excess of 40 years before attaining the age of 60.
- (3) In relation to a retirement lump sum, if the person’s relevant service, that is to say the total of—
 - (a) the time he has spent in pensionable employment; and
 - (b) any comparable service counting as reckonable service by virtue of the receipt of a transfer value,

is less than 20 years, his effective reckonable service does not include so much of any period counting as reckonable service by virtue of regulation D3 (past period purchased by additional contributions) as exceeds the maximum ascertained from the following Table:

TABLE

<i>Relevant service in years</i>	<i>Maximum</i>
19	17 years
18	15 years
17	13 years
16	11 years
15	9 years
14	7 years
Fewer than 14	8 years less than the length in years and days of the relevant service

(4) For the purposes of paragraph (3) a person who becomes entitled to payment of retirement benefits by virtue of regulation E4(4) or (7) (incapacity or redundancy before attaining the age of 60) shall be treated as having continued in pensionable employment up to that age.

(5) Effective reckonable service does not include any period in respect of which a short service annuity is payable under regulation E16.

Payment of benefits

- E33.**—(1) Benefits under this Part are payable by the Department.
- (2) No benefit shall be paid unless a written application for payment has been made and paragraph (3), if applicable, has been complied with.
- (3) If the Department notifies him in writing that it so requires, the applicant shall provide any relevant information specified by the Department that is in his possession or that he can reasonably be expected to obtain.
- (4) Subject to paragraphs (5) to (7), a benefit that does not consist of a single payment shall be paid monthly on the last working day of the month.
- (5) If—

(a) the person's entitlement to payment of the benefit took effect, on a day other than the first of a month; or

(b) the benefit ceases to be payable, on a day other than the last day of the month,

a proportionate payment shall be made for the relevant period on the last working day of the month thereafter.

- (6) For the purposes of paragraph (5) the relevant period is—
- (a) where paragraph (5)(a) applies, the period beginning with and including the day on which the entitlement took effect and ending with the last day of the month; and
- (b) where paragraph (5)(b) applies, the period beginning with and including the first of the month and ending with the day before the benefit ceased to be payable.
- (7) For the purposes of paragraph (5) a proportionate payment is a payment of—

$$\frac{A}{12} \times \frac{B}{C}$$

where—

- A is the annual rate of the benefit;
- B is the number of days in the relevant period; and
- C is the number of days in the month containing the relevant period.

(8) The Apportionment Act 1870⁽⁸⁾ (being inconsistent with paragraphs (5) to (7)) shall be taken not to have effect in relation to benefits under this Part.

(9) If the person entitled to payment of a benefit has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the Department may—

- (a) pay it to any person having the care of the person entitled; or
- (b) apply it as it thinks fit for the benefit of the person entitled or his dependants.

Benefits not assignable

E34.—(1) Any assignment of or charge on or agreement to assign or charge any benefit under this Part is void.

(2) An allocation under regulation E11 is not an assignment, and an arrangement for the recovery by the Department of an overpayment does not constitute an assignment or an agreement to assign.

(3) Paragraph (1) shall not preclude any payment of benefit payment to an order of the court under Article 27B or 27C of the Matrimonial Causes (Northern Ireland) Order 1978 or pursuant to regulations made under Article 27D of that Order⁽⁹⁾.

(4) On the bankruptcy of a person entitled to a benefit under this Part no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order made by a court under Article 283 of the Insolvency (Northern Ireland) Order 1989⁽¹⁰⁾.

⁽⁸⁾ 1870 c. 35

⁽⁹⁾ S.I. 1978/1045 (N.I. 15); Articles 27B, 27C and 27D were inserted by S.I. 1995/3213 (N.I. 22) Article 162(1)

⁽¹⁰⁾ S.I. 1989/2405 (N.I. 19) as amended by S.I. 1995/3213 (N.I. 22) Article 119 and Schedule 1 paragraph 11