

## SCHEDULES

### SCHEDULE 1

Article 3(2) and (3).

#### WIDOWERS' PENSIONS: TRANSITIONAL PROVISIONS

The following are the provisions which are inserted in the 1951 Act as the Fourth Schedule—

#### “FOURTH SCHEDULE

Section 6A(2).

#### WIDOWERS' PENSIONS: TRANSITIONAL PROVISIONS

##### **General**

**1.** In this Schedule—

“the commencement date” means the date on which Schedule 1 to the Judicial Pensions (Northern Ireland) Order 1991 came into operation; and

“member” means a female person who holds judicial office and to, or in respect of whom, benefits are payable under this Act on her retirement.

##### **Service wholly before the commencement date**

**2.** Subject to paragraph 3, no widower’s pension shall be payable in respect of a member who retires on or before the commencement date.

##### **Members retiring between 7th December 1989 and commencement date**

**3.—(1)** A member who retires—

(a) on or after 7th December 1989; but

(b) before the commencement date,

may, before the end of the period of six months beginning with the commencement date, opt for her husband to be entitled to a widower’s pension on her death.

(2) Regulations may make provision as to—

(a) the manner and form in which an option under this paragraph is to be exercised;

(b) the payment, by any member exercising such an option, of a contribution towards the cost of liability for the widower’s pension; and

(c) the annual value of a widower’s pension granted as a result of the exercise of the option given by this paragraph.

(3) Regulations for the purposes of sub-paragraph (2)—

(a) may be made, with the concurrence of the Treasury, by the Lord Chancellor; and

(b) shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

*Status: This is the original version (as it was originally made).*

**Service partly before and partly after the commencement date**

4.—(1) No widower’s pension shall be payable in respect of a member who—

- (a) holds judicial office on or before the commencement date; and
- (b) continues to do so after that date,

unless, before the end of the period of six months beginning with that date, she opts for her husband to be entitled to a widower’s pension on her death.

(2) A member exercising such an option shall specify whether the annual value of the widower’s pension is to be calculated—

- (a) under sub-paragraph (3); or
- (b) on the assumption that all her relevant service fell after the commencement date.

(3) Where the annual value of a widower’s pension falls to be calculated under this sub-paragraph its value shall be determined by applying the formula—

$$WP1 = \frac{WP2 \times RS1}{RS2}$$

where—

WP1 is the annual value of the widower’s pension, WP2 is the annual value of the widower’s pension that would be payable on the assumption mentioned in sub-paragraph (2)(b),

RS1 is the length of the member’s relevant service after the commencement date, and

RS2 is the whole of her relevant service.

(4) No period of service during which an election under paragraph 7A of Schedule 10 to the Social Security (Northern Ireland) Act 1975 is in force in respect of the member concerned shall be taken into account for the purposes of any calculation under sub-paragraph (3).

(5) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service before the commencement date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service before that date adds to the amount of the personal pension.”

SCHEDULE 2

Article 5.

TRANSFER OF ACCRUED RIGHTS TO AND FROM PENSION SCHEMES

**Amendments to the Act of 1959**

1.—(1) After section 130 of the Act of 1959 there shall be inserted the following section—

**“Transfer of accrued benefits.**

**130A.** Schedule 2A shall have effect to make provision for the transfer of accrued rights into and out of the pension scheme constituted by this Act.”

(2) After the Second Schedule of the Act of 1959 there shall be inserted the following Schedule—

“SCHEDULE 2A

TRANSFER OF ACCRUED BENEFITS

PART I

GENERAL

**Interpretation**

1. In this Schedule—

“authorised insurance company” means an insurance company authorised under section 3 or 4 of the Insurance Companies Act 1982 (or any similar previous enactment) to carry on ordinary long-term insurance business;

“disregarded service”, in relation to any member of a scheme, means any period of service in judicial office during which an election under section 116A is in force in respect of the qualifying member;

“normal pension age” means the earliest age at which, if his service had continued until retirement at that age, a member of a scheme might have been entitled to receive a pension under the scheme;

“prescribed” means prescribed by regulations;

“protected rights” has the same meaning as in the Social Security Pensions (Northern Ireland) Order 1975;

“qualifying member” means a person to whom Part II of this Schedule applies;

“qualifying service” means the service, or relevant service, by reference to which a qualifying member’s entitlement to benefit under the scheme is calculated; and

“scheme” means the occupational pension scheme constituted by this Act.

**Regulations**

2. Regulations for the purposes of this Schedule—

(a) may be made, with the concurrence of the Treasury, by the Lord Chancellor;

(b) may make provision for consequential, transitional and incidental matters; and

(c) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

**Other provisions about transfer values**

3. Part II of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (transfer values) shall not apply in relation to the scheme to which this Schedule applies.

## PART II

### TRANSFERS OUT

#### **Qualifying members**

4.—(1) Where the conditions mentioned in sub-paragraph (2) are satisfied, this Part of this Schedule applies to any person—

- (a) to, or in respect of whom, benefits are payable under the scheme; and
- (b) whose qualifying service ends after this Schedule comes into operation.

(2) The conditions are that—

- (a) his qualifying service ends at least one year before he reaches normal pension age; and
- (b) on the date on which it ends—
  - (i) he has accrued rights to benefit under the scheme; or
  - (ii) he would have such rights if his service in judicial office had also ended on that date.

#### **Qualifying member's right to a transfer payment**

5.—(1) When his qualifying service ends, a qualifying member acquires a right to the cash equivalent at the relevant date of any benefits—

- (a) which have accrued to, or in respect of him, under the scheme; or
- (b) where service of his in judicial office is disregarded service, which would have so accrued if his service in judicial office had ended on the same date as that on which his qualifying service ended.

(2) In this paragraph “the relevant date” means—

- (a) the date when the qualifying member's qualifying service ends; or
- (b) the date of any application which he has made under paragraph 6 and which has not been withdrawn,

whichever is the later.

#### **Method of taking cash benefit**

6.—(1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 may only take it by exercising the option conferred by this paragraph.

(2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways the qualifying member chooses—

- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
  - (i) whose trustees or managers are able and willing to accept him; and
  - (ii) which satisfies prescribed requirements;
- (b) for acquiring rights allowed under the rules of a personal pension scheme—
  - (i) whose trustees or managers are able and willing to accept him; and
  - (ii) which satisfies prescribed requirements;
- (c) for purchasing from one or more authorised insurance companies—
  - (i) chosen by the qualifying member; and

(ii) willing to accept payment on his account from the Treasury, one or more annuities which satisfy prescribed requirements;

(d) for subscribing to other pension arrangements which satisfy prescribed requirements.

(3) Without prejudice to the generality of the power to prescribe requirements under sub-paragraph (2), such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the Inland Revenue as may be prescribed.

(4) A qualifying member may exercise his option in different ways in relation to different portions of his cash equivalent.

(5) A qualifying member who exercises his option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (6) applies, in relation to the whole of the reduced cash equivalent.

(6) Where—

(a) the trustees or managers of—

(i) an occupational pension scheme which is not a contracted-out scheme, or

(ii) a personal pension scheme which is not an appropriate scheme under section 2 of the Social Security Act 1986, Article 4 of the Social Security (Northern Ireland) Order 1986 or under any prescribed provision, or

(iii) a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987, or any other prescribed provision,

are able or willing to accept a transfer payment only in respect of a qualifying member's rights other than his accrued rights to a guaranteed minimum pension or his protected rights; and

(b) the member has not required the Treasury to use the portion of his cash equivalent which represents a guaranteed minimum pension or protected rights in any of the ways specified in sub-paragraph (2),

paragraph 5, this paragraph and paragraph 7 are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

(7) In this paragraph "reduced cash equivalent" means a sum equal to the balance of the cash equivalent to which the qualifying member would be entitled if sub-paragraph (6) did not apply, after deduction of an amount sufficient for the Treasury to meet its liability in respect of the member's guaranteed minimum pension or protected rights or those of his widow, or her widower.

### **Calculation of cash equivalents**

7.—(1) Cash equivalents are to be calculated and verified in the prescribed manner.

(2) Regulations made under sub-paragraph (1) may, in particular, provide—

(a) that in calculating cash equivalents account shall be taken—

(i) of any surrender or forfeiture of the whole or part of a qualifying member's pension which occurs before the Treasury does what is needed to comply with the choice made by him in exercising his option;

(ii) in a case where paragraph 6(6) applies, of the need to deduct an appropriate amount to provide a guaranteed minimum pension or give effect to protected rights; and

*Status: This is the original version (as it was originally made).*

(b) that in prescribed circumstances a qualifying member's cash equivalent shall be increased or reduced.

(3) Without prejudice to the generality of sub-paragraph (2), the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include the length of time which elapses between the termination of a qualifying member's qualifying service and his exercise of the option conferred by paragraph 6.

#### **Time within which option must be exercised**

**8.—**(1) A qualifying member may only exercise his option on or before the last option date.

(2) The last option date is—

- (a) the date which falls one year before the date on which the qualifying member reaches normal pension age; or
- (b) the end of the period of six months beginning with the date on which his qualifying service ends,

whichever is the later.

(3) A qualifying member loses the right to any cash equivalent under this Schedule if—

- (a) his pension becomes payable before he reaches normal pension age; or
- (b) he fails to exercise his option on or before the last option date.

#### **Option to be exercised in writing**

**9.—**(1) A qualifying member may only exercise his option by making an application in writing to the Treasury.

(2) In any case where—

- (a) a qualifying member has exercised his option; and
- (b) the Treasury has done what is needed to comply with the choice made by him in exercising his option,

the Treasury shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 6(6), to the extent that an obligation to provide guaranteed minimum pensions or give effect to protected rights continues to subsist.

(3) If the Treasury receives an application under this paragraph, it shall be its duty, subject to the following provisions of this paragraph, to do what is needed to comply with the choice made by the qualifying member in exercising his option—

- (a) within twelve months of the date on which it receives his application; or
- (b) by the date on which he attains normal pension age,

whichever is the earlier.

#### **Cancellation of exercise of option**

**10.—**(1) A qualifying member may cancel the exercise of his option by giving the Treasury notice in writing that he no longer wishes it to be exercised.

(2) No such notice shall have effect if it is given to the Treasury at a time when, in order to comply with the choice made by the qualifying member in exercising his option, the Treasury has entered into an agreement with a third party to use the whole or part of his cash equivalent in a way specified in paragraph 6(2)(a), (b), (c) or (d).

(3) A qualifying member who withdraws an application may make another.

## PART III

### TRANSFERS IN

#### **Application to accept payment into scheme**

**11.**—(1) Where a member of the scheme has asked the Lord Chancellor to accept a payment representing the cash equivalent of his accrued rights in any other qualifying scheme, the Lord Chancellor may—

- (a) to the extent to which it does not exceed the prescribed limit, accept the payment or any part of it; or
  - (b) refuse to accept the payment or any part of it.
- (2) A request under sub-paragraph (1) must be made—
- (a) in writing;
  - (b) before the person making it has reached normal pension age; and
  - (c) not less than one year before he becomes entitled to a pension on retirement from his qualifying service.

(3) In this paragraph—

“the prescribed limit” means the limit prescribed by regulations made by virtue of paragraph 13(a);

“qualifying scheme” means—

- (a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised insurance company, which satisfies prescribed requirements; or
- (b) other prescribed pension arrangements.

#### **Cancellation of request**

**12.**—(1) A member may, by notice in writing given to the Lord Chancellor, cancel a request made by him under paragraph 11, at any time before it has been accepted.

(2) A transferring member who withdraws an application may make another.

#### **Regulations**

**13.** Regulations may—

- (a) prescribe limits on the amounts which the Lord Chancellor may accept under paragraph 11(1);
- (b) make provision as to the manner in which payments are to be accepted into the scheme under this Part;
- (c) make provision as to the benefits which are to be provided to a member to reflect any such payment accepted with respect to him;
- (d) prescribe formulae, based on tables of factors provided by the Government Actuary, to be used when performing any calculation relating to the acceptance of transfer payments or the provision of benefits.”

*Status: This is the original version (as it was originally made).*

### **Amendments to the Act of 1960**

2.—(1) The section set out in paragraph 1(1) shall also be inserted in the Act of 1960 as section 19A and with the substitution for the reference in that section to Schedule 2A of a reference to Schedule 3.

(2) The Schedule set out in paragraph 1(2) shall also be inserted in the Act of 1960 as Schedule 3 and in the definition of “disregarded services” in paragraph 1 of that Schedule, for the reference to section 116A of the Act of 1959 there shall be substituted a reference to section 2A of the Act of 1960.

### **Amendments to the Act of 1951**

3.—(1) The section set out in paragraph 1(1) shall also be inserted in the Act of 1951 as section 17A.

(2) The Schedule set out in paragraph 1(2) shall also be inserted as Schedule 2A to the Act of 1951 and in the definition of “disregarded service” in paragraph 1 of that Schedule, for the reference to section 116A of the Act of 1959 there shall be substituted a reference to paragraph 7A of Schedule 10 to the Social Security (Northern Ireland) Act 1975.

## SCHEDULE 3

Article 10(1).

### CONSEQUENTIAL AMENDMENTS

#### **The Act of 1959**

1. In section 126 of the Act of 1959 (children’s pension: rate and mode of payment)—
  - (a) in subsection (2) for the words “leaves no widow and, if he leaves a widow, after her death” there shall be substituted “leaves no widow or widower and, if he or she leaves a widow or widower, after his or her death”;
  - (b) in subsection (3), after the word “widow” there shall be inserted “or widower” and after the word “her” there shall be inserted “or his”;
  - (c) in subsection (4), after the word “widow”, in both places, there shall be inserted “or widower” and after the words “she has a husband” there shall be inserted “or he has a wife”.
2. In section 128 of the Act of 1959 (persons serving again after retirement)—
  - (a) in paragraph (a), for the words “widow or child of his” there shall be substituted “widow, widower or child of that person”; and
  - (b) in paragraph (b), for the word “his” there shall be substituted “that person's”.
3. In the Act of 1959—
  - (a) in section 132 (recommendation of the Lord Chancellor in certain cases); and
  - (b) section 135(1), in the definition of “derivative benefit”, after the word “widow's” there shall be inserted “widower's”.

#### **The Act of 1960**

4. In section 8 of the Act of 1960 (children’s pension: rate and mode of payment)—
  - (a) in subsection (2) for the words “does not leave a widow and, if he leaves a widow, after her death” there shall be substituted “leaves no widow or widower and, if he or she leaves a widow or widower, after his or her death”;



- (b) in subsection (3), after the word “widow” there shall be inserted “or widower” and after the word “her” there shall be inserted “or his”; and
  - (c) in subsection (4), after the word “widow”, in both places, there shall be inserted “or widower” and after the words “she has a husband” there shall be inserted “or he has a wife”.
5. In section 9 of the Act of 1960 (contribution towards cost of widow’s and children’s pensions)
- 
- (a) in subsection (1) after the word “widow” there shall be inserted “or widower”;
  - (b) in subsections (3) and (4)—
    - (i) after the words “a wife” in both places there shall be inserted “or a husband”, and
    - (ii) after the word “his” in each place there shall be inserted the words “or her”;
  - (c) in subsection (5)—
    - (i) for the word “man” in each place there shall be substituted “person”;
    - (ii) after the words “a wife” in each place there shall be inserted “or a husband”;
    - (iii) after the word “his” in each place there shall be inserted “or her”.
6. In section 10 of the Act of 1960 (resident magistrates serving again after retirement)—
- (a) in paragraph (a), for the words “widow or child of his” there shall be substituted “widow, widower or child of that person”; and
  - (b) in paragraph (b), for the word “his” there shall be substituted “that person's”.
7. In section 22(1), in the definition of “personal pension”, after the word “widow” there shall be inserted the words “or widower”.

### **The Act of 1951**

8. In section 10 of the Act of 1951 (children’s pension: rate and mode of payment)—
- (a) in subsection (2) for the words “leaves no widow and, if he leaves a widow, after her death” there shall be substituted “leaves no widow or widower and, if he or she leaves a widow or widower, after his or her death”;
  - (b) in subsection (3), after the word “widow” there shall be inserted “or widower” and after the word “her” there shall be inserted “or his”; and
  - (c) in subsection (4), after the word “widow”, in both places, there shall be inserted “or widower” and after the words “she has a husband” there shall be inserted “or he has a wife”.
9. In section 11 of the Act of 1951 (contribution towards widow’s and children’s pensions)—
- (a) in subsection (1)—
    - (i) for the words “man’s wife” there shall be substituted “person’s spouse”, and
    - (ii) for the words “man’s service” there shall be substituted “person’s service”;
  - (b) in subsection (2), in the proviso—
    - (i) for the words “the man last had a wife” there shall be substituted “the person last had a spouse”, and
    - (ii) after the word “his”, in each place that it occurs, there shall be inserted “or her”;
  - (c) in subsection (3)—
    - (i) for the word “man” there shall be substituted “person”,
    - (ii) after the word “his” there shall be inserted “or her”, and
    - (iii) for the word “wife” there shall be substituted “spouse”; and

*Status: This is the original version (as it was originally made).*

- (d) in subsection (3A)—
- (i) for the word “man” there shall be substituted “person”,
  - (ii) after the word “he” there shall be added “or she”, and
  - (iii) after the word “him” there shall be added “or her”.
- 10.** In section 12 of the Act of 1951 (persons serving again after retirement)—
- (a) in paragraph (a),
  - (b) in paragraph (b), for the word “his” there shall be substituted “that person's”.
- 11.** In the following sections of the Act of 1951, namely—
- (a) section 16 (recommendation required in certain cases);
  - (b) section 21 (payments charged on Consolidated Fund); and
  - (c) section 22(1) (definition of “derivative benefits”), after the word “widow's” there shall in each case be inserted “widower's”.

#### SCHEDULE 4

Article 10(2).

#### REPEALS

Chapter	Short title	Extent of repeal
<a href="#">1951 c. 20 (N.I.)</a>	The Judicial Pensions Act (Northern Ireland) 1951.	In section 12, the word “his” in the first three places where it occurs.
<a href="#">1959 c. 25 (N.I.)</a>	The County Courts Act (Northern Ireland) 1959.	In section 128, the word “his” in the first three places where it occurs.
<a href="#">1960 c. 2 (N.I.)</a>	The Resident Magistrates' Pensions Act (Northern Ireland) 1960.	In section 10, in paragraph (b) the word “his” in the first three places where it occurs.