STATUTORY INSTRUMENTS

1999 No. 3147 (N.I. 11)

The Welfare Reform and Pensions (Northern Ireland) Order 1999 [F1]

F2

- - - - - - 24th November 1999

F1 functions transf. by SR 1999/481
F2 functions transf. by 2005 NI 1

Modifications etc. (not altering text)
C1 Order: certain provisions applied (with modifications) (1.10.2010) by Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010/312), regs. 1, **16**, Sch. 2

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(2) Subject to the following provisions of this Article, this Order shall come into operation on such day or days as the Department may by order appoint[F3].

(3) The following provisions shall come into operation on such day or days as the Lord Chancellor may by order appoint—

(a) Articles 18, 19 and 20;

(b) Article 74(1) so far as relating to paragraphs 1 to 3 and 52 of Schedule 9;

(c) Article 75(3) and (4); and

(d) Article 76 so far as relating to the entries in Part II of Schedule 10.

(4) The following provisions come into operation on the seventh day after the day on which this Order is made—

(a) this Article and Article 2;

(b) Articles 49, 54, 55, 57, 65 and 68;

(c) Article 67 so far as relating to Part V of Schedule 8;

(d) Article 69;

(e) Articles 70 to 73;

(f) Article 74(1) so far as relating to paragraphs 55 to 59 and 61 of Schedule 9;

(g) Article 74(2) to (4);

(h) Article 75(1), (2), (5) and (6).

(5) The following provisions come into operation on the seventh day after the day on which this Order is made, but for the purpose only of the exercise of any power to make regulations—

(a) Parts II to V;

(b) Articles 56 and 58;

(c) Article 67 so far as relating to paragraph 22 of Schedule 8.

F3 partly exercised by SRs 1999/494; 2000/68, 133, 182, 209, 332; 2001/114, 137, 438; 2002/25, 63; 2003/204

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"the Department" means **[**[F4]the Department for Communities**]** ;

"government department" means a Northern Ireland department or a department of the government of the United Kingdom;

"the Housing Executive" means the Northern Ireland Housing Executive;

"the Matrimonial Causes Order" means the Matrimonial Causes (Northern Ireland) Order 1978;

"the Pension Schemes Act" means the Pension Schemes (Northern Ireland) Act 1993;

"the Pensions Order" means the Pensions (Northern Ireland) Order 1995;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"the Welfare Reform Act" means the Welfare Reform and 1999 c. Pensions Act 1999.

(3) In this Order, except Articles 1, 74(2) and (3) and 75(1) and (5), and in any statutory provision amended by this Order, references to the coming into operation of any provision of this Order are to its coming into operation otherwise than for the purpose of authorising the making of regulations.

F4 Words in art. 2(2) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(3), **Sch. 6 para. 48** (with art. 9(2))

PART II

STAKEHOLDER PENSION SCHEMES

Modifications etc. (not altering text)

C2 Pt. II (arts. 3-9) power to modify conferred (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 294(d); S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3

C3 Pt. II (arts. 3-9) power to modify conferred (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 115(2)(c)**, 118(2)(g)

Meaning of "stakeholder pension scheme"

3.—(1) A pension scheme is a stakeholder pension scheme for the purposes of this Part if it is registered as such a scheme under Article 4 and each of the following is fulfilled, namely—

(a) the conditions set out in paragraphs (2) **[**[F5]to (9)**]** ; and

(b) such other conditions as may be prescribed.

(2) The first condition is that the scheme is established under a trust or in such other way as may be prescribed.

(3) The second condition is that the provisions made by the instruments establishing the scheme comply with such requirements as may be prescribed.

(4) The third condition is that, subject to such exceptions as may be prescribed, the benefits provided by the scheme are money purchase benefits within the meaning given by section 176 of the Pension Schemes Act.

(5) The fourth condition is that the scheme complies with such requirements as may be prescribed as regards the extent to which, and the circumstances in which—

(a) any payment made to the scheme**[**[F6] by, or on behalf or in respect of,**]** a member of the scheme;

(b) any income or capital gain arising from the investment of such a payment; or

(c) the value of rights under the scheme,

may be used to defray the administrative expenses of the scheme, to pay commission or in any other way which does not result in the provision of benefits for or in respect of members.

(6) The fifth condition is that the scheme complies with such of the requirements of regulations under section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc.) as are applicable to it.

(7) The sixth condition is that, subject to such minimum contribution levels and other restrictions as may be prescribed, members of the scheme may make such contributions to the scheme as they think appropriate.

(8) The seventh condition is that [F7]. . . the scheme accepts transfer payments in respect of members' rights under—

(a) other pension schemes;

[[F8](b) contracts and schemes that became registered pension schemes by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;**]**

(c) annuities and insurance policies purchased or transferred for the purpose of giving effect to rights under pension schemes; and

(d) annuities purchased or entered into for the purpose of discharging liability in respect of pension credits under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act.

[[F9](9) The eighth condition is that the scheme is a registered pension scheme under section 153 of the Finance Act 2004.**]**

[F10](10) . . . . . .

F5 Words in art. 3(1)(a) substituted (having effect as from 6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), **Sch. 4 para. 37(a)** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2

F6 2005 NI 1

F7 Words in art. 3(8) omitted (6.4.2006) by virtue of Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(2)(a)(i)**

F8 Words in art. 3(8)(b) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(2)(a)(ii)**

F9 Art. 3(9) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(2)(b)**

F10 Art. 3(10) repealed (having effect as from 6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), Sch. 4 para. 37(b), **Sch. 6 Pt. 6** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2

Registration of stakeholder pension schemes

4.—(1) The Authority shall keep a register of stakeholder pension schemes.

(2) Subject to paragraph (3), the Authority shall register a pension scheme under this Article if the trustees of the scheme, or any person or persons prescribed in relation to the scheme—

(a) make an application for the purpose and pay such fee as the Authority may determine; and

(b) declare that each of the following is fulfilled in relation to the scheme, namely—

(i) the conditions set out in paragraphs (2) **[**[F11]to (9)**]** of Article 3; and

(ii) such other conditions as may be prescribed under paragraph (1) of that Article.

(3) Where the Authority are satisfied on reasonable grounds that any of those conditions is not fulfilled in relation to a pension scheme, the Authority may**[**[F12] by direction**]**

(a) refuse to register the scheme; or

(b) where the scheme is registered under this Article, remove it from the register.

(4) **[**[F12]Article 10 of the Pensions Order (civil penalties) applies to any trustee of a pension scheme which is or has been registered under this Article, and**]** to any person prescribed in relation to such a scheme, if—

(a) he fails to take all such steps as are reasonable to secure that each of those conditions is fulfilled in relation to the scheme or (as the case may be) while the scheme was so registered he failed to take all such steps as were reasonable to secure that each of those conditions was so fulfilled; or

(b) where the scheme was registered on his application, any of those conditions was not fulfilled in relation to the scheme at the time of the application.

Para. (5) rep. by 2005 NI 1

(6) The Department may by regulations make provision—

(a) for the register, or extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and

(b) for copies of the register, or of extracts from it, to be supplied to,

such persons, in such manner, at such times, on payment of such fees, and subject to such other terms and conditions, as may be prescribed.

F11 Words in art. 4(2)(b)(i) substituted (having effect as from 6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), **Sch. 4 para. 38** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2

F12 2005 NI 1

Duty of employers to facilitate access to stakeholder pension schemes

5.—(1) Except in so far as regulations otherwise provide, it shall be the duty of an employer of relevant employees to comply with **[**[F13]the requirement in paragraph (5)**]** .

[[F14](1A) A relevant employee, in relation to an employer, is an employee of the employer who, on the relevant date, satisfies the conditions in paragraph (1B).

(1B) The conditions are that—

(a) the employee is a member of a stakeholder pension scheme;

(b) the employee made a request under paragraph (5) before the relevant date and that request has not been withdrawn;

(c) the employee pays contributions (which are deducted in accordance with that request) to the scheme at regular intervals;

(d) at least one deduction has been made before the relevant date in accordance with that request.

(1C) A person ceases to be a relevant employee—

(a) on ceasing to be employed by the employer;

(b) on withdrawing a request under paragraph (5);

(c) on ceasing to pay contributions at regular intervals.**]**

[F15](2) . . . . . .

[F15](3) . . . . . .

[F15](4) . . . . . .

(5) The [F16]... requirement is that, subject to such exceptions and qualifications as may be prescribed, the employer shall, if he is requested to do so by a relevant employee [F17]...—

(a) deduct the employee's contributions to the **[**[F18]stakeholder pension scheme**]** from his remuneration; and

(b) pay them to the trustees or managers of the scheme or, if regulations so provide, to a prescribed person.

[[F19](5A) That requirement only applies in relation to a request to make deductions made before the relevant date (whether or not that request is varied after that date).**]**

[F20](6) . . . . . .

(7) Article 10 of the Pensions Order (civil penalties) applies to an employer who fails to comply with **[**[F21]the requirement**]** set out above.

(8) An employer is not, **[**[F22]while subject to the requirement in paragraph (5)**]** , under any duty—

(a) to make any enquiries, or act on any information, about the scheme for any purpose not connected with—

(i) ascertaining whether the scheme is for the time being registered under Article 4,

[F23](ii) . . . . . .

[F24](iii) . . . . . .

(b) in particular, to investigate or monitor, or make any judgment as to, the past, present or future performance of the scheme.

(9) In this Article—

"employer" means any employer, whether or not resident or incorporated in any part of the United Kingdom;

[F25]…

"regulations" means regulations made by the Department;

[[F26]"relevant date" means the date on which section 69 of the Pensions (No. 2) Act (Northern Ireland) 2008 comes into operation.**]**

[F27]…

F13 Words in art. 5(1) substituted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(3)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F14 Art. 5(1A)-(1C) inserted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(4)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F15 Art. 5(2)-(4) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(5), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F16 Word in art. 5(5) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(6)(a), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2 (with art. 3)

F17 Words in art. 5(5) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(6)(b), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2 (with art. 3)

F18 Words in art. 5(5)(a) substituted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(6)(c)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F19 Art. 5(5A) inserted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(7)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F20 Art. 5(6) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(8), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F21 Words in art. 5(7) substituted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(9)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F22 Words in art. 5(8) substituted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(10)(a)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F23 Art. 5(8)(a)(ii) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(10)(b), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F24 Art. 5(8)(a)(iii) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(10)(b), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F25 Words in art. 5(9) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(12)(a), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F26 Words in art. 5(9) inserted (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 69(11)**, 118(1) (with s. 73); S.R. 2012/372, art. 2(a)

F27 Words in art. 5(9) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(12)(b), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

Arts. 6#7 rep. by 2005 NI 1

Application of certain statutory provisions

8.—[F28](1) . . . . . .

[F29](2) . . . . . .

(3) Schedule 1 (application of the Pension Schemes Act and the Pensions Order to registered schemes) shall have effect.

[F30](4) . . . . . .

F28 Art. 8(1) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(13), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F29 Art. 8(2) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(13), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

F30 Art. 8(4) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(13), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

Interpretation and application of Part II

9.—(1) In this Part—

[[F31]"the Authority" means the Pensions Regulator;**]**

[F32]…

"occupational pension scheme" and "personal pension scheme" have the meanings given by section 1 of the Pension Schemes Act;

"pension scheme" means an occupational pension scheme or a personal pension scheme;

"prescribed" means prescribed by regulations made by the Department;

"stakeholder pension scheme" shall be construed in accordance with Article 3.

(2) The Department may by regulations make provision for a stakeholder pension scheme which—

(a) is**[**[F31] prescribed or is**]** of a prescribed description, and

(b) would (apart from the regulations) be an occupational pension scheme,

to be treated for all purposes, or for such purposes as may be prescribed, as if it were a personal pension scheme and not an occupational pension scheme.

(3) This Part applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes; and, accordingly, references in this Part to a person in his capacity as a trustee or manager of, or person prescribed in relation to, a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(4) This Part applies to persons employed by or under the Crown in like manner as if such persons were employed by a private person; and references in this Part to a person in his capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.

(5) Paragraphs (3) and (4) do not apply to any provision of this Part under which a person may be prosecuted for an offence; but such a provision applies to persons in the public service of the Crown as it applies to other persons.

(6) Nothing in this Part applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

F31 2005 NI 1

F32 Words in art. 9(1) repealed (1.10.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 69(14), 118(1), **Sch. 10 Pt. 1** (with s. 73); S.R. 2012/372, art. 2

PART III

PENSIONS: GENERAL

Modifications etc. (not altering text)

C4 Pt. III (arts. 10-17) power to modify conferred (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 294(d); S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3

C5 Pt. III (arts. 10-17) power to modify conferred (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 115(2)(c)**, 118(2)(g)

Payments by employers to pension schemes

Monitoring of employers' payments to personal pension schemes

10. In Part VI of the Pension Schemes Act (further requirements for protection of scheme members), after section 107 there shall be inserted—

"**Monitoring of employers' payments to personal pension schemes.**

107A.—(1) This section applies where—

(a) an employee is a member of a personal pension scheme; and

(b) direct payment arrangements exist between the employee and his employer.

(2) In this section "direct payment arrangements" means arrangements under which contributions fall to be paid by or on behalf of the employer towards the scheme—

(a) on the employer's own account (but in respect of the employee); or

(b) on behalf of the employee out of deductions from the employee's earnings.

(3) The employer must secure that there is prepared, maintained and from time to time revised a record of the direct payment arrangements which complies with subsection (4).

(4) The record must—

(a) show the rates and due dates of contributions payable under the direct payment arrangements, and

(b) satisfy prescribed requirements.

(5) The employer must, within the prescribed period after the preparation or any revision of the record, send a copy of the record or (as the case may be) of the revised record to the trustees or managers of the scheme.

(6) Except in prescribed circumstances, the trustees or managers of the scheme must, where any contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date, give notice of that fact, within the prescribed period, to the Regulatory Authority and the employee.

(7) The trustees or managers of the scheme must before the end of prescribed intervals send the employee a statement setting out the amounts and dates of the payments made under the direct payment arrangements during a prescribed period.

(8) If—

(a) the employer fails to take all such steps as are reasonable to secure compliance with subsection (3) or (5), or

(b) a contribution payable under the direct payment arrangements is not paid to the trustees or managers of the scheme on or before its due date,

Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.

(9) If subsection (6) or (7) is not complied with, Article 10 of the Pensions (Northern Ireland) Order 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.

(10) If—

(a) subsection (6) or (7) is not complied with, and

(b) the scheme—

(i) is established under a trust, and

(ii) is or has been registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (stakeholder schemes),

Article 3 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to remove trustees) applies to any trustee of the scheme who has failed to take all such steps as are reasonable to secure compliance.

(11) A person shall not be required by virtue of subsection (8)(b) to pay a penalty under Article 10 of the Pensions (Northern Ireland) Order 1995 in respect of a failure if in respect of that failure he has been—

(a) required to pay a penalty under that Article by virtue of Article 5(7) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (failures in respect of stakeholder pensions), or

(b) convicted of an offence under subsection (12).

(12) A person is guilty of an offence if he is knowingly concerned in the fraudulent evasion of the direct payment arrangements so far as they are arrangements for the payment by him or any other person of any such contribution towards the scheme as is mentioned in subsection (2)(b).

(13) A person guilty of an offence under subsection (12) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.

(14) No prosecution shall be brought against the Crown for an offence under subsection (12), but that subsection applies to persons in the public service of the Crown as to other persons.

(15) In this section “due date”, in relation to a contribution payable under the direct payment arrangements, means—

(a) if the contribution falls to be paid on the employer's own account, the latest day under the arrangements for paying it;

(b) if the contribution falls to be paid on behalf of the employee, the last day of a prescribed period.

(16) Regulations may provide for this section to apply with such modifications as may be prescribed in a case where—

(a) the direct payment arrangements give effect to a requirement arising under paragraph (5) of Article 5 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (deduction and payment of employee's contributions to stakeholder scheme), and

(b) in accordance with regulations under that paragraph, that requirement is for the employer to pay contributions to a person prescribed by such regulations (instead of to the trustees or managers of the scheme).

(17) Nothing in this section shall be taken as varying the provisions of the direct payment arrangements or as affecting their enforceability.

Obtaining information for purposes of section 107A and corresponding legislation in Great Britain.

107B.—(1) Any person appearing to the Regulatory Authority to be a person who holds, or is likely to hold, information which is relevant to the issue—

(a) whether any provision made by or under section 107A is being, or has been, complied with by an employer or the trustees or managers of a personal pension scheme,

(b) whether, in the case of any direct payment arrangements existing between an employee and his employer, there has been such a failure to pay a contribution as is mentioned in subsection (8)(b) of that section, or

(c) whether an offence has been committed under subsection (12) of that section in relation to any such arrangements,

must, if required to do so by the Regulatory Authority by notice in writing, produce any document which is so relevant.

(2) To comply with subsection (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.

(3) An inspector may, for the purposes of investigating any of the matters set out in subsection (1)(a) to (c), at any reasonable time enter premises liable to inspection and, while there—

(a) may make such examination and inquiry as may be necessary for such purposes,

(b) may require any person on the premises to produce for his inspection, or secure the production for his inspection of, any document relevant—

(i) to compliance with any provision made by or under section 107A, or with the direct payment arrangements, or

(ii) to the issue whether an offence has been committed under subsection (12) of that section in relation to those arrangements, and

(c) may, as to any matter so relevant, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.

(4) An inspector applying for admission to any premises in pursuance of subsection (3) must, if so required, produce his certificate of appointment.

(5) For the purposes of subsection (3) premises are liable to inspection if the inspector has reasonable grounds to believe that—

(a) employees of the employer are employed there,

(b) documents relevant to the administration of—

(i) the employer's business,

(ii) the direct payment arrangements, or

(iii) the scheme to which those arrangements relate, are kept there, or

(c) either of the following is being carried out there, namely—

(i) the administration of the employer's business, the arrangements or the scheme, or

(ii) work connected with the administration of the employer's business, the arrangements or the scheme,

unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

(6) Article 98 of the Pensions (Northern Ireland) Order 1995 (warrants) shall have effect as if references to Article 96(1) or 97(1)(b) of that Order included references to subsection (1) or (3)(b).

(7) Articles 99 to 101 of that Order (penalties, savings and reports) shall have effect as if references which are or include references to Article 96 or 97 of that Order included references to this section.

(8) In this section—

"direct payment arrangements" has the same meaning as in section 107A;

"document" includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form;

"inspector" means a person appointed by the Regulatory Authority as an inspector.

(9) References in this section to, or to any provision of, section 107A include references to corresponding provisions of legislation in Great Britain; and in this section as it has effect in relation to those corresponding provisions, "employee" and "employer" have the same meaning as they have for the purposes of those provisions.".

Late payments by employers to occupational pension schemes

11.—(1) For Article 49(8) of the Pensions Order (offence where deduction from earnings not paid in timely fashion to occupational pension scheme) there shall be substituted—

"(8) Where on making a payment of any earnings in respect of any employment there is deducted any amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme, the amount deducted is to be paid, within a prescribed period, to the trustees or managers of the scheme.

(9) If in any case there is a failure to comply with paragraph (8)—

(a) Article 10 applies to the employer; and

(b) except in prescribed circumstances, the trustees or managers must give notice of the failure, within the prescribed period, to the Authority and the member.

(10) If in any case paragraph (9)(b) is not complied with—

(a) Article 3 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance; and

(b) Article 10 applies to any trustee or manager who has failed to take all such steps.

(11) If any person is knowingly concerned in the fraudulent evasion of the obligation imposed by paragraph (8) in any case, he is guilty of an offence.

(12) A person guilty of an offence under paragraph (11) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.

(13) A person shall not be required by virtue of paragraph (9)(a) to pay a penalty under Article 10 in respect of a failure if in respect of that failure he has been—

(a) required to pay a penalty under that Article by virtue of Article 5(7) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (failures in respect of stakeholder pensions), or

(b) convicted of an offence under paragraph (11).” .

(2) In Article 86(3) of that Order (civil penalty where contributions by or on behalf of employer to occupational pension scheme not paid by due date) after “by or on behalf of the employer” there shall be inserted “on the employer's own account”.

Pensions and bankruptcy

Effect of bankruptcy on pension rights: approved arrangements

12.—(1) Where a bankruptcy order is made against a person on a petition presented after the coming into operation of this Article, any rights of his under an approved pension arrangement are excluded from his estate.

(2) In this Article “approved pension arrangement” means—

[[F33](a) a pension scheme registered under section 153 of the Finance Act 2004;**]**

(b) [F34]. . . . . .

(c) **[**[F35]an occupational pension scheme**]** set up by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees;

(d) [F36]. . . . . .

(e) [F36]. . . . . .

(f) [F36]. . . . . .

[[F37](g) an annuity purchased for the purpose of giving effect to rights under a scheme falling within paragraph (a), including an annuity in payment before 6th April 2006, giving effect to rights under any scheme approved—

(i) before that date under Chapters 1, 3 or 4 of Part 14 of the Taxes Act; or

(ii) any relevant statutory scheme, as defined in section 611 of that Act;**]**

(h) any pension arrangements of any description which may be prescribed by regulations made by the Department.

(3) [F38]. . . . . .

[[F39](4) Paragraph (5) applies if—

(a) at the time when a bankruptcy order is made against a person, an appeal against a decision not to register a pension scheme has been made under section 156 of the Finance Act 2004, and

(b) the decision of the General or Special Commissioners, (see section 156(3) of that Act), is to uphold the decision of Her Majesty's Revenue and Customs not to register the scheme.**]**

(5) Any rights of that person under the scheme shall (without any conveyance, assignment or transfer) vest in his trustee in bankruptcy, as part of his estate, immediately on—

(a) the **[**[F40]General or Special**]** Commissioners' decision being made, or

(b) (if later) the trustee's appointment taking effect or, in the case of the official receiver, his becoming trustee.

[[F41](6) Paragraph (7) applies if, at any time after a bankruptcy order is made against a person, Her Majesty's Revenue and Customs give notice—

(a) withdrawing registration of the pension scheme under section 157 of the Finance Act 2004, and

(b) the date specified as being that from which de-registration occurs under section 157(4) of that Act ("the de-registration date"), is the date from which the scheme ceases to be a registered pension scheme.**]**

(7) Any rights of that person under the scheme or arising by virtue of the arrangements, and any rights of his under any related annuity, shall (without any conveyance, assignment or transfer) vest in his trustee in bankruptcy, as part of his estate, immediately on—

(a) the giving of the notice, or

(b) (if later) the trustee's appointment taking effect or, in the case of the official receiver, his becoming trustee.

(8) In paragraph (7) "related annuity" means an annuity purchased on or after the **[**[F42]de-registration date**]** for the purpose of giving effect to rights under the scheme or (as the case may be) to rights arising by virtue of the arrangements.

(9) Where under paragraph (5) or (7) any rights vest in a person's trustee in bankruptcy, the trustee's title to them has relation back to the commencement of the person's bankruptcy; but where any transaction is entered into by the trustees or managers of the scheme in question—

(a) in good faith, and

(b) without notice of the making of the decision mentioned in paragraph (4)(b) or (as the case may be) the giving of the notice mentioned in paragraph (6),

the trustee in bankruptcy is not in respect of that transaction entitled by virtue of this paragraph to any remedy against them or any person whose title to any property derives from them.

(10) Without prejudice to Article 73, regulations under paragraph (2)(h) may, in the case of any description of arrangements prescribed by the regulations, make provision corresponding to any provision made by paragraphs (4) to (9).

(11) In this Article—

[[F43](a) "occupational pension scheme" has the meaning given in section 150(5) of the Finance Act 2004;**]**

[[F44](b) "pension scheme" has the meaning given in section 150(1) of the Finance Act 2004 and "registered pension scheme" means a pension scheme registered under section 153 of the Finance Act 2004;**]**

(c) "estate", in relation to a person against whom a bankruptcy order is made, means his estate within the meaning of Article 11 of the Insolvency (Northern Ireland) Order 1989;

(d) "the Taxes Act" means the Income and Corporation Taxes Act 1988.

(12) For the purposes of this Article a person shall be treated as having a right under an approved pension arrangement where—

(a) he is entitled to a credit under Article 26(1)(b) as against the person responsible for the arrangement (within the meaning of Chapter I of Part V), and

(b) the person so responsible has not discharged his liability in respect of the credit.

F33 Art. 12(2)(a) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(a)(i)**

F34 Art. 12(2)(b) omitted (6.4.2006) by virtue of Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(a)(ii)**

F35 Words in art. 12(2)(c) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(a)(iii)**

F36 Art. 12(2)(d)-(f) omitted (6.4.2006) by virtue of Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(a)(ii)**

F37 Art. 12(2)(g) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(a)(iv)**

F38 Art. 12(3) omitted (6.4.2006) by virtue of Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(b)**

F39 Art. 12(4) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(c)**

F40 Words in art. 12(5)(a) inserted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(d)**

F41 Art. 12(6) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(e)**

F42 Words in art. 12(8) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(f)**

F43 Art. 12(11)(a) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(g)(i)**

F44 Art. 12(11)(b) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(3)(g)(ii)**

Modifications etc. (not altering text)

C6 Art. 12 excluded by S.R. 1991/364, rule 5A.12 (as inserted (30.6.2011) by Insolvency (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/151), rule 8, **Sch. 1**)

Effect of bankruptcy on pension rights: unapproved arrangements

13.—(1) The Department may by regulations make provision for or in connection with enabling rights of a person under an unapproved pension arrangement to be excluded, in the event of a bankruptcy order being made against that person, from his estate within the meaning of Article 11 of the Insolvency (Northern Ireland) Order 1989.

(2) Regulations under this Article may, in particular, make provision—

(a) for rights under an unapproved pension arrangement to be excluded from a person's estate—

(i) by an order made on his application by a prescribed court, or

(ii) in accordance with a qualifying agreement made between him and his trustee in bankruptcy;

(b) for the court's decision whether to make such an order in relation to a person to be made by reference to—

(i) future likely needs of him and his family, and

(ii) whether any benefits (by way of a pension or otherwise) are likely to be received by virtue of rights of his under other pension arrangements and (if so) the extent to which they appear likely to be adequate for meeting any such needs;

(c) for the prescribed persons in the case of any pension arrangement to provide a person or his trustee in bankruptcy on request with information reasonably required by that person or trustee for or in connection with the making of such applications and agreements as are mentioned in sub-paragraph (a).

(3) In this Article—

"prescribed" means prescribed by regulations under this Article;

"qualifying agreement" means an agreement entered into in such circumstances, and satisfying such requirements, as may be prescribed;

"unapproved pension arrangement" means a pension arrangement which—

(a) is not an approved pension arrangement within the meaning of Article 12, and

(b) is of a prescribed description.

(4) For the purposes of this Article a person shall be treated as having a right under an unapproved pension arrangement where—

(a) he is entitled to a credit under Article 26(1)(b) as against the person responsible for the arrangement (within the meaning of Chapter I of Part V), and

(b) the person so responsible has not discharged his liability in respect of the credit.

Modifications etc. (not altering text)

C7 Art. 13 excluded by S.R. 1991/364, rule 5A.12 (as inserted (30.6.2011) by Insolvency (Amendment) Rules (Northern Ireland) 2011 (S.R. 2011/151), rule 8, **Sch. 1**)

No forfeiture on bankruptcy of rights under pension schemes

14.—(1) In the Pension Schemes Act, after section 155 there shall be inserted—

"**No forfeiture on bankruptcy of rights under personal pension schemes.**

155A.—(1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.

(2) For the purposes of this section—

(a) a person shall be treated as having a right under a personal pension scheme where—

(i) he is entitled to a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (sharing of rights on divorce etc.),

(ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part V of that Order), and

(iii) the person so responsible has not discharged his liability in respect of the credit; and

(b) forfeiture shall be taken to include any manner of deprivation or suspension.".

(2) In Article 90(2) of the Pensions Order (exceptions to the rule preventing forfeiture of rights under occupational pension schemes), sub-paragraph (b) (which allows forfeiture of such rights by reference to a scheme member's bankruptcy) shall cease to have effect.

Excessive pension contributions made by persons who have become bankrupt

15. For Articles 315A to 315C of the Insolvency (Northern Ireland) Order 1989 there shall be substituted—

"**Recovery of excessive pension contributions**

315A.—(1) Where an individual who is adjudged bankrupt—

(a) has rights under an approved pension arrangement, or

(b) has excluded rights under an unapproved pension arrangement,

the trustee of the bankrupt's estate may apply to the High Court for an order under this Article.

(2) If the High Court is satisfied—

(a) that the rights under the arrangement are to any extent, and whether directly or indirectly, the fruits of relevant contributions, and

(b) that the making of any of the relevant contributions ("the excessive contributions") has unfairly prejudiced the individual's creditors,

the Court may make such order as it thinks fit for restoring the position to what it would have been had the excessive contributions not been made.

(3) Paragraph (4) applies where the High Court is satisfied that the value of the rights under the arrangement is, as a result of rights of the individual under the arrangement or any other pension arrangement having at any time become subject to a debit under Article 26(1)(a) of the Welfare Reform Order (debits giving effect to pension-sharing), less than it would otherwise have been.

(4) Where this paragraph applies—

(a) any relevant contributions which were represented by the rights which became subject to the debit shall, for the purposes of paragraph (2), be taken to be contributions of which the rights under the arrangement are the fruits, and

(b) where the relevant contributions represented by the rights under the arrangement (including those so represented by virtue of sub-paragraph (a)) are not all excessive contributions, relevant contributions which are represented by the rights under the arrangement otherwise than by virtue of sub-paragraph (a) shall be treated as excessive contributions before any which are so represented by virtue of that sub-paragraph.

(5) In paragraphs (2) to (4) "relevant contributions" means contributions to the arrangement or any other pension arrangement—

(a) which the individual has at any time made on his own behalf, or

(b) which have at any time been made on his behalf.

(6) The High Court shall, in determining whether it is satisfied under paragraph (2)(b), consider in particular—

(a) whether any of the contributions were made for the purpose of putting assets beyond the reach of the individual's creditors or any of them, and

(b) whether the total amount of any contributions—

(i) made by or on behalf of the individual to pension arrangements, and

(ii) represented (whether directly or indirectly) by rights under approved pension arrangements or excluded rights under unapproved pension arrangements,

is an amount which is excessive in view of the individual's circumstances when those contributions were made.

(7) For the purposes of this Article and Articles 315B and 315C ("the recovery provisions"), rights of an individual under an unapproved pension arrangement are excluded rights if they are rights which are excluded from his estate by virtue of regulations under Article 13 of the Welfare Reform Order.

(8) In the recovery provisions—

"approved pension arrangement" has the same meaning as in Article 12 of the Welfare Reform Order,

"unapproved pension arrangement" has the same meaning as in Article 13 of that Order.

Orders under Article 315A

315B.—(1) Without prejudice to the generality of Article 315A(2), an order under Article 315A may include provision—

(a) requiring the person responsible for the arrangement to pay an amount to the individual's trustee in bankruptcy,

(b) adjusting the liabilities of the arrangement in respect of the individual,

(c) adjusting any liabilities of the arrangement in respect of any other person that derive, directly or indirectly, from rights of the individual under the arrangement,

(d) for the recovery by the person responsible for the arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the bankrupt's case with any requirement under Article 315C(1) or in giving effect to the order.

(2) In paragraph (1), references to adjusting the liabilities of the arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.

(3) In paragraph (1)(c), the reference to liabilities of the arrangement does not include liabilities in respect of a person which result from giving effect to an order or provision falling within Article 25(1) of the Welfare Reform Order (pension sharing orders and agreements).

(4) The maximum amount which the person responsible for an arrangement may be required to pay by an order under Article 315A is the lesser of—

(a) the amount of the excessive contributions, and

(b) the value of the individual's rights under the arrangement (if the arrangement is an approved pension arrangement) or of his excluded rights under the arrangement (if the arrangement is an unapproved pension arrangement).

(5) An order under Article 315A which requires the person responsible for an arrangement to pay an amount ("the restoration amount") to the individual's trustee in bankruptcy must provide for the liabilities of the arrangement to be correspondingly reduced.

(6) For the purposes of paragraph (5), liabilities are correspondingly reduced if the difference between—

(a) the amount of the liabilities immediately before the reduction, and

(b) the amount of the liabilities immediately after the reduction,

is equal to the restoration amount.

(7) An order under Article 315A in respect of an arrangement—

(a) shall be binding on the person responsible for the arrangement, and

(b) overrides provisions of the arrangement to the extent that they conflict with the provisions of the order.

Orders under Article 315A: supplementary

315C.—(1) The person responsible for—

(a) an approved pension arrangement under which a bankrupt has rights,

(b) an unapproved pension arrangement under which a bankrupt has excluded rights, or

(c) a pension arrangement under which a bankrupt has at any time had rights,

shall, on the bankrupt's trustee in bankruptcy making a written request, provide the trustee with such information about the arrangement and rights as the trustee may reasonably require for, or in connection with, the making of applications under Article 315A.

(2) Nothing in—

(a) any provision of section 155 of the Pension Schemes (Northern Ireland) Act 1993 or Article 89 of the Pensions (Northern Ireland) Order 1995 (which prevent assignment and the making of orders that restrain a person from receiving anything which he is prevented from assigning),

(b) any statutory provision (whether passed or made before or after the making of the Welfare Reform Order) corresponding to any of the provisions mentioned in sub-paragraph (a), or

(c) any provision of the arrangement in question corresponding to any of those provisions,

applies to the High Court exercising its powers under Article 315A.

(3) Where any sum is required by an order under Article 315A to be paid to the trustee in bankruptcy, that sum shall be comprised in the bankrupt's estate.

(4) Regulations may, for the purposes of the recovery provisions, make provision about the calculation and verification of—

(a) any such value as is mentioned in Article 315B(4)(b);

(b) any such amounts as are mentioned in Article 315B(6)(a) and (b).

(5) The power conferred by paragraph (4) includes power to provide for calculation or verification—

(a) in such manner as may, in the particular case, be approved by a prescribed person; or

(b) in accordance with guidance—

(i) from time to time prepared by a prescribed person, and

(ii) approved by the Department.

(6) References in the recovery provisions to the person responsible for a pension arrangement are to—

(a) the trustees, managers or provider of the arrangement, or

(b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.

(7) In this Article and Articles 315A and 315B—

"the Department" means the Department of Health and Social Services;

"prescribed" means prescribed by regulations;

"the recovery provisions" means this Article and Articles 315A and 315B;

"regulations" means regulations made by the Department;

"the Welfare Reform Order" means the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(8) Regulations under the recovery provisions may contain such incidental, supplemental and transitional provisions as appear to the Department necessary or expedient.

(9) Regulations under the recovery provisions shall be subject to negative resolution.”.

Miscellaneous

Compensating occupational pension schemes

16. [F45] . . . . . .

F45 Art. 16 repealed (1.9.2005) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 291, **Sch. 11 para. 1**; S.R. 2005/321, **art. 2(16)**, Sch. Pt. 3

Article 17—Amendments

PART IV

PENSIONS ON DIVORCE ETC.

Modifications etc. (not altering text)

C8 Pt. IV (arts. 18-23) power to modify conferred (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 294(d); S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3

C9 Pt. IV (arts. 18-23) power to modify conferred (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 115(2)(c)**, 118(2)(g)

Article 18—Amendments

Article 19—Amendments

Extension to overseas divorces etc.

20.—(1) Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland after overseas divorce etc.) shall be amended as follows.

(2) In Article 22 (matters to which the court is to have regard in exercising its powers to make orders for financial relief), after paragraph (3) there shall be inserted—

“(3A) The matters to which the court is to have regard under paragraph (3)—

(a) so far as relating to sub-paragraph (a) of Article 27(2) of the principal Order, include any benefits under a pension arrangement which a party to the marriage has or is likely to have (whether or not in the foreseeable future), and

(b) so far as relating to sub-paragraph (h) of that provision, include any benefits under a pension arrangement which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring.” .

(3) In that Article, at the end there shall be added—

“(7) In this Article—

(a) “pension arrangement” has the meaning given by Article 27D(3) of the principal Order, and

(b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.” .

(4) In Article 25 (application of provisions of Part III of the Matrimonial Causes Order), the existing provision shall become paragraph (1) and, in that paragraph, after sub-paragraph (b) there shall be inserted—

"(bd) Article 27B(3) to (9) (power, by financial provision order, to attach payments under a pension arrangement, or to require the exercise of a right of commutation under such an arrangement);

(be) Article 27C (extension of lump sum powers in relation to death benefits under a pension arrangement);" .

(5) In that Article, after paragraph (1) there shall be added—

"(2) Paragraph (1)(bd) and (be) shall not apply where the court has jurisdiction to entertain an application for an order for financial relief by reason only of the situation in Northern Ireland of a dwelling-house which was a matrimonial home of the parties.

(3) Article 27D(1) of the principal Order (effect of transfers on orders relating to rights under a pension arrangement) shall apply in relation to an order made under Article 21 by virtue of paragraph (1)(bd) or (be) as it applies in relation to an order made under Article 25 of the principal Order by virtue of Article 27B or 27C of that Order.

(4) The Lord Chancellor may by regulations make for the purposes of this Part provision corresponding to any provision which may be made by him under paragraphs (2) and (2A) of Article 27D of the principal Order.

(5) Regulations under this Article 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." .

Miscellaneous

Supply of pension information in connection with divorce etc.

21.—(1) The Department may by regulations—

(a) make provision imposing on the person responsible for a pension arrangement, or on the Department, requirements with respect to the supply of information relevant to any power with respect to—

(i) financial relief under Part III of the Matrimonial Causes Order or Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (powers in relation to domestic and overseas divorce etc.),

[[F46](ia) financial relief under Schedule 15 or 17 to the Civil Partnership Act 2004 (powers in relation to domestic and overseas dissolution of civil partnerships etc.);**]**

(ii) financial relief under Part II of the Matrimonial Causes Act 1973 or Part III of the Matrimonial and Family Proceedings Act 1984**[**[F46] or Schedule 5 or 7 to the 2004 Act**]** (corresponding England and Wales powers), or

(iii) financial provision under the Family Law (Scotland) Act 1985 or Part IV of the Matrimonial and Family Proceedings Act 1984**[**[F46] or Schedule 11 to the 2004 Act**]** (corresponding Scottish powers),

(b) make provision about calculation and verification in relation to the valuation of—

(i) benefits under a pension arrangement, or

(ii) shareable state scheme rights, for the purposes of regulations under sub-paragraph (a)(i)**[**[F46], (ia)**]** or (ii),

(c) make provision about calculation and verification in relation to—

(i) the valuation of shareable rights under a pension arrangement or shareable state scheme rights for the purposes of regulations under sub-paragraph (a)(iii), so far as relating to the making of orders for financial provision (within the meaning of the Family Law (Scotland) Act 1985), or

(ii) the valuation of benefits under a pension arrangement for the purposes of such regulations, so far as relating to the making of orders under section 12A of that Act,

(d) make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of providing information in accordance with regulations under sub-paragraph (a).

(2) Regulations under paragraph (1)(b) or (c) may include provision for calculation or verification in accordance with guidance from time to time prepared by a person prescribed by the regulations.

(3) Regulations under paragraph (1)(d) may include provision for the application in prescribed circumstances, with or without modification, of any provision made by virtue of Article 38(2).

(4) In paragraph (1)—

(a) the reference in sub-paragraph (c)(i) to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part V, or under Chapter I of Part IV of the Welfare Reform Act, and

(b) the references to shareable state scheme rights are to rights in relation to which pension sharing is available under Chapter II of Part V, or under Chapter II of Part IV of the Welfare Reform Act.

F46 2004 c.33

Charges by pension arrangements in relation to earmarking orders

22. The Department may by regulations make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of complying with—

(a) an order under Article 25 of the Matrimonial Causes Order (financial provision orders in connection with divorce etc.), so far as it includes provision made by virtue of Article 27B or 27C of that Order (powers to include provisions about pensions),

[[F47](aa) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision orders in connection with dissolution of civil partnerships etc.) so far as it includes provision made by virtue of Part 5 of that Schedule (powers to include provision about pensions),**]**

(b) an order under**[**[F48] section 22A or 23**]** of the Matrimonial Causes Act 1973, so far as it includes provision made by virtue of section 25B or 25C of that Act (England and Wales powers corresponding to those mentioned in paragraph (a)),[F47]. . .

[[F47](bb) an order under Part 1 of Schedule 5 to the 2004 Act so far as it includes provision made by virtue of Part 6 of that Schedule (England and Wales powers corresponding to those mentioned in paragraph (aa)), or**]**

(c) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pensions lump sums when making a capital sum order).

F47 2004 c.33
F48 1999 NI 11

Interpretation of Part IV

23.—(1) In this Part—

"occupational pension scheme" has the same meaning as in the Pension Schemes Act;

"pension arrangement" means—

(a) an occupational pension scheme,

(b) a personal pension scheme,

(c) a retirement annuity contract,

(d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and

(e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act;

"personal pension scheme" has the same meaning as in the Pension Schemes Act;

"prescribed" means prescribed by regulations made by the Department;

[[F49]"retirement annuity contract" means an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which became a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004,**]**

"trustees or managers", in relation to an occupational pension scheme or a personal pension scheme, means—

(a) in the case of a scheme established under a trust, the trustees of the scheme, and

(b) in any other case, the managers of the scheme.

(2) References to the person responsible for a pension arrangement are—

(a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,

(b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of "pension arrangement", the provider of the annuity, and

(c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.

F49 Art. 23(1): definition of "retirement annuity contract" substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(4)**

PART V

PENSION SHARING

Modifications etc. (not altering text)

C10 Pt. V (arts. 24-48) power to modify conferred (6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 294(d); S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3

C11 Pt. V (arts. 24-48) power to modify conferred (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), **ss. 115(2)(c)**, 118(2)(g)

CHAPTER I

SHARING OF RIGHTS UNDER PENSION ARRANGEMENTS

Modifications etc. (not altering text)

C12 Pt. V Ch. I (arts. 24-43) modified (1.8.2006) by Pension Protection Fund (Pension Sharing) Regulations (Northern Ireland) 2006 (S.R. 2006/282), **reg. 2(2)(a)-(c)**

Pension sharing mechanism

Scope of mechanism

24.—(1) Pension sharing is available under this Chapter in relation to a person's shareable rights under any pension arrangement other than an excepted public service pension scheme.

(2) For the purposes of this Chapter, a person's shareable rights under a pension arrangement are any rights of his under the arrangement, other than rights of a description specified by regulations made by the Department.

(3) For the purposes of paragraph (1), a public service pension scheme is excepted if it is specified by order made by such Minister of the Crown or government department as may be designated by the Treasury or the Department of Finance and Personnel as having responsibility for the scheme.

Activation of pension sharing

25.—(1) Article 26 applies on the taking effect of any of the following relating to a person's shareable rights under a pension arrangement—

(a) a pension sharing order under the Matrimonial Causes Order;

[[F50](aa) a pension sharing order under Schedule 15 to the Civil Partnership Act 2004,**]**

(b) an order under Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order mentioned in sub-paragraph (a);

[[F50](ba) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),**]**

(c) an order or provision to which any of paragraphs (a) to (g) of subsection (1) of section 28 of the Welfare Reform Act applies (pension sharing orders under the Matrimonial Causes Act 1973 and the Family Law (Scotland) Act 1985 and other provisions and orders in Great Britain corresponding to pension sharing orders under those Acts).

(2) The reference in paragraph (1) to paragraphs (a) to (g) of subsection (1) of section 28 of the Welfare Reform Act is to those paragraphs as they have effect subject to the provisions of that section and section 85(5) of that Act.

F50 2004 c.33

Creation of pension debits and credits

26.—(1) On the application of this Article—

(a) the transferor's shareable rights under the relevant arrangement become subject to a debit of the appropriate amount, and

(b) the transferee becomes entitled to a credit of that amount as against the person responsible for that arrangement.

(2) Where the relevant order or provision specifies a percentage value to be transferred, the appropriate amount for the purposes of paragraph (1) is the specified percentage of the cash equivalent of the relevant benefits on the valuation day.

(3) Where the relevant order or provision specifies an amount to be transferred, the appropriate amount for the purposes of paragraph (1) is the lesser of—

(a) the specified amount, and

(b) the cash equivalent of the relevant benefits on the valuation day.

(4) Where the relevant arrangement is an occupational pension scheme and the transferor is in pensionable service under the scheme on the transfer day, the relevant benefits for the purposes of paragraphs (2) and (3) are the benefits or future benefits to which he would be entitled under the scheme by virtue of his shareable rights under it had his pensionable service terminated immediately before that day.

(5) Otherwise, the relevant benefits for the purposes of paragraphs (2) and (3) are the benefits or future benefits to which, immediately before the transfer day, the transferor is entitled under the terms of the relevant arrangement by virtue of his shareable rights under it.

(6) The Department may by regulations provide for any description of benefit to be disregarded for the purposes of paragraph (4) or (5).

(7) For the purposes of this Article, the valuation day is such day within the implementation period for the credit under paragraph (1)(b) as the person responsible for the relevant arrangement may specify by notice in writing to the transferor and transferee.

(8) In this Article—

"relevant arrangement" means the arrangement to which the relevant order or provision relates;

"relevant order or provision" means the order or provision by virtue of which this Article applies;

"transfer day" means the day on which the relevant order or provision takes effect;

"transferor" means the person to whose rights the relevant order or provision relates;

"transferee" means the person for whose benefit the relevant order or provision is made.

Cash equivalents

27.—(1) The Department may by regulations make provision about the calculation and verification of cash equivalents for the purposes of Article 26.

(2) The power conferred by paragraph (1) includes power to provide for calculation or verification—

(a) in such manner as may, in the particular case, be approved by a person prescribed by the regulations, or

(b) in accordance with guidance from time to time prepared by a person so prescribed.

Pension debits

Reduction of benefit

28.—(1) Subject to paragraph (2), where a person's shareable rights under a pension arrangement are subject to a pension debit, each benefit or future benefit—

(a) to which he is entitled under the arrangement by virtue of those rights, and

(b) which is a qualifying benefit,

is reduced by the appropriate percentage.

(2) Where a pension debit relates to the shareable rights under an occupational pension scheme of a person who is in pensionable service under the scheme on the transfer day, each benefit or future benefit—

(a) to which the person is entitled under the scheme by virtue of those rights, and

(b) which corresponds to a qualifying benefit,

is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.

(3) A benefit is a qualifying benefit for the purposes of paragraphs (1) and (2) if the cash equivalent by reference to which the amount of the pension debit is determined includes an amount in respect of it.

(4) The provisions of this Article override any provision of a pension arrangement to which they apply to the extent that the provision conflicts with them.

(5) In this Article—

"appropriate percentage", in relation to a pension debit, means—

(a) if the relevant order or provision specifies the percentage value to be transferred, that percentage;

(b) if the relevant order or provision specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of paragraph (1) of Article 26 represents of the amount mentioned in paragraph (3)(b) of that Article;

"relevant order or provision", in relation to a pension debit, means the pension sharing order or provision on which the debit depends;

"transfer day", in relation to a pension debit, means the day on which the relevant order or provision takes effect.

Effect on contracted-out rights

29.—(1) The Pension Schemes Act shall be amended as follows.

[F51](2) . . . . . .

(3) After section 11 there shall be inserted—

"**Reduction of guaranteed minimum in consequence of pension debit.**

11A.—(1) Where—

(a) an earner has a guaranteed minimum in relation to the pension provided by a scheme, and

(b) his right to the pension becomes subject to a pension debit,

his guaranteed minimum in relation to the scheme is, subject to subsection (2), reduced by the appropriate percentage.

(2) Where the earner is in pensionable service under the scheme on the day on which the order or provision on which the pension debit depends takes effect, his guaranteed minimum in relation to the scheme is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.

(3) For the purposes of subsection (2), the corresponding qualifying benefit is the guaranteed minimum taken for the purpose of calculating the cash equivalent by reference to which the amount of the pension debit is determined.

(4) For the purposes of this section, the appropriate percentage is—

(a) if the order or provision on which the pension debit depends specifies the percentage value to be transferred, that percentage;

(b) if the order or provision on which the pension debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of paragraph (1) of Article 26 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (lesser of specified amount and cash equivalent of transferor's benefits) represents of the amount mentioned in paragraph (3)(b) of that Article (cash equivalent of transferor's benefits).”.

(4) In section 43 (entitlement to guaranteed minimum pensions for the purposes of the relationship with social security benefits), at the end there shall be added—

“(6) For the purposes of section 42, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any reduction under section 11A.”.

(5) In section 176(1), there shall be inserted at the appropriate place—

““ pension debit ” means a debit under Article 26(1)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;”.

F51 Art. 29(2) repealed (6.4.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

Pension credits

Time for discharge of liability

30.—(1) A person subject to liability in respect of a pension credit shall discharge his liability before the end of the implementation period for the credit.

(2) Where the trustees or managers of an occupational pension scheme have not done what is required to discharge their liability in respect of a pension credit before the end of the implementation period for the credit—

(a) they shall, except in such cases as the Department may prescribe by regulations, notify the Authority of that fact within such period as the Department may so prescribe, and

(b) Article 10 of the Pensions Order (power of the Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that liability in respect of the credit was discharged before the end of the implementation period for it.

(3) If trustees or managers to whom paragraph (2)(a) applies fail to perform the obligation imposed by that provision, Article 10 of the Pensions Order shall apply to any trustee or manager who has failed to take all reasonable steps to ensure that the obligation was performed.

(4) On the application of the trustees or managers of an occupational pension scheme who are subject to liability in respect of a pension credit, the Authority may extend the implementation period for the credit for the purposes of this Article if it is satisfied that the application is made in such circumstances as the Department may prescribe by regulations.

(5) In this Article "the Authority" means**[**[F52] the Pensions Regulator**]**.

F52 2005 NI 1

"Implementation period"

31 [F53]**.**—(1) For the purposes of this Chapter, the implementation period for a pension credit is the period of 4 months beginning with (and including) the later of—

(a) the day on which the relevant order or provision takes effect, and

(b) the first day on which the person responsible for the pension arrangement to which the relevant order or provision relates is in receipt of—

(i) the relevant[F54]. . . documents, and

(ii) such information relating to the transferor and transferee as the Department may prescribe by regulations.

(2) The reference in paragraph (1)(b)(i) to the relevant[F54]. . . documents is to copies of—

(a) the relevant order or provision, and

(b) the order, decree or declarator responsible for the divorce**[**[F54], dissolution**]** or annulment to which it relates,

and, if the pension credit depends on provision falling within section 28(1)(f) of the Welfare Reform Act, to documentary evidence that the agreement containing the provision is one to which subsection (3)(a) of that section applies.

(3) Paragraph (1) is subject to any provision made by regulations under Article 38(2)(a).

(4) The Department may by regulations—

(a) make provision requiring a person subject to liability in respect of a pension credit to notify the transferor and transferee of the day on which the implementation period for the credit begins;

(b) provide for this Article to have effect with modifications where the pension arrangement to which the relevant order or provision relates is being wound up;

(c) provide for this Article to have effect with modifications where the pension credit depends on a pension sharing order and the order is the subject of an application for leave to appeal out of time.

(5) In this Article—

"relevant order or provision", in relation to a pension credit, means the pension sharing order or provision on which the pension credit depends;

"transferor" means the person to whose rights the relevant order or provision relates;

"transferee" means the person for whose benefit the relevant order or provision is made.

F53 mod. by SR 2000/145
F54 2004 c.33

Mode of discharge of liability

32.—(1) Schedule 5 (which makes provision about how liability in respect of a pension credit may be discharged) shall have effect.

(2) Where the person entitled to a pension credit dies before liability in respect of the credit has been discharged—

(a) Schedule 5 shall cease to have effect in relation to the discharge of liability in respect of the credit, and

(b) liability in respect of the credit shall be discharged in accordance with regulations made by the Department.

Treatment of pension credit rights under schemes

Safeguarded rights

33. [F55] . . . . . .

F55 Art. 33 repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

Requirements relating to pension credit benefit

34. After section 97 of the Pension Schemes Act there shall be inserted—

"PART IVA

REQUIREMENTS RELATING TO PENSION CREDIT BENEFIT

CHAPTER I

PENSION CREDIT BENEFIT UNDER OCCUPATIONAL SCHEMES

Scope of Chapter I.

97A.—(1) This Chapter applies to any occupational pension scheme whose resources are derived in whole or part from—

(a) payments to which subsection (2) applies made or to be made by one or more employers of earners to whom the scheme applies, or

(b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

(2) This subsection applies to payments—

(a) under an actual or contingent legal obligation, or

(b) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money.

Interpretation.

97B. In this Chapter—

"scheme" means an occupational pension scheme to which this Chapter applies;

"pension credit rights" means rights to future benefits under a scheme which are attributable (directly or indirectly) to a pension credit;

"pension credit benefit", in relation to a scheme, means the benefits payable under the scheme to or in respect of a person by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit;

"normal benefit age", in relation to a scheme, means the earliest age at which a person who has pension credit rights under the scheme is entitled to receive a pension by virtue of those rights (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise).

Basic principle as to pension credit benefit.

97C.—(1) Normal benefit age under a scheme must be between 60 and 65.

(2) A scheme must not provide for payment of pension credit benefit in the form of a lump sum at any time before normal benefit age, except in such circumstances as may be prescribed.

Form of pension credit benefit and its alternatives.

97D.—(1) Subject to subsection (2) and section 97E, a person's pension credit benefit under a scheme must be—

(a) payable directly out of the resources of the scheme, or

(b) assured to him by such means as may be prescribed.

(2) Subject to subsections (3) and (4), a scheme may, instead of providing a person's pension credit benefit, provide—

(a) for his pension credit rights under the scheme to be transferred to another occupational pension scheme or a personal pension scheme with a view to acquiring rights for him under the rules of the scheme, or

(b) for such alternatives to pension credit benefit as may be prescribed.

(3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter II of this Part.

(4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for pension credit benefit—

(a) if the person entitled to the benefit consents, or

(b) in such other cases as may be prescribed.

Discharge of liability where pension credit or alternative benefits secured by insurance policies or annuity contracts.

97E.—(1) A transaction to which section 15 applies discharges the trustees or managers of a scheme from their liability to provide pension credit benefit or any alternative to pension credit benefit for or in respect of a member of the scheme if and to the extent that—

(a) it results in pension credit benefit, or any alternative to pension credit benefit, for or in respect of the member being appropriately secured (within the meaning of that section),

(b) the transaction is entered into with the consent of the member or, if the member has died, of the member's widow or widower, and

(c) such requirements as may be prescribed are met.

(2) Regulations may provide that subsection (1)(b) shall not apply in prescribed circumstances.

CHAPTER II

TRANSFER VALUES

Power to give transfer notice.

97F.—(1) An eligible member of a qualifying scheme may by notice in writing require the trustees or managers of the scheme to use an amount equal to the cash equivalent of his pension credit benefit for such one or more of the authorised purposes as he may specify in the notice.

(2) In the case of a member of an occupational pension scheme, the authorised purposes are—

(a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme;

(b) to purchase from one or more insurance companies such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy the prescribed requirements; and

(c) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.

(3) In the case of a member of a personal pension scheme, the authorised purposes are—

(a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme; and

(b) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.

(4) The cash equivalent for the purposes of subsection (1) shall—

(a) in the case of a salary related occupational pension scheme, be taken to be the amount shown in the relevant statement under section 97H, and

(b) in any other case, be determined by reference to the date the notice under that subsection is given.

(5) The requirements which may be prescribed under subsection (2) or (3) include, in particular, requirements of the Inland Revenue.

(6) In subsections (2) and (3), references to an eligible scheme are to a scheme—

(a) the trustees or managers of which are able and willing to accept payment in respect of the member's pension credit rights, and

(b) which satisfies the prescribed requirements.

(7) In this Chapter, “transfer notice” means a notice under subsection (1).

Restrictions on power to give transfer notice.

97G.—(1) In the case of a salary related occupational pension scheme, the power to give a transfer notice may only be exercised if—

(a) the member has been provided with a statement under section 97H, and

(b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.

(2) The power to give a transfer notice may not be exercised in the case of an occupational pension scheme if—

(a) there is less than a year to go until the member reaches normal benefit age, or

(b) the pension to which the member is entitled by virtue of his pension credit rights, or benefit in lieu of that pension, or any part of it has become payable.

(3) Where an eligible member of a qualifying scheme—

(a) is entitled to make an application under section 91 to the trustees or managers of the scheme, or

(b) would be entitled to do so, but for the fact that he has not received a statement under section 89A in respect of which the guarantee date is sufficiently recent,

he may not, if the scheme so provides, exercise the power to give them a transfer notice unless he also makes an application to them under section 91.

(4) The power to give a transfer notice may not be exercised if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.

Salary related schemes: statements of entitlement.

97H.—(1) The trustees or managers of a qualifying scheme which is a salary related occupational pension scheme shall, on the application of an eligible member, provide him with a written statement of the amount of the cash equivalent of his pension credit benefit under the scheme.

(2) For the purposes of subsection (1), the amount of the cash equivalent shall be determined by reference to a date falling within—

(a) the prescribed period beginning with the date of the application, and

(b) the prescribed period ending with the date on which the statement under that subsection is provided to the applicant.

(3) Regulations may make provision in relation to applications under subsection (1) and may, in particular, restrict the making of successive applications.

(4) If trustees or managers to whom subsection (1) applies fail to perform an obligation under that subsection, Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to secure that the obligation was performed.

Calculation of cash equivalents.

97I. Cash equivalents for the purposes of this Chapter shall be calculated and verified in the prescribed manner.

Time for compliance with transfer notice.

97J.—(1) Trustees or managers of a qualifying scheme who receive a transfer notice shall comply with the notice—

(a) in the case of an occupational pension scheme, within 6 months of the valuation date or, if earlier, by the date on which the member to whom the notice relates reaches normal benefit age, and

(b) in the case of a personal pension scheme, within 6 months of the date on which they receive the notice.

(2) The Regulatory Authority may, in prescribed circumstances, extend the period for complying with the notice.

(3) If the Regulatory Authority are satisfied—

(a) that there has been a relevant change of circumstances since they granted an extension under subsection (2), or

(b) that they granted an extension under that subsection in ignorance of a material fact or on the basis of a mistake as to a material fact,

they may revoke or reduce the extension.

(4) Where the trustees or managers of an occupational pension scheme have failed to comply with a transfer notice before the end of the period for compliance—

(a) they shall, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and

(b) Article 10 of the Pensions (Northern Ireland) Order 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the notice was complied with before the end of the period for compliance.

(5) If trustees or managers to whom subsection (4)(a) applies fail to perform the obligation imposed by that provision, Article 10 of the Pensions (Northern Ireland) Order 1995 shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the obligation was performed.

(6) Regulations may—

(a) make provision in relation to applications under subsection (2), and

(b) provide that subsection (4) shall not apply in prescribed circumstances.

(7) In this section "valuation date", in relation to a transfer notice given to the trustees or managers of an occupational pension scheme, means—

(a) in the case of a salary related scheme, the date by reference to which the amount shown in the relevant statement under section 97H is determined, and

(b) in the case of any other scheme, the date the notice is given.

Withdrawal of transfer notice.

97K.—(1) Subject to subsections (2) and (3), a person who has given a transfer notice may withdraw it by giving the trustees or managers to whom it was given notice in writing that he no longer requires them to comply with it.

(2) A transfer notice may not be withdrawn if the trustees or managers have already entered into an agreement with a third party to use the whole or part of the amount they are required to use in accordance with the notice.

(3) If the giving of a transfer notice depended on the making of an application under section 91, the notice may only be withdrawn if the application is also withdrawn.

Variation of the amount required to be used.

97L.—(1) Regulations may make provision for the amount required to be used under section 97F(1) to be increased or reduced in prescribed circumstances.

(2) Without prejudice to the generality of subsection (1), the circumstances which may be prescribed include—

(a) failure by the trustees or managers of a qualifying scheme to comply with a notice under section 97F(1) within 6 months of the date by reference to which the amount of the cash equivalent falls to be determined, and

(b) the state of funding of a qualifying scheme.

(3) Regulations under subsection (1) may have the effect of extinguishing an obligation under section 97F(1).

Effect of transfer on trustees' duties.

97M. Compliance with a transfer notice shall have effect to discharge the trustees or managers of a qualifying scheme from any obligation to provide the pension credit benefit of the eligible member who gave the notice.

Matters to be disregarded in calculations.

97N. In making any calculation for the purposes of this Chapter—

(a) any charge or lien on, and

(b) any set-off against,

the whole or part of a pension shall be disregarded.

Service of notices.

97O. A notice under section 97F(1) or 97K(1) shall be taken to have been given if it is delivered to the trustees or managers personally or sent by post in a registered letter or by recorded delivery service.

Interpretation of Chapter II.

97P.—(1) In this Chapter—

"eligible member", in relation to a qualifying scheme, means a member who has pension credit rights under the scheme;

"normal benefit age", in relation to an eligible member of a qualifying scheme, means the earliest age at which the member is entitled to receive a pension by virtue of his pension credit rights under the scheme (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise);

"pension credit benefit", in relation to an eligible member of a qualifying scheme, means the benefits payable under the scheme to or in respect of the member by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit;

"pension credit rights", in relation to a qualifying scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

"qualifying scheme" means a funded occupational pension scheme and a personal pension scheme;

"transfer notice" has the meaning given by section 97F(7).

(2) For the purposes of this Chapter, an occupational pension scheme is salary related if—

(a) it is not a money purchase scheme, and

(b) it does not fall within a prescribed class.

(3) In this Chapter, references to the relevant statement under section 97H, in relation to a transfer notice given to the trustees or managers of a salary related occupational pension scheme, are to the statement under that section on which the giving of the notice depended.

(4) For the purposes of this section, an occupational pension scheme is funded if it meets its liabilities out of a fund accumulated for the purpose during the life of the scheme.

Power to modify Chapter II in relation to hybrid schemes.

97Q. Regulations may apply this Chapter with prescribed modifications to occupational pension schemes—

(a) which are not money purchase schemes, but

(b) where some of the benefits that may be provided are money purchase benefits.”.

Treatment in winding up

Para. (1) rep. by 2005 NI 1

(2) In the case of an occupational pension scheme which is not a scheme to which**[**[F56] this Article**]** applies, rights attributable (directly or indirectly) to a pension credit are to be accorded in a winding up the same treatment—

(a) if they have come into payment, as the rights of a pensioner member, and

(b) if they have not come into payment, as the rights of a deferred member.

[[F56](2A) This Article applies to an occupational pension scheme other than—

(a) a money purchase scheme, or

(b) a prescribed scheme or a scheme of a prescribed description.**]**

(3) Paragraph (2) overrides the provisions of a scheme to the extent that it conflicts with them, and the scheme has effect with such modifications as may be required in consequence.

(4) In paragraph (2)—

(a) “deferred member” and “pensioner member” have the same meanings as in Part II of the Pensions Order;

(b) “pension credit” includes a credit under section 29(1)(b) of the Welfare Reform Act;

(c) references to rights attributable to a pension credit having come into payment are to the person to whom the rights belong having become entitled by virtue of the rights to the present payment of pension or other benefits.

F56 2005 NI 1

Indexation

Public service pension schemes

36.—(1) The Pensions (Increase) Act (Northern Ireland) 1971 shall be amended as follows.

(2) In section 3 (qualifying conditions), after subsection (2) there shall be inserted—

“(2A) A pension attributable to the pensioner having become entitled to a pension credit shall not be increased unless the pensioner has attained the age of fifty-five years.” .

(3) In section 8—

(a) in subsection (1) (definition of "pension"), in paragraph (a), the words from "(either" to "person)" shall be omitted;

(b) in subsection (2) (when pension deemed for purposes of the Act to begin), after "pension", in the first place where that word occurs, there shall be inserted " which is not attributable to a pension credit "; and

(c) after that subsection there shall be inserted—

"(2A) A pension which is attributable to a pension credit shall be deemed for purposes of this Act to begin on the day on which the order or provision on which the credit depends takes effect." .

(4) In section 15(1) (interpretation)—

(a) for the definitions of "derivative pension" and "principal pension" there shall be substituted—

"" derivative pension " means a pension which—

(a) is not payable in respect of the pensioner's own services, and

(b) is not attributable to the pensioner having become entitled to a pension credit;" ,

(b) after the definition of "pension" there shall be inserted—

"" pension credit " means a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 or under section 29(1)(b) of the Welfare Reform and Pensions Act 1999;

"principal pension" means a pension which—

(a) is payable in respect of the pensioner's own services; or

(b) is attributable to the pensioner having become entitled to a pension credit;" , and

(c) for the definition of "widow's pension" there shall be substituted—

"" widow's pension " means a pension payable—

(a) in respect of the services of the pensioner's deceased husband, or

(b) by virtue of the pensioner's deceased husband having become entitled to a pension credit." .

Other pension schemes

37.—(1) The Department may by regulations make provision for a pension to which paragraph (2) applies to be increased, as a minimum, by reference to **[**[F57]relevant percentage increases**]** , so far as not exceeding**[**[F58] the maximum percentage**]** per annum.

(2) **[**[F58]Subject to paragraph (2A), this**]** paragraph applies to—

(a) a pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme, [F59]. . .

(b) [F60]. . . . . .

[[F58](2A) Paragraph (2) does not apply to pensions which—

(a) are money purchase benefits, and

(b) become pensions in payment on or after the commencement day.

[

[F61](2AA) In paragraph (1) "relevant percentage increases" means percentage increases estimated by the Secretary of State from time to time for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.**]**

(2B) For the purposes of paragraph (1) the "maximum percentage" means—

(a) 5 per cent. in a case where—

(i) the pension is in payment before the commencement day, or

(ii) the pension is not in payment before the commencement day but the entitlement to the relevant pension credit arose before that day, and

(b) 2.5 per cent. in a case where the entitlement to the relevant pension credit arises on or after the commencement day.**]**

(3) In this Article—

[[F58]"commencement day" means the day appointed for the coming into operation of Article 257 of the Pensions (Northern Ireland) Order 2005 (amendments to Article 37);**]**

"eligible", in relation to pension credit rights, means of a description prescribed by regulations made by the Department;

[[F58]"money purchase benefit" has the meaning given by section 176(1) of the Pension Schemes Act;**]**

"pension credit rights", in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a credit under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act;

"qualifying occupational pension scheme" means an occupational pension scheme which is not a public service pension scheme;

[[F58]"relevant pension credit" means the pension credit to which the eligible pension credit rights [F62]. . . are (directly or indirectly) attributable;**]**

[F63] . . . . . .

F57 Words in art. 37(1) substituted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 20(10)**, 34(3); S.R. 2012/233, art. 2(2)(e)

F58 2005 NI 1

F59 Art. 37(2)(b) and preceding word repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

F60 Art. 37(2)(b) and preceding word repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

F61 Art. 37(2AA) inserted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 20(11)**, 34(3); S.R. 2012/233, art. 2(2)(e)

F62 Words in art. 37(3) in definition of "relevant pension credit" repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

F63 Art. 37(3): definition of "safeguarded rights" repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

Charges by pension arrangements

Charges in respect of pension sharing costs

38.—(1) The Department may by regulations make provision for the purpose of enabling the person responsible for a pension arrangement involved in pension sharing to recover from the parties to pension sharing prescribed charges in respect of prescribed descriptions of pension sharing activity.

(2) Regulations under paragraph (1) may include—

(a) provision for the start of the implementation period for a pension credit to be postponed in prescribed circumstances;

(b) provision, in relation to payments in respect of charges recoverable under the regulations, for reimbursement as between the parties to pension sharing;

(c) provision, in relation to the recovery of charges by deduction from a pension credit, for the modification of Schedule 5;

(d) provision for the recovery in prescribed circumstances of such additional amounts as may be determined in accordance with the regulations.

(3) For the purposes of regulations under paragraph (1), the question of how much of a charge recoverable under the regulations is attributable to a party to pension sharing is to be determined as follows—

(a) where the relevant order or provision includes provision about the apportionment of charges under this Article, there is attributable to the party so much of the charge as is apportioned to him by that provision;

(b) where the relevant order or provision does not include such provision, the charge is attributable to the transferor.

(4) For the purposes of paragraph (1), a pension arrangement is involved in pension sharing if Article 26 applies by virtue of an order or provision which relates to the arrangement.

(5) In that paragraph, the reference to pension sharing activity is to activity attributable (directly or indirectly) to the involvement in pension sharing.

(6) In paragraph (3)—

(a) the reference to the relevant order or provision is to the order or provision which gives rise to the pension sharing, and

(b) the reference to the transferor is to the person to whose rights that order or provision relates.

(7) In this Article "prescribed" means prescribed in regulations under paragraph (1).

Adaptation of statutory schemes

Extension of scheme-making powers

39.—(1) Power under any statutory provision to establish a pension scheme shall include power to make provision for the provision, by reference to pension credits which derive from rights under—

(a) the scheme, or

(b) a scheme in relation to which the scheme is specified as an alternative for the purposes of paragraph 2 of Schedule 5,

of benefits to or in respect of those entitled to the credits.

(2) Paragraph (1) is without prejudice to any other power.

(3) Paragraph (1) shall apply in relation to statutory provisions whenever passed or made.

(4) No obligation to consult shall apply in relation to the making, in exercise of a power under any statutory provision to establish a pension scheme, of provision of a kind authorised by paragraph (1).

(5) Any statutory provision which makes benefits under a pension scheme established under a statutory provision a charge on, or payable out of—

(a) the Consolidated Fund; or

(b) the Consolidated Fund of the United Kingdom,

shall be treated as including any benefits under the scheme which are attributable (directly or indirectly) to a pension credit which derives from rights to benefits charged on, or payable out of, that fund.

(6) In this Article—

"pension credit" includes a credit under section 29(1)(b) of the Welfare Reform Act;

"pension scheme" means a scheme or arrangement providing benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of persons to whom the scheme or arrangement applies.

Power to extend judicial pension schemes

40.—(1) The appropriate authority may by regulations amend any statutory provision to which paragraph (2) applies for the purpose of—

(a) extending a pension scheme under that statutory provision to include the provision, by reference to pension credits which derive from rights under—

(i) the scheme, or

(ii) a scheme in relation to which the scheme is specified as an alternative for the purpose of paragraph 2 of Schedule 5,

of benefits to or in respect of those entitled to the credits, or

(b) restricting the power of the appropriate authority to accept payments into a pension scheme under that statutory provision, where the payments represent the cash equivalent of rights under another pension scheme which are attributable (directly or indirectly to a pension credit).

(2) For the purposes of this Article, this paragraph applies to the pension schemes under the following statutory provisions, namely—

(a) the Judicial Pensions Act (Northern Ireland) 1951;

(b) the County Courts Act (Northern Ireland) 1959;

(c) the Resident Magistrates' Pensions Act (Northern Ireland) 1960;

(d) the Lands Tribunal and Compensation Act (Northern Ireland) 1964;

(e) the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;

(f) the Social Security (Northern Ireland) Act 1975;[F64]. . .

(g) the Judicature (Northern Ireland) Act 1978.

[[F64](h) the Judicial Pensions Act 1981 (c. 20); and

(i) the Judicial Pensions and Retirement Act 1993 (c. 8).**]**

(3) Regulations under paragraph (1)—

(a) may make benefits provided by virtue of sub-paragraph (a) of that paragraph a charge on, and payable out of, the Consolidated Fund in the case of pension schemes to which paragraph**[**[F64] (2)(d) or (e)**]** applies or the Consolidated Fund of the United Kingdom in the case of pension schemes to which paragraph**[**[F64] (2)(a), (b), (c), (f), (g), (h) or (i)**]** applies;

(b) may confer power to make subordinate legislation, including subordinate legislation which provides for calculation of the value of rights in accordance with guidance from time to time prepared by a person specified in the subordinate legislation.

(4) The appropriate authority for the purposes of paragraph (1) is—

(a) in relation to a pension scheme referred to in paragraph**[**[F64] (2)(a), (b), (c), (f), (g), (h) or (i)**]**, the Lord Chancellor;

(b) in relation to a pension scheme referred to in paragraph (2)(d), the Department of Finance and Personnel;

(c) in relation to a pension scheme referred to in paragraph (2)(e), the Department of Economic Development.

(5) In this Article—

"pension credit" includes a credit under section 29(1)(b) of the Welfare Reform Act;

"pension scheme" means a scheme or arrangement providing benefits in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of persons to whom the scheme or arrangement applies.

F64 2002 c. 26

Supplementary

Disapplication of restrictions on alienation

41. Nothing in any of the following provisions (restrictions on alienation of pension rights) applies in relation to any order or provision falling within Article 25(1)—

(a) section 155(4) and (4A) of the Pension Schemes Act,

(b) Article 89 of the Pensions Order,

(c) any statutory provision (whether passed or made before or after this Order is made) corresponding to any of the statutory provisions mentioned in paragraphs (a) and (b), and

(d) any provision of a pension arrangement corresponding to any of those statutory provisions.

Information

42.—(1) The Department may by regulations require the person responsible for a pension arrangement involved in pension sharing to supply to such persons as it may specify in the regulations such information relating to anything which follows from the application of Article 26 as it may so specify.

(2) Section 164 of the Pension Schemes Act (breach of regulations) shall apply as if this Article were contained in that Act (otherwise than in Chapter II of Part VII).

(3) For the purposes of this Article, a pension arrangement is involved in pension sharing if Article 26 applies by virtue of an order or provision which relates to the arrangement.

Interpretation of Chapter I

43.—(1) In this Chapter—

"implementation period", in relation to a pension credit, has the meaning given by Article 31;

"occupational pension scheme" has the meaning given by section 1 of the Pension Schemes Act;

"pension arrangement" means—

(a) an occupational pension scheme,

(b) a personal pension scheme,

(c) a retirement annuity contract,

(d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and

(e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a credit under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act;

"pension credit" means a credit under Article 26(1)(b);

"pension debit" means a debit under Article 26(1)(a);

"pensionable service", in relation to a member of an occupational pension scheme, means service in any description[F65] or category of employment to which the scheme relates which qualifies the member (on the assumption that it continues for the appropriate period) for pension or other benefits under the scheme;

"personal pension scheme" has the meaning given by section 1 of the Pension Schemes Act;

[[F66]"retirement annuity contract" means an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which became a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004,**]**

"shareable rights" has the meaning given by Article 24(2);

"trustees or managers", in relation to an occupational pension scheme or a personal pension scheme means—

(a) in the case of a scheme established under a trust, the trustees of the scheme, and

(b) in any other case, the managers of the scheme.

(2) In this Chapter, references to the person responsible for a pension arrangement are—

(a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,

(b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of "pension arrangement" in paragraph (1), to the provider of the annuity, and

(c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, to the insurer.

(3) In determining what is "pensionable service" for the purposes of this Chapter—

(a) service notionally attributable for any purpose of the scheme is to be disregarded, and

(b) no account is to be taken of any rules of the scheme by which a period of service can be treated for any purpose as being longer or shorter than it actually is.

F65 prosp. rep. by 2005 NI 1

F66 Art. 43(1): definition of "retirement annuity contract" substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(4)**

CHAPTER II

SHARING OF STATE SCHEME RIGHTS

Shareable state scheme rights

44.—(1) Pension sharing is available under this Chapter in relation to a person's shareable state scheme rights.

[[F67](1A) For the purposes of this Chapter, a person's shareable state scheme rights are—

(a) the person's shareable old state scheme rights;

(b) the person's shareable new state scheme rights.**]**

(2) For the purposes of this Chapter, a person's shareable **[**[F68]old**]** state scheme rights are—

(a) his entitlement, or prospective entitlement to a Category A retirement pension by virtue of section 44(3)(b) of the Contributions and Benefits Act ([F69]... additional pension), and

(b) his entitlement, or prospective entitlement, to a pension under section 55A **[**[F70]or 55AA**]** of that Act (shared additional pension).

[[F71](3) For the purposes of this Chapter, a person's shareable new state scheme rights are the person's entitlement, or prospective entitlement, to the excess amount in a state pension under section4 of the Pensions Act (Northern Ireland) 2015.

(4) "The excess amount", in relation to a state pension under section4 of the Pensions Act (Northern Ireland) 2015, means any amount by which the rate of the pension exceeds the full rate of the state pension (see section 3 of that Act).

(5) In determining the rate of a state pension under section4 of the Pensions Act (Northern Ireland) 2015 for the purposes of this Chapter, ignore Schedule 6 to that Act (reduced rate elections: effect on rate of section 4 pension).**]**

F67 Art. 44(1A) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 9(2)**

F68 Word in art. 44(2) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 9(3)(a)**

F69 Word in art. 44(2)(a) omitted (12.10.2015) by virtue of Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 15 para. 7**; S.R. 2015/329, art. 2(3)

F70 Words in art. 44(2)(b) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 9(3)(b)**

F71 Art. 44(3)-(5) added (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 9(4)**

Activation of benefit sharing

45.—(1) **[**[F72]Article 46 or 46A applies where any of the following has taken effect in relation to a person's shareable state scheme rights**]** —

(a) a pension sharing order under the Matrimonial Causes Order;

[[F73](aa) a pension sharing order under Schedule 15 to the Civil Partnership Act 2004,**]**

(b) an order under Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order mentioned in sub-paragraph (a);

[[F73](ba) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),**]**

(c) an order or provision to which any of paragraphs (a) to (g) of subsection (1) of section 48 of the Welfare Reform Act applies (pension sharing orders under the Matrimonial Causes Act 1973 and the Family Law (Scotland) Act 1985 and other provisions and orders in Great Britain corresponding to pension sharing orders under those Acts).

(2) The reference in paragraph (1) to paragraphs (a) to (g) of subsection (1) of section 48 of the Welfare Reform Act is to those paragraphs as they have effect subject to the provisions of that section and section 85(5) of that Act.

F72 Words in art. 45(1) substituted (16.7.2015 for specified purposes, 6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 10**; S.R. 2015/307, art. 2(2)(k)

F73 2004 c.33

Creation of state scheme pension debits and credits [F74: transferor in old state pension system or pension sharing activated before 6 April 2016]

46.—[F75(A1) This Article applies if—

(a) the transferor is in the old state pension system, or

(b) the transferor is in the new state pension system but the transfer day was before 6 April 2016.

(1) Where this Article applies because of a relevant order or provision—

(a) the transferor is subject, for the purposes of the relevant state pension legislation, to a debit of the appropriate amount, and

(b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of that amount.**]**

(2) Where the relevant order or provision specifies a percentage value to be transferred, the appropriate amount for the purposes of paragraph (1) is the specified percentage of the cash equivalent on the transfer day of the transferor's shareable **[F76**old**]** state scheme rights immediately before that day.

(3) Where the relevant order or provision specifies an amount to be transferred, the appropriate amount for the purposes of paragraph (1)is the lesser of—

(a) the specified amount, and

(b) the cash equivalent on the transfer day of the transferor's **[F77**shareable old**]** state scheme rights immediately before that day.

[F78(4) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this Article.

(4A) The power conferred by paragraph (4) includes power to provide—

(a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and

(b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.**]**

(5) In determining prospective entitlement to a Category A retirement pension for the purposes of this Article, only tax years before that in which the transfer day falls shall be taken into account.

[F79(5A) The fact that a person who reaches pensionable age on or after 6 April 2016 is not entitled to a pension of the kind mentioned in Article 44(2)(a) or (b) does not affect the calculation under this Article of the appropriate amount by reference to the transferor's prospective entitlement, immediately before the transfer day, to a pension of that kind.**]**

(6) In this Article—

"relevant order or provision" means the order or provision by virtue of which this Article applies;

[F80"the relevant state pension legislation"—

(a) in relation to a transferor or transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and

(b) in relation to a transferor or transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;**]**

"transfer day" means the day on which the relevant order or provision takes effect;

"transferor" means the person to whose rights the relevant order or provision relates;

"transferee" means the person for whose benefit the relevant order or provision is made.

F74 Art. 46 heading words inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(7)**

F75 Art. 46(A1)(1) substituted for art. 46(1) (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(2)**

F76 Word in art. 46(2) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(3)**

F77 Words in art. 46(3)(b) substituted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(4)**

F78 2000 c. 4 (NI)

F79 Art. 46(5A) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(5)**

F80 Words in art. 46(6) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 11(6)**

Modifications etc. (not altering text)

C13 Art. 46 applied (6.4.2016) by The Pensions (2015 Act) (Pension Sharing on Divorce etc.) (Transitional Provision) Order (Northern Ireland) 2016 (S.R. 2016/99), arts. 1(1), **2(2)(a)**

[F81Creation of debits and credits: transferor in new state pension system and sharing activated on or after 6 April 2016

46A.—(1) This Article applies if—

(a) the transferor is in the new state pension system, and

(b) the transfer day is 6 April 2016 or any later date.

(2) Where this Article applies because of a relevant order or provision—

(a) the transferor is subject, for the purposes of section 14 of the Pensions Act (Northern Ireland) 2015, to a debit of the shared weekly amount, and

(b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of the shared weekly amount.

(3) The shared weekly amount is the specified percentage of the excess amount of the transferor's state pension under section 4 of the Pensions Act (Northern Ireland) 2015 as at the transfer day.

(4) For the purposes of calculating the shared weekly amount—

(a) a transferor who is under pensionable age on the transfer day is to be treated as having reached pensionable age and to have become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 on the transfer day;

(b) a transferor who has reached pensionable age on the transfer day but who has not yet become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 is to be treated as having become entitled to the pension on that day.

(5) In this Article—

"the excess amount" has the meaning given by Article 44(4);

"relevant order or provision" means the order or provision by virtue of which this Article applies (see Article 45);

"the relevant state pension legislation"—

(a) in relation to a transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and

(b) in relation to a transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;

"specified percentage" means the percentage specified in the relevant order or provision for the purposes of paragraph (3);

"transfer day" means the day on which the relevant order or provision takes effect;

"transferor" means the person to whose rights the relevant order or provision relates;

"transferee" means the person for whose benefit the relevant order or provision is made.**]**

F81 Art. 46A inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 12**

Modifications etc. (not altering text)

C14 Art. 46A transitional provisions for effects of 2015 c. 5 (N.I.), **Sch. 11 para. 12** (6.4.2016) by The Pensions (2015 Act) (Pension Sharing on Divorce etc.) (Transitional Provision) Order (Northern Ireland) 2016 (S.R. 2016/99), **art. 2(1)**

C15 Art. 46A excluded (6.4.2016) by The Pensions (2015 Act) (Pension Sharing on Divorce etc.) (Transitional Provision) Order (Northern Ireland) 2016 (S.R. 2016/99), **art. 2(2)(b)**

Effect of state scheme pension debits and credits

47.—(1) Schedule 6 (which amends the Contributions and Benefits Act for the purpose of giving effect to debits and credits under Article 46(1)) shall have effect.

(2) [F82]. . . . . .

F82 Art. 47(2) repealed (17.2.2005) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), **arts. 1(3)**, 291, Sch. 9 para. 19, Sch. 11

Interpretation of Chapter II

48.—**[**[F83](1)**]** In this Chapter—

[[F84]"shareable state scheme rights", and related expressions, have the meaning given by Article 44;**]** and

"tax year" has the meaning given by section 121(1) of the Contributions and Benefits Act.

[[F85](2) For the purposes of this Chapter—

(a) a person is in the old state pension system if the person reached pensionable age before 6 April 2016 (or would have done so if the person had lived until pensionable age), and

(b) a person is in the new state pension system if the person reached pensionable age on or after 6 April 2016 (or will do so if the person lives until pensionable age).**]**

F83 Art. 48(1): art. 48 renumbered as art. 48(1) (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 13(2)**

F84 Words in art. 48(1) substituted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 13(3)**

F85 Art. 48(2) inserted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 11 para. 13(4)**

PART VI

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

Additional pensions

Preservation of rights in respect of additional pensions

49.—(1) The Department may by regulations make such provision as is authorised by one or more of paragraphs (2) to**[**[F86] (4A)**]**.

(2) The regulations may provide for any prescribed provision of Part II of the Contributions and Benefits Act (contributory benefits) which relates to additional pension for**[**[F87] widows, widowers or surviving civil partners**]** to have effect, in relation to persons of any prescribed description, with such modifications as may be prescribed for securing—

(a) that any such additional pension, or

(b) in the case of any provision of Schedule 5 to that Act (increase of pension **[**[F88]or payment of lump sum**]** where entitlement is deferred), that any constituent element of an increase **[**[F89]or of a lump sum**]** provided for by that Schedule,

is increased by such percentage as may be prescribed (which may be 100 per cent.).

[[F86](3) The regulations may amend (or further amend) any prescribed provision set out in section 35(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (which sets out provisions falling within paragraph (2)) so as to substitute a reference to a later date for—

(a) any reference in that provision to 5th October 2002 or 6th October 2002; or

(b) any reference to a date inserted in that provision by a substitution made by virtue of this paragraph.**]**

(4) The regulations may make provision for and in connection with—

(a) the establishment, for a prescribed period, of a scheme for dealing with claims made by persons on the grounds that, in reliance on any incorrect or incomplete information provided by a government department with respect to the SERPS reduction (however that information came to their knowledge), they—

(i) failed to take any, or any particular, relevant steps which they would have taken, or

(ii) took any steps which they would not have taken, had they instead received correct and complete information with respect to that reduction; and

(b) securing that, where persons have made successful claims under the scheme, surviving spouses of those persons (or, as the case may be, those persons themselves) will not be affected by the SERPS reduction.

[[F86](4A) The regulations may provide, for the purposes of any provision made by virtue of paragraph (4), for a case in which a person who, as a consequence of receiving incorrect or incomplete information, did not give any consideration to—

(a) the taking of a step which is a step he might have taken had he considered the matter on the basis of correct and complete information, or

(b) refraining from taking a step which is a step he did take but might have refrained from taking had he considered the matter on that basis,

to be treated as a case in which his failure to take the step, or his taking of the step he did take, was in reliance on the incorrect or incomplete information and as a case in which that step is one which he would have taken, or (as the case may be) would not have taken, had the information been correct and complete.**]**

(5) In paragraph (4) "relevant steps", in relation to a person, means steps towards safeguarding the financial position of that person's spouse in the event of the spouse becoming that person's surviving spouse or (as the case may be) towards safeguarding that person's own financial position in the event of that person becoming a surviving spouse (whether or not, in either case, that person was at any material time already married); and "the SERPS reduction" means—

(a) (in the context of paragraph (4)(a)) the operation of any of—

(i) the provisions of Article 20 of the Social Security (Northern Ireland) Order 1986, or

(ii) the provisions of Part II of the Contributions and Benefits Act reproducing the effect of those provisions;

(b) (in the context of paragraph (4)(b)) the operation of any of the provisions of the Contributions and Benefits Act mentioned in sub-paragraph (a)(ii) or of section 39C(4) or 48BB(7) of that Act.

(6) Regulations under paragraph (4) may, in particular, make provision—

(a) with respect to the time within which, and the manner in which, claims under the scheme are to be made;

(b) for requiring claimants—

(i) to supply such information in connection with their claims as may be prescribed or reasonably requested by any person for the purpose of dealing with their claims,

(ii) to attend interviews at such time and place as may be reasonably specified by any person for that purpose;

(c) for a claim to be disallowed where the claimant fails to comply with a requirement imposed by virtue of sub-paragraph (a) or (b) and does not show within the prescribed period that he had good cause for that failure;

(d) prescribing—

(i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with any such requirement, or

(ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure;

(e) prescribing the conditions which must be satisfied in relation to any claim in order for it to be a successful claim under the scheme;

[[F86](ea) prescribing the matters that may be relied on, and the presumptions that may be made, in the determination of whether or not the prescribed conditions have been satisfied;**]**

(f) with respect to—

(i) the manner in which decisions under the scheme are to be made (which may include authorising decisions of any prescribed description to be made by a computer), and

(ii) the time within which, and the manner in which, such decisions are to be notified to claimants;

(g) for provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) to apply in relation to decisions under the scheme with such modifications as may be prescribed;

(h) for provisions of Part II of the Contributions and Benefits Act to apply in relation to—

(i) surviving spouses of persons who have made successful claims under the scheme, or

(ii) persons who have themselves made such claims, with such modifications as may be prescribed.

(7) If no regulations under this Article are in operation on 6th April 2000, then until such time as any such regulations come into operation—

(a) any provisions of Part II of the Contributions and Benefits Act which (whether alone or together with other provisions) would otherwise result in a reduction of one-half in the amount payable by way of additional pension in cases where a person's spouse dies after 5th April 2000 shall be taken—

(i) as not applying, or

(ii) as providing for the full amount to be payable by way of additional pension, as the case may require; and

(b) in Schedule 5 to that Act—

(i) any provision which is expressed to apply in relation to deaths occurring after that date shall not apply, and

(ii) any provision which (with or without any other limitation) is expressed to apply in relation to deaths occurring before 6th April 2000 shall be taken as applying also in relation to deaths occurring on or after that date.

(8) Regulations made under this Article shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(9) In this Article "prescribed" means prescribed by regulations under paragraph (2), (3) or (4), as the case may be.

F86 2000 c. 4 (NI)
F87 SR 2005/434
F88 Words in art. 49(2)(b) inserted (17.2.2005 for specified purposes, otherwise 6.4.2005) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(4), 273, **Sch. 9 para. 20(a)**
F89 Words in art. 49(2)(b) inserted (17.2.2005 for specified purposes, otherwise 6.4.2005) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(4), 273, **Sch. 9 para. 20(b)**

State maternity allowance

Extension of entitlement to state maternity allowance

50.—(1) In section 35 of the Contributions and Benefits Act (state maternity allowance), for subsections (1) and (1A) there shall be substituted—

"(1) A woman shall be entitled to a maternity allowance, at the appropriate weekly rate determined under section 35A below, if—

(a) she has become pregnant and has reached, or been confined before reaching, the commencement of the 11th week before the expected week of confinement; and

(b) she has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of confinement; and

(c) (within the meaning of section 35A) her average weekly earnings are not less than the maternity allowance threshold; and

(d) she is not entitled to statutory maternity pay for the same week in respect of the same pregnancy." .

(2) In subsection (3) of that section—

(a) in paragraph (b), for "Schedule 3, Part I, paragraph 3" there shall be substituted "section 35A below"; and

Sub#para. (b) rep. by 2002 c. 10 (NI)

(3) After that section there shall be inserted—

"**Appropriate weekly rate of maternity allowance.**

35A.—(1) For the purposes of section 35(1) above the appropriate weekly rate is that specified inwhichever of subsection (2) or (3) below applies.

(2) Where the woman's average weekly earnings are not less than the lower earnings limit for the relevant tax year, the appropriate weekly rate is a weekly rate equal to the lower rate of statutory maternity pay for the time being prescribed under section 162(3) below.

(3) Where the woman's average weekly earnings—

(a) are less than the lower earnings limit for the relevant tax year, but

(b) are not less than the maternity allowance threshold for that tax year,

the appropriate weekly rate is a weekly rate equivalent to 90 per cent. of her average weekly earnings or (if lower) the rate specified in subsection (2) above.

(4) For the purposes of this section a woman's "average weekly earnings" shall be taken to be the average weekly amount (as determined in accordance with regulations) of specified payments which—

(a) were made to her or for her benefit as an employed earner, or

(b) are (in accordance with regulations) to be treated as made to her or for her benefit as a self-employed earner,

during the specified period.

(5) Regulations may, for the purposes of subsection (4) above, provide—

(a) for the amount of any payments falling within paragraph (a) or (b) of that subsection to be calculated or estimated in such manner and on such basis as may be prescribed;

(b) for a payment made outside the specified period to be treated as made during that period where it was referable to that period or any part of it;

(c) for a woman engaged in employment as a self-employed earner to be treated as having received a payment in respect of a week—

(i) equal to the lower earnings limit in force on the last day of the week, if she paid a Class 2 contribution in respect of the week, or

(ii) equal to the maternity allowance threshold in force on that day, if she was excepted (under section 11(4) above) from liability for such a contribution in respect of the week;

(d) for aggregating payments made or treated as made to or for the benefit of a woman where, either in the same week or in different weeks, she was engaged in two or more employments (whether, in each case, as an employed earner or a self-employed earner).

(6) In this section—

(a) "the maternity allowance threshold", in relation to a tax year, means (subject to subsection (7) below) £30;

(b) "the relevant tax year" means the tax year in which the beginning of the period of 66 weeks mentioned in section 35(1)(b) above falls; and

(c) "specified" means prescribed by or determined in accordance with regulations.

(7) Whenever the Secretary of State makes an order under section 35A of the Great Britain Contributions and Benefits Act (increase of maternity allowance threshold), the Department may make a corresponding order for Northern Ireland.".

(4) This Article applies in relation to the payment of maternity allowance in cases where a woman's expected week of confinement (within the meaning of section 35 of the Contributions and Benefits Act) begins on or after 20th August 2000.

Benefits for widows and widowers

Bereavement payments

51.—(1) For section 36 of the Contributions and Benefits Act there shall be substituted—

"**Bereavement payment.**

36.—(1) A person whose spouse dies on or after the appointed day shall be entitled to a bereavement payment if—

(a) either that person was under pensionable age at the time when the spouse died or the spouse was then not entitled to a Category A retirement pension under section 44 below; and

(b) the spouse satisfied the contribution condition for a bereavement payment specified in Schedule 3, Part I, paragraph 4.

(2) A bereavement payment shall not be payable to a person if that person and a person of the opposite sex to whom that person was not married were living together as husband and wife at the time of the spouse's death.

(3) In this section "the appointed day" means the day appointed for the coming into operation of Articles 51 to 53 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.".

(2) In Schedule 4 to the Contributions and Benefits Act (rates of benefits etc.), for Part II there shall be substituted—

"PART II

BEREAVEMENT PAYMENT

Bereavement payment.	£2,000.00".

New allowances for bereaved spouses

52.—(1) After section 36 of the Contributions and Benefits Act there shall be inserted—

"**Cases in which sections 37 to 41 apply.**

36A.—(1) Sections 37 to 39 and section 40 below apply only in cases where a woman's husband has died before the appointed day, and section 41 below applies only in cases where a man's wife has died before that day.

(2) Sections 39A to 39C below apply in cases where a person's spouse dies on or after the appointed day, but section 39A also applies (in accordance with subsection (1)(b) of that section) in cases where a man's wife has died before that day.

(3) In this section, and in sections 39A and 39B below, "the appointed day" means the day appointed for the coming into operation of Articles 51 to 53 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.".

(2) After section 39 of the Contributions and Benefits Act there shall be inserted—

"**Widowed parent's allowance.**

39A.—(1) This section applies where—

(a) a person whose spouse dies on or after the appointed day is under pensionable age at the time of the spouse's death, or

(b) a man whose wife died before the appointed day—

(i) has not remarried before that day, and

(ii) is under pensionable age on that day.

(2) The surviving spouse shall be entitled to a widowed parent's allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a widowed parent's allowance specified in Schedule 3, Part I, paragraph 5 and—

(a) the surviving spouse is entitled to child benefit in respect of a child falling within subsection (3) below; or

(b) the surviving spouse is a woman who either—

(i) is pregnant by her late husband, or

(ii) if she and he were residing together immediately before the time of his death, is pregnant in circumstances falling within section 37(1)(c) above.

(3) A child falls within this subsection if one of the conditions specified in section 81(2) below is for the time being satisfied with respect to the child and the child is either—

(a) a son or daughter of the surviving spouse and the deceased spouse; or

(b) a child in respect of whom the deceased spouse was immediately before his or her death entitled to child benefit; or

(c) if the surviving spouse and the deceased spouse were residing together immediately before his or her death, a child in respect of whom the surviving spouse was then entitled to child benefit.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it for any period throughout which she or he—

(a) satisfies the requirements of subsection (2)(a) or (b) above; and

(b) is under pensionable age.

(5) A widowed parent's allowance shall not be payable—

(a) for any period falling before the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(l) of the Administration Act; or

(b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

Bereavement allowance where no dependent children.

39B.—(1) This section applies where a person whose spouse dies on or after the appointed day is over the age of 45 but under pensionable age at the spouse's death.

(2) The surviving spouse shall be entitled to a bereavement allowance at the rate determined in accordance with section 39C below if the deceased spouse satisfied the contribution conditions for a bereavement allowance specified in Schedule 3, Part I, paragraph 5.

(3) A bereavement allowance shall be payable for not more than 52 weeks beginning with the date of the spouse's death or (if later) the day on which the surviving spouse's entitlement is to be regarded as commencing by virtue of section 5(1)(l) of the Administration Act.

(4) The surviving spouse shall not be entitled to the allowance for any period after she or he remarries, but, subject to that, the surviving spouse shall continue to be entitled to it until—

(a) she or he attains pensionable age, or

(b) the period of 52 weeks mentioned in subsection (3) above expires,

whichever happens first.

(5) The allowance shall not be payable—

(a) for any period for which the surviving spouse is entitled to a widowed parent's allowance; or

(b) for any period during which the surviving spouse and a person of the opposite sex to whom she or he is not married are living together as husband and wife.

Rate of widowed parent's allowance and bereavement allowance.

39C.—(1) The weekly rate of a widowed parent's allowance shall be determined in accordance with the provisions of sections 44 to 45A below as they apply in the case of a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) below.

(2) The weekly rate of a bereavement allowance shall be determined in accordance with the provisions of section 44 below as they apply in the case of a Category A retirement pension so far as consisting only of the basic pension referred to in subsection (3)(a) of that section, but subject, in particular, to the following provisions of this section.

(3) In the application of sections 44 to 45A or (as the case may be) section 44 below by virtue of subsection (1) or (2) above—

(a) where the deceased spouse was over pensionable age at his or her death, references in those sections to the pensioner shall be taken as references to the deceased spouse, and

(b) where the deceased spouse was under pensionable age at his or her death, references in those sections to the pensioner and the tax year in which he attained pensionable age shall be taken as references to the deceased spouse and the tax year in which he or she died.

(4) Where a widowed parent's allowance is payable to a person whose spouse dies after 5th April 2000, the additional pension falling to be calculated under sections 44 to 45A below by virtue of subsection (1) above shall be one half of the amount which it would be apart from this subsection.

(5) Where a bereavement allowance is payable to a person who was under the age of 55 at the time of the spouse's death, the weekly rate of the allowance shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied by the number of years by which that person's age at that time was less than 55 (any fraction of a year being counted as a year).”.

Entitlement to Category B retirement pension by reference to new allowances

53. After section 48B of the Contributions and Benefits Act there shall be inserted—

“**Category B retirement pension: entitlement by reference to benefits under section 39A or 39B.**

48BB.—(1) Subsection (2) below applies where a person (“the pensioner”) who has attained pensionable age—

(a) was, immediately before attaining that age, entitled to a widowed parent's allowance in consequence of the death of his or her spouse; and

(b) has not remarried.

(2) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse, which shall be payable at the same weekly rate as the widowed parent's allowance.

(3) Subsections (4) to (10) below apply where a person (“the pensioner”) who has attained pensionable age—

(a) was in consequence of the death of his or her spouse either—

(i) entitled to a bereavement allowance at any time prior to attaining that age, or

(ii) entitled to a widowed parent's allowance at any time when over the age of 45 (but not immediately before attaining pensionable age); and

(b) has not remarried.

(4) The pensioner shall be entitled to a Category B retirement pension by virtue of the contributions of the spouse.

(5) A Category B retirement pension payable by virtue of subsection (4) above shall be payable at a weekly rate corresponding to the weekly rate of the additional pension determined in accordance with the provisions of sections 44 to 45A above as they apply in relation to a Category A retirement pension, but subject, in particular, to the following provisions of this section and section 46(2) above.

(6) Where the spouse died under pensionable age, references in the provisions of sections 44 to 45A above, as applied by subsection (5) above, to the tax year in which the pensioner attained pensionable age shall be taken as references to the tax year in which the spouse died.

(7) Where the spouse dies after 5th April 2000, the pension payable by virtue of subsection (4) above shall (before making any reduction required by subsection (8) below) be one half of the amount which it would be apart from this subsection.

(8) Where the pensioner was under the age of 55 at the relevant time, the weekly rate of the pension shall be reduced by 7 per cent. of what it would be apart from this subsection multiplied—

(a) by the number of years by which the pensioner's age at that time was less than 55 (any fraction of a year being counted as a year), or

(b) by ten, if that number exceeds ten.

(9) In subsection (8) above "the relevant time" means—

(a) where the pensioner became entitled to a widowed parent's allowance in consequence of the death of the spouse, the time when the pensioner's entitlement to that allowance ended; and

(b) otherwise, the time of the spouse's death.

(10) The amount determined in accordance with subsections (5) to (9) above as the weekly rate of the pension payable to the pensioner by virtue of subsection (4) above shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date of the spouse's death until the date when the pensioner attained pensionable age, that weekly rate would have been increased during that period by virtue of any orders under section 132 of the Administration Act (annual up-rating of benefits).".

Work-focused interviews

Claim or full entitlement to certain benefits conditional on work-focused interview

54. After section 2 of the Administration Act there shall be inserted—

"Work-focused interviews

Claim or full entitlement to certain benefits conditional on work-focused interview.

2A.—(1) Regulations may make provision for or in connection with—

(a) imposing, as a condition falling to be satisfied by a person who—

(i) makes a claim for a benefit to which this section applies, and

(ii) is under the age of 60 at the time of making the claim,

a requirement to take part in a work-focused interview;

(b) imposing, at a time when—

(i) a person is under that age and entitled to such a benefit, and

(ii) any prescribed circumstances exist,

a requirement to take part in such an interview as a condition of that person continuing to be entitled to the full amount which is payable to him in respect of the benefit apart from the regulations.

(2) The benefits to which this section applies are—

(a) income support;

(b) housing benefit;

(c) widow's and bereavement benefits falling within section 20(1)(e) and (ea) of the Contributions and Benefits Act (other than a bereavement payment);

(d) incapacity benefit;

(e) severe disablement allowance; and

(f) invalid care allowance.

(3) Regulations under this section may, in particular, make provision—

(a) for securing, where a person would otherwise be required to take part in interviews relating to two or more benefits—

(i) that he is only required to take part in one interview, and

(ii) that any such interview is capable of counting for the purposes of all those benefits;

(b) for determining the persons by whom interviews are to be conducted;

(c) conferring power on such persons or the designated authority to determine when and where interviews are to take place (including power in prescribed circumstances to determine that they are to take place in the homes of those being interviewed);

(d) prescribing the circumstances in which persons attending interviews are to be regarded as having or not having taken part in them;

(e) for securing that the appropriate consequences mentioned in subsection (4)(a) or (b) below ensue if a person who has been notified that he is required to take part in an interview—

(i) fails to take part in the interview, and

(ii) does not show, within the prescribed period, that he had good cause for that failure;

(f) prescribing—

(i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with the regulations, or

(ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure.

(4) For the purposes of subsection (3)(e) above the appropriate consequences of a failure falling within that provision are—

(a) where the requirement to take part in an interview applied by virtue of subsection (1)(a) above, that as regards any relevant benefit either—

(i) the person in question is to be regarded as not having made a claim for the benefit, or

(ii) if (in the case of an interview postponed in accordance with subsection (7) below) that person has already been awarded the benefit, his entitlement to the benefit is to terminate immediately;

(b) where the requirement to take part in an interview applied by virtue of subsection (1)(b) above, that the amount payable to the person in question in respect of any relevant benefit is to be reduced by the specified amount until the specified time.

(5) Regulations under this section may, in relation to any such reduction, provide—

(a) for the amount of the reduction to be calculated in the first instance by reference to such amount as may be prescribed;

(b) for the amount as so calculated to be restricted, in prescribed circumstances, to the prescribed extent;

(c) where the person in question is entitled to two or more relevant benefits, for determining the extent, and the order, in which those benefits are to be reduced in order to give effect to the reduction required in his case.

(6) Regulations under this section may provide that any requirement to take part in an interview that would otherwise apply to a person by virtue of such regulations—

(a) is, in any prescribed circumstances, either not to apply or not to apply until such time as is specified;

(b) is not to apply if the designated authority determines that an interview—

(i) would not be of assistance to that person, or

(ii) would not be appropriate in the circumstances;

(c) is not to apply until such time as the designated authority determines, if that authority determines that an interview—

(i) would not be of assistance to that person, or

(ii) would not be appropriate in the circumstances,

until that time;

and the regulations may make provision for treating a person in relation to whom any such requirement does not apply, or does not apply until a particular time, as having complied with that requirement to such extent and for such purposes as are specified.

(7) Where—

(a) a person is required to take part in an interview by virtue of subsection (1)(a) above, and

(b) the interview is postponed by or under regulations made in pursuance of subsection (6)(a) or (c) above,

the time to which it is so postponed may be a time falling after an award of the relevant benefit to that person.

(8) In this section—

"the designated authority" means such of the following as may be specified—

(a) a Northern Ireland department;

(b) a person providing services to a Northern Ireland department;

(c) any other body established by or under a statutory provision;

(d) a person providing services to, or authorised to exercise any function of, any such body;

"interview" (in subsections (3) to (7) above) means a work-focused interview;

"relevant benefit", in relation to any person required to take part in a work-focused interview, means any benefit in respect to which that requirement applied by virtue of subsection (1)(a) or (b) above;

"specified" means prescribed by or determined in accordance with regulations;

"work-focused interview", in relation to a person, means an interview conducted for such purposes connected with employment or training in the case of that person as may be specified;

and the purposes which may be so specified include purposes connected with a person's existing or future employment or training prospects or needs, and (in particular) assisting or encouraging a person to enhance his employment prospects.

Supplementary provisions relating to work-focused interviews.

2B.—(1) Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 (social security decisions and appeals) shall have effect in relation to relevant decisions subject to and in accordance with subsections (3) to (8) below (and in those subsections "the 1998 Order" means that Order).

(2) For the purposes of this section a "relevant decision" is a decision made under regulations under section 2A above that a person—

(a) has failed to comply with a requirement to take part in an interview which applied to him by virtue of the regulations, or

(b) has not shown, within the prescribed period mentioned in section 2A(3)(e)(ii) above, that he had good cause for such a failure.

(3) Article 9(1)(c) of the 1998 Order (decisions falling to be made under certain statutory provisions are to be made by the Department) shall have effect subject to any provisions of regulations under section 2A above by virtue of which relevant decisions fall to be made otherwise than by the Department.

(4) For the purposes of each of Articles 10 and 11 of the 1998 Order (revision and supersession of decisions of Department) any relevant decision made otherwise than by the Department shall be treated as if it were such a decision made by the Department (and accordingly may be revised by it under Article 10 or superseded by a decision made by it under Article 11).

(5) Subject to any provisions of regulations under either Article 10 or 11 of the 1998 Order, any relevant decision made, or (by virtue of subsection (4) above) treated as made, by the Department may be—

(a) revised under Article 10 by a person or authority exercising functions under regulations under section 2A above other than the Department, or

(b) superseded under Article 11 by a decision made by such a person or authority,

as if that person or authority were the Department.

(6) Regulations shall make provision for conferring (except in any prescribed circumstances) a right of appeal under Article 13 of the 1998 Order (appeal to appeal tribunal) against—

(a) any relevant decision, and

(b) any decision under Article 11 of that Order superseding any such decision,

whether made by the Department or otherwise.

(7) Subsections (4) to (6) above apply whether—

(a) the relevant decision, or

(b) (in the case of subsection (6)(b)) the decision under Article 11 of the 1998 Order,

is as originally made or has been revised (by the Department or otherwise) under Article 10 of that Order; and regulations under subsection (6) above may make provision for treating, for the purposes of Article 13 of that Order, any decision made or revised otherwise than by the Department as if it were a decision made or revised by it.

(8) Article 13 of the 1998 Order shall not apply to any decision falling within subsection (6) above except in accordance with regulations under that subsection.

(9) In the following provisions, namely—

(a) section 3(1) of the Social Security Act 1998 (use of information), and

(b) Article 69(6) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (supply of information),

any reference to information relating to social security includes any information supplied by a person for the purposes of an interview which he is required to take part in by virtue of section 2A above.

(10) In this section "interview" means a work-focused interview within the meaning of section 2A above.".

Optional work-focused interviews

55. After section 2B of the Administration Act (inserted by Article 54) there shall be inserted—

"**Optional work-focused interviews.**

2C.—(1) Regulations may make provision for conferring on the prescribed authorities functions in connection with conducting work-focused interviews in cases where such interviews are requested or consented to by persons to whom this section applies.

(2) This section applies to persons making claims for or entitled to—

(a) any of the benefits listed in section 2A(2) above, or

(b) any prescribed benefit;

and it so applies regardless of whether such persons have, in accordance with regulations under section 2A above, already taken part in interviews conducted under such regulations.

(3) The functions which may be conferred on the prescribed authorities by regulations under this section include functions relating to—

(a) the obtaining and receiving of information for the purposes of work-focused interviews conducted under the regulations;

(b) the recording and forwarding of information supplied at, or for the purposes of, such interviews;

(c) the taking of steps to identify potential employment or training opportunities for persons taking part in such interviews.

(4) Regulations under this section may make different provision for different areas.

(5) In this section—

"authorities" means a Northern Ireland department and any other body established by or under a statutory provision;

"work-focused interview", in relation to a person to whom this section applies, means an interview conducted for such purposes connected with employment or training in the case of such a person as may be prescribed; and the purposes which may be so prescribed include—

(a) purposes connected with the existing or future employment or training prospects or needs of such a person, and

(b) (in particular) assisting or encouraging such a person to enhance his employment prospects.".

Jobseeker's allowance

Article 56—Amendments

Special schemes for claimants for jobseeker's allowance

[F90]**57 .**—(1) The Department may by regulations make provision for or in connection with the participation of claimants for a jobseeker's allowance in schemes of any prescribed description, being schemes established for designated areas in Northern Ireland (or for the whole of Northern Ireland) and designed to assist such persons to obtain sustainable employment.

(2) Regulations under this Article may, in particular, make provision—

(a) for the imposition during any prescribed period, as additional conditions for entitlement to a jobseeker's allowance applying in the case of persons participating in schemes, of requirements to take steps determined in accordance with the regulations with a view to improving those persons' prospects of securing employment;

(b) for the suspension, during any prescribed period, of any prescribed conditions that would otherwise apply to such persons.

(3) Regulations under this Article may make provision for any provisions of the Jobseekers (Northern Ireland) Order 1995 to apply for the purposes of the regulations subject to prescribed modifications.

(4) The provisions of that Order which may be so applied include in particular any provisions of—

(a) Article 21 or 22A (circumstances in which jobseeker's allowance is not payable); or

(b) Article 22 or 22B (exemptions from Article 21 or 22A).

(5) The Department [F91]... may for the purposes of, or in connection with, any scheme—

(a) make such arrangements (whether or not with other persons) for the provision of any facilities,

(b) provide such support (by whatever means) for arrangements made by other persons for the provision of any facilities,

(c) make such payments—

(i) by way of fees, grants, loans or otherwise, to persons undertaking the provision of facilities under arrangements within sub-paragraph (a) or (b),

(ii) by way of grants, loans or otherwise, to persons participating in the scheme, or

(iii) in respect of any incidental expenses,

as that Department considers appropriate.

(6) In paragraph (5) "facilities" includes services, and any reference to the provision of facilities includes the making of payments to persons participating in the scheme.

(7) The power of **[**[F92]the Department for Communities or the Department for the Economy**]** to make an order under Article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (status of trainees) shall include power to make, in relation to—

(a) persons participating in any scheme, and

(b) payments received by them by virtue of paragraph (5), provision corresponding to any provision which (by virtue of that Article) may be made in relation to persons using such facilities, and to such payments received by them, as are mentioned in paragraph (1) of that Article.

(8) In this Article—

"designated" means designated by the Department;

"employment" has the meaning given by regulations under this Article;

"prescribed" means specified in or determined in accordance with regulations under this Article;

"scheme" means a scheme such as is mentioned in paragraph (1).

F90 functions transf. by SR 1999/481

F91 Words in art. 57(5) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(3), **Sch. 6 para. 49(a)** (with art. 9(2))

F92 Words in art. 57(7) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(3), **Sch. 6 para. 49(b)** (with art. 9(2))

Modifications etc. (not altering text)

C16 Art. 57(5): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 4 Pt. 1** (with art. 9(2))

Incapacity for work

Incapacity for work: personal capability assessments

58. For section 167C of the Contributions and Benefits Act there shall be substituted—

"**Personal capability assessments.**

167C.—(1) Where the own occupation test is not applicable, or has ceased to apply, in the case of a person, the question whether the person is capable or incapable of work shall be determined in accordance with a personal capability assessment.

(2) Provision shall be made by regulations—

(a) defining a personal capability assessment by reference to the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing such activities as may be prescribed;

(b) as to the manner of assessing whether a person is, in accordance with a personal capability assessment, incapable of work.

(3) Regulations may provide that, in any prescribed circumstances, a person to whom subsection (1) above applies shall, if the prescribed conditions are met, be treated as incapable of work in accordance with a personal capability assessment until such time as—

(a) such an assessment has been carried out in his case, or

(b) he falls to be treated as capable of work in accordance with regulations under section 167A(2) or (3) above or section 167E below.

The prescribed conditions may include the condition that it has not previously been determined, within such period as may be prescribed, that the person in question is or is to be treated as capable of work.

(4) Except in prescribed circumstances, a personal capability assessment carried out in the case of a person before the time when subsection (1) above applies to him shall be as effective for the purposes of that subsection as one carried out thereafter.

(5) The Department may, in the case of a person who for any purpose of this Act has been determined to be incapable of work in accordance with a personal capability assessment (including one carried out by virtue of this subsection), require the question whether the

person is capable or incapable of work to be determined afresh in accordance with a further personal capability assessment.”.

Incapacity benefits

Incapacity benefit: restriction to recent contributors

59.—(1) Paragraph 2 of Schedule 3 to the Contributions and Benefits Act (contribution conditions for short-term incapacity benefit) shall be amended as follows.

(2) In sub-paragraph (2) (the first condition), for paragraph (a) there shall be substituted—

“(a) the claimant must have actually paid contributions of a relevant class in respect of one of the last three complete years before the beginning of the relevant benefit year, and those contributions must have been paid before the relevant time; and” .

(3) In sub-paragraph (7) (claim by person who does not satisfy second contribution condition to be disregarded in relation to subsequent claim), after “does not satisfy” there shall be inserted “the first contribution condition (specified in sub-paragraph (2) above) or, as the case may be,”.

(4) After sub-paragraph (7) there shall be added—

“(8) Regulations may—

(a) provide for the first contribution condition (specified in sub-paragraph (2) above) to be taken to be satisfied in the case of persons who have been entitled to any prescribed description of benefit during any prescribed period or at any prescribed time;

(b) with a view to securing any relaxation of the requirements of that condition (as so specified) in relation to persons who have been so entitled, provide for that condition to apply in relation to them subject to prescribed modifications.

(9) In sub-paragraph (8)—

“benefit” includes (in addition to any benefit under Parts II to V of this Act)—

(a) any benefit under Parts VII to XII of this Act, and

(b) credits under regulations under section 22(5) above;

“modifications” includes additions, omissions and amendments.” .

Incapacity benefit: reduction for pension payments

60. After section 30D of the Contributions and Benefits Act there shall be inserted—

“**Incapacity benefit: reduction for pension payments.**

30DD.—(1) Where—

(a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,

(b) a pension payment is payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and

(c) the amount of that payment (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments in respect of that period) exceeds the threshold,

the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess.

(2) In subsection (1) above “the threshold” means—

(a) if the period in question is a week, £85 or such greater amount as may be prescribed; or

(b) if that period is not a week, such proportion of the amount mentioned in paragraph (a) as falls to be calculated in accordance with regulations on such basis as may be prescribed.

(3) Regulations may secure that a person of any prescribed description does not suffer any reduction under subsection (1) above in any amount of incapacity benefit to which he is entitled.

(4) Regulations may provide—

(a) for sums of any specified description to be disregarded for the purposes of this section;

(b) for sums of any specified description to be treated for those purposes as payable to persons as pension payments (including, in particular sums in relation to which there is a deferred right of receipt);

(c) for the aggregation of sums of any specified description which are payable as pension payments (or treated as being so payable) in respect of the same or different periods;

(d) for such sums or aggregate sums to be apportioned between or otherwise allocated to periods in respect of which persons are entitled to incapacity benefit.

(5) In this section "pension payment" means—

(a) a periodical payment made in relation to a person under a personal pension scheme or, in connection with the coming to an end of an employment of his, under an occupational pension scheme or a public service pension scheme;

(b) a payment of any specified description, being a payment made under an insurance policy providing benefits in connection with physical or mental illness, disability, infirmity or defect; or

(c) a payment of any other specified description;

and "specified" means prescribed by or determined in accordance with regulations under this section.

(6) For the purposes of subsection (5) above

"occupational pension scheme", "personal pension scheme" and "public service pension scheme" each has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993, except that

"personal pension scheme" includes a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuities).".

Incapacity benefit: persons incapacitated in youth

61.—(1) In subsection (1) of section 30A of the Contributions and Benefits Act (incapacity benefit: entitlement)—

(a) for "either of the following conditions" there shall be substituted—

"(a) either of the conditions mentioned in subsection (2) below; or

(b) if he satisfies neither of those conditions, each of the conditions mentioned in subsection (2A) below," ; and

(b) after "any day of incapacity for work" there shall be inserted " ("the relevant day") ".

(2) In subsection (2) of that section—

(a) after "conditions" in the first place where that word occurs, there shall be inserted "mentioned in subsection (1)(a) above"; and

(b) in paragraph (a), for "the day in question" there shall be substituted "the relevant day".

(3) After that subsection there shall be inserted—

"(2A) The conditions mentioned in subsection (1)(b) above are that—

(a) he is aged 16 or over on the relevant day;

(b) he is under the age of 20 or, in prescribed cases, 25 on a day which forms part of the period of incapacity for work;

(c) he was incapable of work throughout a period of 196 consecutive days immediately preceding the relevant day, or an earlier day in the period of incapacity for work on which he was aged 16 or over;

(d) on the relevant day he satisfies the prescribed conditions as to residence in Northern Ireland, or as to presence there; and

(e) he is not, on that day, a person who is receiving full-time education." .

(4) In subsection (3) of that section, after "benefit" there shall be inserted "under subsection (1)(a) above".

(5) After subsection (5) of that section there shall be added—

"(6) Regulations may provide that persons who have previously been entitled to incapacity benefit shall, in prescribed circumstances, be entitled to short-term incapacity benefit under subsection (1)(b) above notwithstanding that they do not satisfy the condition set out in paragraph (b) of subsection (2A) above.

(7) Regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time education for the purposes of paragraph (e) of subsection (2A) above." .

Abolition of severe disablement allowance

62. Sections 68 and 69 of the Contributions and Benefits Act (severe disablement allowance) shall cease to have effect.

Disability benefits

Attendance allowance

63.—(1) After subsection (3) of section 64 of the Contributions and Benefits Act (entitlement to attendance allowance) there shall be added—

"(4) Circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsections (2) and (3) above as may be prescribed." .

(2) In subsection (1) of section 66 of that Act (attendance allowance for the terminally ill)—

(a) in paragraph (a)(i), for the words from "for the remainder of his life" to "terminally ill" there shall be substituted "for so much of the period for which he is terminally ill as does not fall before the date of the claim";

(b) in paragraph (a)(ii), for "that date", in the first place where those words occur, there shall be substituted "the date of the claim or, if later, the first date on which he is terminally ill"; and

(c) in paragraph (b), for "the remainder of the person's life, beginning with that date" there shall be substituted "so much of the period for which he is terminally ill as does not fall before the date of the claim".

Disability living allowance

64.—(1) In subsection (3) of section 71 of the Contributions and Benefits Act (disability living allowance), for the words "for life" there shall be substituted "for an indefinite period".

(2) In subsection (5)(b) of section 72 of that Act (the care component), for the words "for the remainder of his life beginning with that date" there shall be substituted "for so much of the period for which he is terminally ill as does not fall before the date of the claim".

(3) In subsection (1) of section 73 of that Act (the mobility component), for the words "the age of 5" there shall be substituted " the relevant age " and after that subsection there shall be inserted—

"(1A) In subsection (1) above "the relevant age" means—

(a) in relation to the conditions mentioned in paragraph (a), (b) or (c) of that subsection, the age of 3;

(b) in relation to the conditions mentioned in paragraph (d) of that subsection, the age of 5.".

(4) Paragraph (3) does not affect awards made before the day on which that paragraph comes into operation.

Miscellaneous

Certain overpayments of benefit not to be recoverable

65.—(1) An overpayment to which this Article applies shall not be recoverable from the payee under any provision made by or under Part III of the Administration Act (overpayments and adjustments of benefit).

(2) This Article applies to an overpayment if—

(a) it is in respect of a qualifying benefit;

(b) it is referable to a decision given on a review that there has been an alteration in the relevant person's condition, being a decision to which effect is required to be given as from a date earlier than that on which it was given;

(c) the decision was given before 1st June 1999; and

(d) the overpayment is not excluded by virtue of paragraph (6).

(3) In paragraph (2)(b) the reference to a decision on a review that there has been an alteration in the relevant person's condition is a reference to a decision so given that that person's physical or mental condition either was at the time when the original decision was given, or has subsequently become, different from that on which that decision was based, with the result—

(a) that he did not at that time, or (as the case may be) has subsequently ceased to, meet any of the conditions contained in the following provisions of the Contributions and Benefits Act, namely—

(i) section 64 (attendance allowance),

(ii) section 72(1) or (2) (care component of disability living allowance), and

(iii) section 73(1) or (2) (mobility component of that allowance); or

(b) that he was at that time, or (as the case may be) has subsequently become, capable of work in accordance with regulations made under section 167C(2) of that Act (the all work test).

(4) For the purposes of this Article "qualifying benefit" means—

(a) attendance allowance;

(b) disability living allowance;

(c) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of a component (at any rate) of disability living allowance or in receipt of attendance allowance;

(d) incapacity benefit;

(e) any benefit (other than incapacity benefit) awarded wholly or partly by reason of a person being (or being treated as being) incapable of work; or

(f) any benefit awarded wholly or partly by reason of a person being (or being treated as being) in receipt of any benefit falling within sub-paragraph (c), (d) or (e).

(5) For the purposes of this Article—

(a) "review" means a review taking place by virtue of section 23(1)(a) or (b), 28(2)(a) or (b) or 33(1)(a) or (b) of the Administration Act;

(b) "the relevant person", in relation to a review, means the person to whose entitlement to a qualifying benefit or to whose incapacity for work the review related; and

(c) "the original decision", in relation to a review, means the decision as to any such entitlement or incapacity to which the review related.

(6) An overpayment is excluded by virtue of this paragraph if (before or after the making of this Order)—

(a) the payee has agreed to pay a penalty in respect of the overpayment under section 109A of the Administration Act,

(b) the payee has been convicted of any offence (under section 105A or 106(1) or (1A) of that Act or otherwise) in connection with the overpayment, or

(c) proceedings have been instituted against the payee for such an offence and the proceedings have not been determined or abandoned.

(7) Nothing in this Article applies to an overpayment to the extent that it was recovered from the payee (by any means) before 26th February 1999.

(8) In this Article—

"benefit" includes any amount included in—

(a) the applicable amount in relation to an income-related benefit (as defined by section 131(1) of the Contributions and Benefits Act), or

(b) the applicable amount in relation to a jobseeker's allowance (as defined by Article 6(5) of the Jobseekers (Northern Ireland) Order 1995);

"income-related benefit" has the meaning given by section 122(1) of the Contributions and Benefits Act;

"overpayment" means an amount of benefit paid in excess of entitlement;

"the payee", in relation to an overpayment, means the person to whom that amount was paid.

Child benefit: claimant to state national insurance number

66. In section 11 of the Administration Act (entitlement to child benefit dependent on claim), after subsection (1) there shall be inserted—

"(1A) No person shall be entitled to child benefit unless subsection (1B) below is satisfied in relation to him.

(1B) This subsection is satisfied in relation to a person if—

(a) his claim for child benefit is accompanied by—

(i) a statement of his national insurance number and information or evidence establishing that that number has been allocated to him; or

(ii) information or evidence enabling the national insurance number that has been allocated to him to be ascertained; or

(b) he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

(1C) Regulations may make provision disapplying subsection (1A) above in the case of—

(a) prescribed descriptions of persons making claims, or

(b) prescribed descriptions of children in respect of whom child benefit is claimed,

or in other prescribed circumstances.” .

Article 67—Amendments

Supplementary

Sharing of functions as regards claims and information

68. After section 5 of the Administration Act there shall be inserted—

“Sharing of functions as regards certain claims and information

Sharing of functions as regards certain claims and information.

5A.—(1) Regulations may, for the purpose of supplementing the persons or bodies to whom claims for relevant benefits may be made, make provision as regards any relevant benefit, for claims for that benefit to be made to any relevant authority (if such claims could not otherwise be made to that authority).

(2) Regulations may make provision for or in connection with—

(a) the forwarding by a relevant authority of—

(i) claims received by virtue of any provision authorised by subsection (1) above, and

(ii) information or evidence supplied in connection with making such claims (whether supplied by persons making the claims or by other persons);

(b) the receiving and forwarding by a relevant authority of information or evidence relating to social security matters supplied by, or the obtaining by a relevant authority of such information or evidence from—

(i) persons making, or who have made, claims for a relevant benefit, or

(ii) other persons in connection with such claims,

including information or evidence not relating to the claims or benefit in question;

(c) the recording by a relevant authority of information or evidence relating to social security matters supplied to, or obtained by, the authority and the holding by the authority of such information or evidence (whether as supplied or obtained or as recorded);

(d) the giving of information or advice with respect to social security matters by a relevant authority to persons making, or who have made, claims for a relevant benefit.

(3) In paragraphs (b) and (d) of subsection (2) above—

(a) references to claims for a relevant benefit are to such claims whether made as mentioned in subsection (1) above or not; and

(b) references to persons who have made such claims include persons to whom awards of benefit have been made on the claims.

(4) Regulations under this section may make different provision for different areas.

(5) Regulations under any other statutory provision may make such different provision for different areas as appears to the Department expedient in connection with any exercise by regulations under this section of the power conferred by subsection (4) above.

(6) In this section—

(a) "benefit" includes child support (any reference to a claim being read, in relation to child support, as a reference to an application under the Child Support (Northern Ireland) Order 1991 for a maintenance assessment);

(b) "relevant authority" means—

(i) a Northern Ireland department,

(ii) a person providing services to a Northern Ireland department,

(iii) any other body established by or under a statutory provision, or

(iv) a person providing services to, or authorised to exercise any function of, such a body;

(c) "relevant benefit" means housing benefit or any other benefit prescribed for the purposes of this section;

(d) "social security matters" means matters relating to social security, child support or war pensions and in this paragraph "war pension" means a war pension within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).".

Supply of information for certain purposes

69.—(1) The Department may by regulations make such provision for or in connection with any of the following matters, namely—

(a) the use by a person within paragraph (2) of social security information **[**[F93], or information relating to employment or training,**]** held by that person,

(b) the supply (whether to a person within paragraph (2) or otherwise) of social security information **[**[F94], or information relating to employment or training,**]** held by a person within that paragraph,

(c) the relevant purposes for which a person to whom such information is supplied under the regulations may use it, and

(d) the circumstances and extent (if any) in and to which a person to whom such information is supplied under the regulations may supply it to any other person (whether within paragraph (2) or not),

as the Department considers appropriate in connection with any provision to which paragraph (3) applies or in connection with any scheme or arrangements to which paragraph (4) applies.

(2) The persons within this paragraph are—

(a) a Northern Ireland department;

(b) a person providing services to, or designated **[**[F95](specifically or by description)**]** for the purposes of this Article by an order of, a Northern Ireland department;

(c) any other body established by or under a statutory provision; and

(d) a person providing services to, or authorised to exercise any function of, such a body.

(3) This paragraph applies to any provision made by or under—

[[F96](a) any of sections 2A to 2F and 5A of the Administration Act,**]**

(b) Article 57, [F97]. . .

(c) the Jobseekers (Northern Ireland) Order 1995.**[**[F98], [F99]...

(d) Part 1 of the Welfare Reform Act (Northern Ireland) 2007 **[**[F100], or**]]**

[[F101](e) Part 2 of the Welfare Reform (Northern Ireland) Order 2015.**]**

(4) This paragraph applies to—

(a) any scheme designated by regulations under paragraph (1), being a scheme operated by a Northern Ireland department (whether under arrangements with any other person or not) for any purposes connected with employment or training in the case of persons of a particular category or description;

(b) any arrangements of a description specified in such regulations, being arrangements made by a Northern Ireland department for any such purposes.

(5) Regulations under paragraph (1) may, in particular, authorise information supplied to a person under the regulations—

(a) to be used for the purpose of amending or supplementing other information held by that person; and

(b) if it is so used, to be supplied to any other person, and used for any purpose, to whom or for which that other information could be supplied or used.

(6) In this Article—

"relevant purposes" means purposes connected with—

(a) social security or child support, or

(b) employment or training;

"social security information" means information relating to social security, child support or war pensions and in this paragraph "war pensions" means war pensions within the meaning of section 25 of the Social Security Act 1989 (establishment and functions of war pensions committees).

(7) Any reference in this Article to **[**[F102]information relating to, or purposes connected with, employment or training includes information relating to, or purposes connected with,**]** the existing or future employment or training prospects or needs of persons, and (in particular) assisting or encouraging persons to enhance their employment prospects.

F93 Words in art. 69(1)(a) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 36(1)(k), **28(4)(a)**

F94 Words in art. 69(1)(b) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 36(1)(k), **28(4)(a)**

F95 Words in art. 69(2)(b) inserted (17.2.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **124**; S.R. 2016/46, art. 3(4)(i)

F96 Art. 69(3)(a) substituted (13.8.2010) for art. 69(3)(a)(aa) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 36(1)(a), **2(6)**

F97 Word in art. 69(3)(b) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(1), **Sch. 8**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

F98 Art. 69(3)(d) and preceding words added (1.7.2008 for certain purposes otherwise 27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 12**; S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

F99 Word in art. 69(3)(c) omitted (coming into force in accordance with reg. 1(1) of the amending S.R.) by virtue of The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **11(a)**

F100 Word and comma in art. 69(3)(d) substituted for full stop (coming into force in accordance with reg. 1(1) of the amending S.R.) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **11(b)**

F101 Art. 69(3)(e) inserted (coming into force in accordance with reg. 1(1) of the amending S.R.) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **11(c)**

F102 Words in art. 69(7) substituted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 36(1)(k), **28(4)(b)**

CHAPTER II

OTHER WELFARE PROVISIONS

Measures to reduce under-occupation by housing benefit claimants

70.—(1) The Department may by regulations make a scheme providing for a housing benefit claimant, where he moves from an under-occupied dwelling in the public or social rented sector to a qualifying dwelling, to be entitled to be paid an amount calculated by reference to the difference between—

(a) the prescribed payments he was liable to make in respect of his former dwelling, and

(b) those he is liable to make in respect of his new dwelling.

(2) In paragraph (1) the reference to a qualifying dwelling is to a dwelling (whether in the public or social rented sector or not) which, in relation to the claimant, either—

(a) is not under-occupied, or

(b) is under-occupied to a lesser extent than the claimant's former dwelling.

(3) Regulations under this Article may, in particular, make provision—

(a) as to the circumstances in which, in relation to a housing benefit claimant, a dwelling is or is not to be regarded for the purposes of the scheme as under-occupied or under-occupied to a lesser extent than another dwelling;

(b) as to the manner in which an amount payable to such a claimant under the scheme is to be calculated.

(4) Regulations made in pursuance of paragraph (3)(b) may provide for the amount payable to a housing benefit claimant under the scheme ("the relevant amount") to be reduced on account of—

(a) any arrears of rent payable by him, or

(b) any amount paid to him by way of housing benefit which constitutes an overpayment for housing benefit purposes;

but regulations under this Article shall not otherwise provide for the making of any reduction in the relevant amount on account of any sum due to or recoverable by the Housing Executive.

(5) A person aggrieved by a determination of any prescribed description made under regulations under this Article may appeal to such court or tribunal as may be prescribed; and the regulations may make provision as to the procedure to be followed in connection with appeals under this paragraph.

(6) Regulations under this Article may provide that the scheme is to apply only in relation to one or more prescribed areas; and, if they do so, they may also—

(a) provide that (unless continued in operation by subsequent regulations under this Article) the scheme is to remain in operation there only for a prescribed period;

(b) include such transitional, consequential or saving provisions as the Department considers appropriate in connection with the scheme ceasing to be in operation in relation to the area or areas at the end of that period.

(7) Where the Housing Executive makes any payment under the scheme it shall be reimbursed by the Department in respect of that payment in such manner and subject to such conditions as to claims, records, certificates or other information or evidence as may be prescribed (any reduction made by virtue of paragraph (4) being disregarded for the purposes of this paragraph).

(8) Subject to any prescribed exceptions or modifications, the provisions of the Administration Act shall have effect in relation to payments under the scheme as they have effect in relation to housing benefit.

(9) For the purposes of this Article a dwelling occupied by a housing benefit claimant is in the public or social rented sector if the payments which the claimant is liable to make in respect of the dwelling (and on account of which he is entitled to housing benefit) are to be made to—

(a) the Housing Executive, or

(b) a registered housing association within the meaning of the Housing (Northern Ireland) Order 1992.

(10) In this Article—

"dwelling" has the same meaning as in Part VII of the Contributions and Benefits Act (income-related benefits);

"housing benefit claimant", in relation to a dwelling, means a person entitled to housing benefit by virtue of being liable to make payments in respect of the dwelling;

"prescribed" means specified in or determined in accordance with regulations under this Article.

Supply of information for child support purposes

71. [F103] . . . . . .

F103 Art. 71 repealed (1.11.2008) by Child Maintenance Act (Northern Ireland) 2008 (c. 10), ss. 39, 41(1), **Sch. 5**; S.R. 2008/419, **art. 3(d)(ii)**

PART VII

GENERAL

Miscellaneous

Authorisation of certain expenditure

72.—(1) Where—

(a) a Northern Ireland department or Minister of the Crown is proposing that or considering whether any statutory provision should change the law as from a specified date, or a date to be determined; and

(b) the Department is of the opinion that the change is such that, unless expenditure for preparing for the change is incurred during the period before the making of that statutory provision, it will not be possible for a service for which it has or will have responsibility to be effectively provided as from that date,

the Department may, subject to paragraphs (2) and (3), incur such expenditure during that period.

(2) Expenditure is not authorised by virtue of paragraph (1) unless—

(a) the Department has with the consent of the Department of Finance and Personnel laid before the Assembly a report which states—

(i) the change in the law which the Northern Ireland department or Minister of the Crown is proposing or considering; and

(ii) the amount of the expenditure which the Department proposes to incur and the purposes for which it proposes to incur it; and

(b) the report has been approved by a resolution of the Assembly.

(3) Expenditure is not authorised by virtue of paragraph (1) at any time after the end of the period of two years beginning with (and including) the day on which the resolution under paragraph (2)(b) is passed.

(4) Paragraph (1) is without prejudice to any power of the Department to incur expenditure otherwise than by virtue of that paragraph.

(5) There shall be made out of the Northern Ireland National Insurance Fund into the Consolidated Fund such payments as the Department determines (in accordance with any directions of the Department of Finance and Personnel) to be appropriate in consequence of the operation of this Article.

(6) Any payments falling to be made by virtue of paragraph (5) shall be made at such times and in such manner as may be determined by the Department of Finance and Personnel.

Supplementary

Regulations and orders

73.—(1) Regulations or orders (except orders under Article 1 or 69(2) or regulations under Article 49) made under this Order by a Northern Ireland department shall be subject to negative resolution.

(2) Regulations or orders (except orders under Article 1) made under this Order by a Minister of the Crown or a department of the government of the United Kingdom 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.

(3) Where a power under this Order to make regulations or an order is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(4) Any such power includes power—

(a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking statutory provisions) as appears to the authority making the regulations or order to be expedient; and

(b) to provide for a person to exercise a discretion in dealing with any matter.

(5) Any power to make regulations or an order for the purposes of any provision of this Order is without prejudice to any power to make regulations or an order for the purposes of any other statutory provision.

(6) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954, any power conferred by this Order to make regulations or orders relating to housing benefit includes power to make different provision for different areas; and regulations under Article 57 or 70 may make different provision for different areas.

(7) Without prejudice to the generality of any of the preceding provisions of this Article, regulations under Article 57 or 69 may provide for all or any of the provisions of the regulations to apply only in relation to any area or areas so specified in the regulations.

(8) Subject to paragraph (10), any power to make regulations under Part V shall, if the Department of Finance and Personnel so directs, be exercisable only in conjunction with it.

(9) Subject to paragraph (11), before exercising any power to make regulations under Part V, the authority on whom the power is conferred, or, if the power is the subject of a direction under paragraph (8), that authority and the Department of Finance and Personnel acting jointly, shall consult such persons as the authority, or the authority and that Department, may consider appropriate, but that duty to consult shall not apply to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.

(10) Any power of the Lord Chancellor to make regulations under Article 40 shall, if the Treasury so directs, be exercisable only in conjunction with them.

(11) Before exercising any power to make regulations under Article 40, the Lord Chancellor or, if the power is the subject of a direction under paragraph (10), the Lord Chancellor and the Treasury acting jointly, shall consult such persons as he, or they, may consider appropriate.

Consequential amendments etc.

Para. (1)—Amendments

(2) The Department may by regulations make such amendments or revocations of any statutory provision as it thinks necessary or expedient in consequence of the coming into operation of any of the provisions specified in paragraph (4).

(3) The Department may, for the purposes of or in connection with the coming into operation of any of the provisions specified in paragraph (4), make by regulations any provision which could be made by an order bringing the provision into operation.

(4) The provisions mentioned in paragraphs (2) and (3) are—

(a) Part V;

(b) paragraph (1) so far as relating to paragraphs 4 to 51 of Schedule 9; and

(c) Article 76 so far as relating to Part III of Schedule 10.

Transitional provisions

75.—(1) The Department may, for the purposes of or in connection with the coming into operation of any provisions of Parts II and III, by regulations make such transitional adaptations or modifications—

(a) of those provisions, or

(b) in connection with those provisions, of any provisions of—

(i) this Order,

(ii) the Pension Schemes Act, or

(iii) the Pensions Order,

then in operation,

as it considers necessary or expedient.

(2) For the purposes of paragraph (1), Article 76 so far as relating to Part I of Schedule 10, together with that Part of that Schedule, shall be taken to be comprised in Part III of this Order.

(3) No pension sharing order may be made under Article 26A of the Matrimonial Causes Order if the proceedings in which the decree is granted were begun before the day on which Article 18 comes into operation.

(4) Paragraph 4 of Schedule 3 does not have effect if the proceedings in which the decree is granted were begun before the day on which Article 18 comes into operation.

(5) The Department may by regulations make such transitional or consequential provision, or such savings, as it considers necessary or expedient for the purposes of or in connection with—

(a) the coming into operation of any provision of Part VI, or

(b) the operation of any statutory provision repealed or amended by a provision of Part VI during any period when the repeal or amendment is not wholly in operation.

(6) For the purposes of paragraph (5), Article 76 so far as relating to Parts IV and V of Schedule 10, together with those Parts of that Schedule, shall be taken to be comprised in Part VI of this Order.

Article 76—Repeals

SCHEDULES

SCHEDULE 1

Article 8.

APPLICATION OF THE PENSION SCHEMES ACT AND THE PENSIONS ORDER TO REGISTERED SCHEMES

1.—(1) The provisions specified in sub-paragraph (2) shall apply as if any pension scheme established under a trust which—

(a) is not an occupational pension scheme; but

(b) is or has been registered under Article 4,

were an occupational pension scheme.

(2) The provisions are—

Head (a) rep. by 2005 NI 1

(b) the following provisions of Part II of the Pensions Order—

(i) Articles 3 to 11[F104]. . . and 15 (supervision by the Authority)**[**[F104] except Articles 7(5A)(b), 8(1)(a) and (c) and (2), 11(3A) and (3B) and 15(1)**]**;

(ii) Articles 27 to**[**[F104] 30**]** (trustees: general);

(iii) Articles 32 to 36 and 39 (functions of trustees)[F104]. . . ;

(iv) Article 41 (functions of trustees or managers);

[[F104](v) Article 47 (professional advisers);**]**

(vi) Article 49 (receipts, payment and records) except paragraphs (5) and (8) to (13);

(vii) [F105]Article 50 (resolution of disputes);

(viii) Article 68 (power of trustees to modify scheme by resolution) except paragraph (3);

Sub Head (ix) rep. by 2005 NI 1

(x) Articles 89, 90 and 92 (assignment and forfeiture etc.) except Article 89(5)(d);

Sub Head (xi)#(xiii) rep. by 2005 NI 1

(xiv) Article 114 (overriding requirements); and

(xv) Articles 121 and 122 (interpretation). **[**[F106] ; and

(c) the following provisions of the Pensions (Northern Ireland) Order 2005—

(i) Article 2 (interpretation);

(ii) Article 62 (accessibility of register of prohibited trustees);

(iii) Chapters 4 and 5 of Part III (fraud compensation and information gathering); and

(iv) Articles 224 to 226 (requirements for knowledge and understanding).**]**

(3) Article 47(9) of the Pensions Order (as applied by sub-paragraph (1)) shall have effect as if the reference to any person who is or has been the employer were a reference to any person who, in pursuance of Article 5(5), is or has been required—

(a) to deduct an employee's contributions to the scheme from his remuneration; and

(b) to pay them to the trustees or managers of the scheme or to a prescribed person.

(4) Article 68 of the Pensions Order (as so applied) shall have effect as if the purposes specified in paragraph (2) of that Article included enabling the conditions set out in Article 3 to be fulfilled in relation to the scheme.

(5) Article 121(1) of the Pensions Order**[**[F104], and Article 2(2) of the Pensions (Northern Ireland) Order 2005,**]** (as so applied) shall have effect as if the definition of "member" were omitted.

[[F104](6) Chapters 4 and 5 of Part III of the Pensions (Northern Ireland) Order 2005 (as so applied) shall have effect with such modifications as the Department may prescribe by regulations.**]**

F104 2005 NI 1
F105 prosp. subst. by 2005 NI 1
F106 Sch. 1 para. 1(2)(c) and preceding words inserted (30.6.2005 for certain purposes, 1.9.2005 for certain purposes, otherwise 6.4.2006) by Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), 290(1), Sch. 10 para. 70(3); S.R. 2005/321, art. 2(12)(16), Sch. Pt. 3; S.R. 2005/411, art. 2(4), Sch. Pt. 1; S.R. 2006/95, **art. 2(c)**, Sch. Pt. 3

Paras. 2, 3 rep. by 2005 NI 1

Schedule 2—Amendments

Schedule 3—Amendments

Schedule 4—Amendments

SCHEDULE 5

Article 32.

PENSION CREDITS: MODE OF DISCHARGE

Modifications etc. (not altering text)
C17 Sch. 5 modified (1.8.2006) by Pension Protection Fund (Pension Sharing) Regulations (Northern Ireland) 2006 (S.R. 2006/282), **reg. 2(2)(d)**

Funded pension schemes

1.—(1) This paragraph applies to a pension credit which derives from—

(a) a funded occupational pension scheme, or

(b) a personal pension scheme.

(2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit—

(a) with his consent, or

(b) in accordance with regulations made by the Department.

(3) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—

(a) the qualifying arrangement is not disqualified as a destination for the credit,

(b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and

(c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Department.

(4) For the purposes of sub-paragraph (2), no account is to be taken of the consent of the person entitled to the pension credit unless—

(a) it is given after receipt of notice in writing of an offer to discharge liability in respect of the credit by making a payment under sub-paragraph (3), or

(b) it is not withdrawn within 7 days of receipt of such notice.

Unfunded public service pension schemes

2.—(1) This paragraph applies to a pension credit which derives from an occupational pension scheme which is—

(a) not funded, and

(b) a public service pension scheme.

(2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit.

(3) If such a scheme as is mentioned in sub-paragraph (1) is closed to new members, the appropriate authority in relation to that scheme may by regulations specify another public service pension scheme as an alternative to it for the purposes of this paragraph.

(4) Where the trustees or managers of a scheme in relation to which an alternative is specified under sub-paragraph (3) are subject to liability in respect of a pension credit, they may—

(a) discharge their liability in respect of the credit by securing that appropriate rights are conferred on the person entitled to the credit by the trustees or managers of the alternative scheme, and

(b) for the purpose of so discharging their liability, require the trustees or managers of the alternative scheme to take such steps as may be required.

(5) In sub-paragraph (3), "the appropriate authority", in relation to a public service pension scheme, means such Minister of the Crown or government department as may be designated by the Treasury or the Department of Finance and Personnel as having responsibility for the scheme.

Other unfunded occupational pension schemes

3.—(1) This paragraph applies to a pension credit which derives from an occupational pension scheme which is—

(a) not funded, and

(b) not a public service pension scheme.

(2) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by conferring appropriate rights under that scheme on the person entitled to the credit.

(3) The trustees or managers of the scheme from which a pension credit to which this paragraph applies derives may discharge their liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—

(a) the qualifying arrangement is not disqualified as a destination for the credit,

(b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and

(c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Department.

Other pension arrangements

4.—(1) This paragraph applies to a pension credit which derives from—

(a) a retirement annuity contract,

(b) an annuity or insurance policy purchased or transferred for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, or

(c) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit.

(2) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may discharge his liability in respect of the credit by paying the amount of the credit to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the person entitled to the credit if—

(a) the qualifying arrangement is not disqualified as a destination for the credit,

(b) the person responsible for that arrangement is able and willing to accept payment in respect of the credit, and

(c) payment is made with the consent of the person entitled to the credit, or in accordance with regulations made by the Department.

(3) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may discharge his liability in respect of the credit by entering into an annuity contract with the person entitled to the credit if the contract is not disqualified as a destination for the credit.

(4) The person responsible for the pension arrangement from which a pension credit to which this paragraph applies derives may, in such circumstances as the Department may prescribe by

regulations, discharge his liability in respect of the credit by assuming an obligation to provide an annuity for the person entitled to the credit.

(5) In sub-paragraph (1)(c), "pension credit" includes a credit under section 29(1)(b) of the Welfare Reform Act.

Appropriate rights

5. For the purposes of this Schedule, rights conferred on the person entitled to a pension credit are appropriate if—

(a) they are conferred with effect from, and including, the day on which the order, or provision, under which the credit arises takes effect, and

(b) their value, when calculated in accordance with regulations made by the Department, equals the amount of the credit.

Qualifying arrangements

6.—(1) The following are qualifying arrangements for the purposes of this Schedule—

(a) an occupational pension scheme,

(b) a personal pension scheme,

(c) an appropriate annuity contract,

(d) an appropriate policy of insurance, and

(e) an overseas arrangement within the meaning of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern S.R. 1996/618. Ireland) 1996.

(2) An annuity contract or policy of insurance is appropriate for the purposes of sub-paragraph (1) if, at the time it is entered into or taken out, the**[**[F107] insurer**]** with which it is entered into or taken out—

(a) is carrying on[F107]. . . long-term insurance business in the United Kingdom or any other **[**[F108]EEA state**]**, and

(b) satisfies such requirements as the Department may prescribe by regulations.

[[F107](3) "Insurer" and "long-term insurance business" have the meaning given in section 175A of the Pension Schemes Act.**]**

F107 SI 2001/3649
F108 Words in Sch. 5 para. 6(2)(a) substituted (26.11.2007) by Occupational Pension Schemes (EEA States) Regulations (Northern Ireland) 2007 (S.R. 2007/457), **reg. 4**

Disqualification as destination for pension credit

7.—(1) If a pension credit derives from a pension arrangement which is **[**[F109]a registered pension scheme under section 153 of the Finance Act 2004,**]** an arrangement is disqualified as a destination for the credit unless—

(a) it is also **[**[F110]registered**]** for those purposes, or

(b) it satisfies such requirements as the Department may prescribe by regulations.

(2) [F111] . . . . . .

(3) An occupational pension scheme is disqualified as a destination for a pension credit unless the rights to be acquired under the arrangement by the person entitled to the credit are rights whose value, when calculated in accordance with regulations made by the Department, equals the credit.

(4) An annuity contract or insurance policy is disqualified as a destination for a pension credit in such circumstances as the Department may prescribe by regulations.

(5) The requirements which may be prescribed under sub-paragraph (1)(b) include, in particular, requirements of the Inland Revenue.

(6) [F112] . . . . . .

F109 Words in Sch. 5 para. 7(1) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(5)(a)**

F110 Word in Sch. 5 para. 7(1)(a) substituted (6.4.2006) by Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), **art. 16(5)(b)**

F111 Sch. 5 para. 7(2) repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

F112 Sch. 5 para. 7(6) repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), **Sch. 10 Pt. 2**; S.R. 2009/22, **art. 2(2)(d)**

Adjustments to amount of pension credit

8.—(1) If—

(a) a pension credit derives from an occupational pension scheme,

(b) the scheme is one to which**[**[F113] Part IV of the Pensions (Northern Ireland) Order 2005 (scheme funding)**]** applies,

(c) the scheme is underfunded on the valuation day, and

(d) such circumstances as the Department may prescribe by regulations apply,

paragraph 1(3) shall have effect in relation to the credit as if the reference to the amount of the credit were to such lesser amount as may be determined in accordance with regulations made by the Department.

(2) Whether a scheme is underfunded for the purposes of sub-paragraph (1)(c) shall be determined in accordance with regulations made by the Department.

(3) For the purposes of that provision, the valuation day is the day by reference to which the cash equivalent on which the amount of the pension credit depends falls to be calculated.

F113 2005 NI 1

9. If—

(a) a person's shareable rights under a pension arrangement have become subject to a pension debit, and

(b) the person responsible for the arrangement makes a payment which is referable to those rights without knowing of the pension debit,

this Schedule shall have effect as if the amount of the corresponding pension credit were such lesser amount as may be determined in accordance with regulations made by the Department.

10. The Department may by regulations make provision for paragraph 1(3), 3(3) or 4(2) to have effect, where payment is made after the end of the implementation period for the pension credit,

as if the reference to the amount of the credit were to such larger amount as may be determined in accordance with the regulations.

General

11. Liability in respect of a pension credit shall be treated as discharged if the effect of paragraph 8(1) or 9 is to reduce it to zero.

12. Liability in respect of a pension credit may not be discharged otherwise than in accordance with this Schedule.

13. Regulations under paragraph 5(b) or 7(3) may provide for calculation of the value of rights in accordance with guidance from time to time prepared by a person specified in the regulations.

[[F114]**13A.** The provisions of this Schedule are subject to—

(a) Article 73A(3) and (6) of the Pensions Order (prohibition on new members during winding up of scheme: exception for discharge of pension credit derived from the scheme), and

(b) Article 117(2) and (8) of the Pensions (Northern Ireland) Order 2005 (prohibition on new members during an assessment period in relation to a scheme: exception for discharge of pension credit derived from the scheme).**]**

F114 2005 NI 1

14. In this Schedule—

"funded", in relation to an occupational pension scheme, means that the scheme meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;

"public service pension scheme" has the same meaning as in the Pension Schemes Act.

Schedule 6—Amendments

Schedule 7—Amendments

Schedule 8—Amendments

Schedule 9—Amendments

Schedule 10—Repeals

Status:
Point in time view as at 15/11/2017.

Changes to legislation:
The Welfare Reform and Pensions (Northern Ireland) Order 1999 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.