

## SCHEDULES

### SCHEDULE 2

#### EQUALISATION

#### Part III

##### Consequential amendments

**9.** In the Contributions and Benefits Act—

- (a) in section 121(1) (interpretation of Parts I to VI), for the definition of “pensionable age” substitute—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995; and”

- (b) in section 146(2) (interpretation of Part X), for the definition of “pensionable age” substitute—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;”.

**10.** In section 167(1) of the Administration Act (interpretation), for the definition of “pensionable age” substitute—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;”.

**11.** In Article 25 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(1) (exemption from requirement for election), in paragraph (3)(b), for the words following “pensionable age” substitute “(within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995)”.

**12.** For section 45 of the Pension Schemes Act, including the cross heading preceding it, substitute—

*“Women, married women and widows*

**45 Women, married women and widows.**

**45.** The Department may make regulations modifying, in such manner as it thinks proper—

- (a) this Chapter in its application to women born on or after 6th April 1950, and  
(b) sections 37, 38, 42(1), 43(2) and (5) and 44, in their application to women who are or have been married.”.

**13.** In section 176(1) of that Act (interpretation), for the definition of “pensionable age” substitute—

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(1) 1995 NI 12.

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““pensionable age”—

- (a) so far as any provisions (other than sections 42 to 44) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and
- (b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;”.

*Pension increases for dependent spouses*

**14.** In the Contributions and Benefits Act—

- (a) in section 25(6)(c) (unemployment benefit), for “83” substitute “83A”,
- (b) in section 30B (incapacity benefit: rate), in paragraph (b) of the proviso to subsection (3), for “83” substitute “83A”,
- (c) in section 78(4)(d) (benefits for the aged), for “83” substitute “83A”,
- (d) in section 85(4) (pension increase: care of children), for “83(3)” substitute “83A(3)”,
- (e) in section 88 (pension increase: supplementary), for “83” substitute “83A”,
- (f) in section 114(4) (persons maintaining dependants, etc.) for “84” substitute “83A”, and
- (g) in section 145(3)(b) (Christmas bonus) for “83(2) or (3)” substitute “83A(2) or (3)”.

**15.** In the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(2), in Schedule 1, paragraphs 20 and 21 are omitted.

**16.** In the Jobseekers (Northern Ireland) Order 1995(3), in Schedule 2, paragraph 8 is omitted.

**17.** Paragraphs 14 to 16 have effect on 6th April 2010.

*Category B retirement pensions*

**18.—(1)** In section 20(1)(f) of the Contributions and Benefits Act (general description of benefits), for sub-paragraph (ii) substitute—

“(ii) Category B, payable to a person by virtue of the contributions of a spouse (with increase for child dependants);”.

(2) In section 25(6) of that Act, in paragraph (b), for “(for married women) under section 53(2)” substitute “(for married people) under section 51A(2)”.

(3) In section 30B of that Act (incapacity benefit: rate), in paragraph (a) of the proviso to subsection (3), for “(for married women) under section 53(2)” substitute “(for married people) under section 51A(2)”.

(4) In section 41(5)(a) of that Act (long-term incapacity benefit for widowers), for “section 51 below” substitute “the contributions of his wife”.

(5) In section 46(2) of that Act (calculation of additional pension in certain benefits), for “50(3)” substitute “48A(4) or 48B(2)”.

(6) After section 51 of that Act insert—

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(2) 1994 NI 12.  
(3) 1995 NI 15.

**“Special provision for married people.**

**51A.**—(1) This section has effect where, apart from section 43(1) above, a married person would be entitled both—

- (a) to a Category A retirement pension, and
- (b) to a Category B retirement pension by virtue of the contributions of the other party to the marriage.

(2) If by reason of a deficiency of contributions the basic pension in the Category A retirement pension falls short of the weekly rate specified in Schedule 4, Part I, paragraph 5, that basic pension shall be increased by the lesser of—

- (a) the amount of the shortfall, or
- (b) the amount of the weekly rate of the Category B retirement pension.

(3) This section does not apply in any case where both parties to the marriage attained pensionable age before 6th April 1979.”,

and omit section 53 of that Act (special provision for married women).

(7) In section 52 of that Act (special provision for surviving spouses), for subsection (1)(b) substitute—

“(b) to a Category B retirement pension by virtue of the contributions of a spouse who has died.”.

(8) In section 54 of that Act (supplemental provisions), for subsection (3) substitute—

“(3) Where both parties to a marriage (call them “P” and “S”) have become entitled to retirement pensions and—

- (a) P’s pension is Category A, and
- (b) S’s pension is—
  - (i) Category B by virtue of P’s contributions, or
  - (ii) Category A with an increase under section 51A(2) above by virtue of P’s contributions,

P shall not be entitled to make an election in accordance with regulations made under subsection (1) above without S’s consent, unless that consent is unreasonably withheld.”.

(9) In section 60 of that Act (partial satisfaction of contribution conditions)—

(a) in subsection (2), for “him” (in paragraph (b)) substitute “the employed earner” and for “his widow’s entitlement” substitute “the entitlement of the employed earner’s widow or widower”, and

(b) for subsection (3)(d) substitute—

“(d) a Category B retirement pension payable by virtue of section 48B above.”.

(10) In section 85 of that Act (pension increase for person with care of children), in subsection (3), for “man whose wife” substitute “person whose spouse”.

(11) In Schedule 4 to that act (rates of benefit, etc.), in paragraph 5 of Part I, for “50(1)(a)(i)” substitute “48A(3)”.

(12) In Schedule 5 to that Act (increased pension where entitlement deferred), in paragraph 2(5) (a), for “5 or 6” substitute “5, 5A or 6”.

(13) In paragraph 4 of that Schedule, for sub-paragraphs (1) and (2) substitute—

“(1) Subject to sub-paragraph (3) below, where—

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- (a) a widow or widower (call that person “W”) is entitled to a Category A or Category B retirement pension and was married to the other party to the marriage (call the person “S”) when S died, and
- (b) either—
  - (i) was entitled to a Category A or Category B retirement pension with an increase under this Schedule, or
  - (ii) would have been so entitled if S’s period of deferment had ended on the day before S’s death,

the rate of W’s pension shall be increased by an amount equal to the increase to which S was or would have been entitled under this Schedule apart from paragraphs 5 to 6.”.

(14) Paragraph 4(1) of that Schedule (as inserted by sub-paragraph (13)) has effect where W is a man who attains pensionable age before 6th April 2010 as if paragraph (a) also required him to have been over pensionable age when S died.

(15) For paragraphs 5 and 6 of that Schedule substitute—

**5A.—**(1) Where—

- (a) a widow or widower (call that person “W”) is entitled to a Category A or Category B retirement pension and was married to the other party to the marriage (call that person “S”) when S dies, and
  - (b) S either—
    - (i) was entitled to a guaranteed minimum pension with an increase under section 11(1) of the Pensions Act, or
    - (ii) would have been so entitled if S had retired on the date of S’s death,
- the rate of W’s pension shall be increased by the following amount.

(2) The amount is—

- (a) where W is a widow, an amount equal to the sum of the amounts set out in paragraph 5A(2) or (3) below (as the case may be), and
- (b) where W is a widower, an amount equal to the sum of the amounts set out in paragraph 6(2), (3) or (4) below (as the case may be).

**5A.—**(1) This paragraph applies where W (referred to in paragraph 5 above) is a widow.

(2) Where the husband dies before 6th April 2000, the amounts referred to in paragraph 5(2)(a) above are the following—

- (a) an amount equal to one-half of the increase mentioned in paragraph 5(1)(b) above,
- (b) the appropriate amount, and
- (c) an amount equal to any increase to which the husband had been entitled under paragraph 5 above.

(3) Where the husband dies after 5th April 2000, the amounts referred to in paragraph 5(2)(a) above are the following—

- (a) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 105 of the Pensions Act, and
- (b) one-half of any increase to which the husband had been entitled under paragraph 5 above.

**6.—**(1) This paragraph applies where W (referred to in paragraph 5 above) is a widower.

(2) Where the wife dies before 6th April 1989, the amounts referred to in paragraph 5(2)(b) above are the following—

- (a) an amount equal to the increase mentioned in paragraph 5(1)(b) above,
- (b) the appropriate amount, and
- (c) an amount equal to any increase to which the wife had been entitled under paragraph 5 above.

(3) Where the wife dies after 5th April 1989 but before 6th April 2000, the amounts referred to in paragraph 5(2)(b) above are the following—

- (a) the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
- (b) one-half of that increase, so far as attributable to employment after 5th April 1988,
- (c) the appropriate amount reduced by the amount of any increases under section 105 of the Pension Act, and
- (d) any increase to which the wife had been entitled under paragraph 5 above.

(4) Where the wife dies after 5th April 2000, the amounts referred to in paragraph 5(2)(b) above are the following—

- (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
- (b) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 105 of the Pensions Act, and
- (c) one-half of any increase to which the wife had been entitled under paragraph 5 above.

(16) Paragraph 5(1) of that Schedule (inserted by sub-paragraph (15)) has effect, where W is a man who attained pensionable age before 6th April 2010, as if paragraph (a) also required him to have been over pensionable age when S died.

(17) In paragraph 7 of that Schedule—

- (a) in sub-paragraph (1), for “paragraphs 5 and 6” substitute “paragraphs 5 to 6”, and
- (b) in sub-paragraph (2), for “paragraph 5 or 6” substitute “paragraph 5, 5A or 6”.

(18) In paragraph 8 of that Schedule, for sub-paragraphs (3) and (4) substitute—

“(3) In the case of the following pensions (where “P” is a married person and “S” is the other party to the marriage), that is—

- (a) a Category B retirement pension to which P is entitled by virtue of the contributions of S, or
- (b) P’s Category A retirement pension with an increase under section 51A(2) above attributable to the contributions of S,

the reference in paragraph 2(3) above to the pension to which a person would have been entitled if that person’s entitlement had not been deferred shall be construed as a reference to the pension to which P would have been entitled if neither P’s nor S’s entitlement to a retirement pension had been deferred.

(4) Paragraph 4(1)(b) above shall not apply to a Category B retirement pension to which S was or would have been entitled by virtue of W’s contributions (“W” and “S” having the same meaning as in paragraph 4(1)); and where the Category A retirement pension to which S was or would have been entitled includes an increase under section 51A(2) above attributable to W’s contributions, the increase to which W is entitled under that paragraph shall be calculated as if there had been no increase under that section.”.

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**19.** In section 42 of the Pension Schemes Act (effect of entitlement to guaranteed minimum pension on payment of benefits), in subsection (6)(b)(iii), for “section 49” substitute “section 48A or 48B”.