

## SCHEDULES

### SCHEDULE 4

#### OCCUPATIONAL AND PERSONAL PENSION SCHEMES

#### PART II

#### MISCELLANEOUS AMENDMENTS

##### *Preservation of rights for persons opting out of schemes*

- 5 (1) In Schedule 16 to the 1973 Act, in sub-paragraph (1) of paragraph 6 (short service benefit where member's service in relevant employment terminates before normal pension age etc) for the words "service in relevant employment" there shall be substituted the words "pensionable service".
- (2) At the end of that paragraph there shall be added—
- “(6) In any case where—
- (a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending immediately before the coming into force of this sub-paragraph, otherwise than on the termination of his service in relevant employment, and
- (b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,
- sub-paragraph (1) above shall be taken at all times on and after 6th April 1988 (the date on which section 15 of the Social Security Act 1986 came into force) to have had effect in relation to that member and his rights under the scheme with the amendment made by paragraph 5(1) of Schedule 4 to the Social Security Act 1990 (which substituted the words "pensionable service" for the words "service in relevant employment").”
- (3) In paragraph 15(4) of that Schedule (commutation of widow's, widower's or dependant's benefit by the beneficiary) for the words "by the beneficiary" there shall be substituted the words "of that benefit".
- (4) In consequence of the amendment made by sub-paragraph (1) above—
- (a) in paragraph 2(b) of that Schedule (definition of "long service benefit") after the words "remains in relevant employment" there shall be inserted the words ", and continues to render service which qualifies him for benefits,";
- (b) in paragraph 17(1)(b) of that Schedule, for the words "relevant employment" there shall be substituted the words "pensionable service";
- (c) in Schedule 1A to the Pensions Act (revaluation of pensions and transfer values)—

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- (i) in paragraphs 1(1)(b), 2(2)(d) and 11(1)(b), sub-paragraph (ii) and the word “or” immediately preceding it shall cease to have effect;
- (ii) in paragraphs 1(4) and 11(2), the words “ “relevant employment” ” shall be omitted; and
- (iii) paragraph 12(1)(b) and the word “or” immediately preceding it shall cease to have effect.

*Contracting-out conditions: age at which pension or annuity is to commence under a money purchase scheme*

- 6 (1) In section 32 of the Pensions Act, in subsection (2B) (modifications of Schedule 1 to the 1986 Act in its application for the purpose of determining whether a money purchase scheme can be contracted-out) after paragraph (d)(ii) there shall be inserted—
- “(iii) for the references in sub-paragraphs (3)(a) and (7)(a)(i) to the date on which the member attains pensionable age there shall be substituted a reference to a date not earlier than that on which he attains the age of 60 nor later than that on which he attains the age of 65; and”.
- (2) The amendment made by sub-paragraph (1) above shall be taken to have come into force on 17th May 1990.

*Contracting-out conditions: guaranteed minimum for married women and widows paying reduced rate contributions*

- 7 (1) In section 33 of the Pensions Act, in subsection (1A) (special conditions in the case of married women and widows paying reduced rate contributions) in paragraph (a) after the words “if she attains pensionable age” there shall be inserted the words “and does not have a guaranteed minimum under section 35 below”.
- (2) In section 35 of that Act, after subsection (2) (calculation of guaranteed minimum by reference to earnings factors derived from earnings on which primary Class 1 contributions have been paid) there shall be added—
- “(2ZA) In determining the guaranteed minimum in a case where—
- (a) earnings such as are mentioned in subsection (1) above have been paid to a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 3 of this Act, and
  - (b) the tax week in which those earnings are paid falls in the tax year 1991-92 or any subsequent tax year,
- the married woman or widow shall be treated for the purposes of this section as having such earnings factors derived from those earnings as she would have had if primary Class 1 contributions had been payable, and paid, upon them otherwise than at a reduced rate.”
- (3) If, immediately before the coming into force of this paragraph, there is in force in relation to an occupational pension scheme a contracting-out certificate under Part III of the Pensions Act then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2) above, they shall be overridden by that provision.

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

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*Protection of earner's and widow's pensions*

- 8 (1) Sections 41A and 41B of the Pensions Act (protection of earner's and widow's pension) shall have effect, and be taken at all times on and after 21st July 1989 to have had effect, with the amendments made by sub-paragraphs (2) to (7) below, which are in substitution for the amendments made by paragraphs 6 and 7 of Schedule 6 to the 1989 Act; and those paragraphs shall be taken never to have come into force.
- (2) In section 41A of the Pensions Act, in subsection (1C) (which defines the "relevant aggregate") after paragraph (c) there shall be added the words "and
- (d) where the scheme provides that part of the earner's pension shall accrue after the termination of employment date by reason of employment after that date, the later earnings addition."
- (3) After subsection (2) of that section there shall be inserted—
- “(2A) In this section “the later earnings addition” means the amount (if any) by which  $(R2 - G2)$  exceeds  $(R1 - G1)$ , where—
- R1 is the relevant sum;  
G1 is the earner's guaranteed minimum on the day after his termination of employment date;  
R2 is the amount that would have been the relevant sum, had the weekly rate of the benefit which determines that sum been calculated by reference to the earner's later earnings level; and  
G2 is that amount which bears to R2 the proportion which G1 bears to R1.
- (2B) For the purposes of subsection (2A) above, the earner's “later earnings level” is the level of earnings by reference to which the weekly rate of the benefit which determines the relevant sum would have been calculated, had the termination of employment date fallen on the earlier of—
- (a) the commencement of payment date, or  
(b) the date on which the earner ceased to be in pensionable service under the scheme.”
- (4) In subsection (11) of that section (definitions) for the words “ “short service benefit” is” there shall be substituted the words “ “pensionable service” and “short service benefit” are
- (5) In section 41B of the Pensions Act, in subsection (1A) (which defines the “relevant aggregate”) after paragraph (c) there shall be added the words “and
- (d) where the scheme provides that part of the widow's pension shall accrue after the termination of employment date by reason of the earner's employment after that date, the later earnings addition.”
- (6) After subsection (3) of that section there shall be inserted—
- “(3A) In this section “the later earnings addition” means the amount (if any) by which  $(R2 - G2)$  exceeds  $(R1 - G1)$ , where—
- R1 is the relevant sum;  
G1 is one half of the earner's guaranteed minimum on the day after his termination of employment date;

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R2 is the amount that would have been the relevant sum, had the weekly rate of the pension which determines that sum been calculated by reference to the earner's later earnings level; and

G2 is that amount which bears to R2 the proportion which G1 bears to R1.

(3B) For the purposes of subsection (3A) above, the earner's "later earnings level" is the level of earnings by reference to which the weekly rate of the pension which determines the relevant sum would have been calculated, had the earner's termination of employment date fallen on the earlier of—

- (a) the earner's commencement of payment date, or
- (b) the date on which the earner ceased to be in pensionable service under the scheme."

(7) After subsection (5) of that section, there shall be added—

“(6) In this section “pensionable service” shall be construed in accordance with Schedule 16 to the Social Security Act 1973.”

- (8) In section 41A of that Act, in subsection (1), for the words “relevant date” there shall be substituted the words “commencement of payment date” and subsections (1A) and (1B) shall cease to have effect.
- (9) In consequence of this paragraph, regulation 2(1) and (2) of the Occupational Pension Schemes (Transitional Provisions and Savings) Regulations 1989 shall be deemed never to have been made.
- (10) If, before 21st July 1989, an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, sections 41A and 41B of the Pensions Act shall apply in relation to the earner and the earner's widow or widower as if neither this paragraph nor paragraphs 6 and 7 of Schedule 6 to the 1989 Act had been enacted.
- (11) Expressions used in sub-paragraph (10) above and the Pensions Act have the same meaning in that sub-paragraph as they have in that Act.

*Provisions for the suspension or forfeiture of pensions*

- 9 (1) In section 41C(3) of the Pensions Act—
  - (a) in paragraph (a), sub-paragraph (ii) shall be omitted and for the word “or” immediately preceding it there shall be substituted the word “and”; and
  - (b) in paragraph (d) (provisions about commutation of pensions to be included among the provisions which are not overridden by sections 41A and 41B of that Act) for the word “commutation” there shall be substituted the words “the commutation, suspension or forfeiture”.

(2) After that paragraph there shall be inserted—

“and

- (e) any provision of a scheme whereby, as respects so much of a widow's or widower's pension as exceeds the guaranteed minimum pension—

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- (i) no pension, or a pension at a reduced rate, is payable if the earner and the widow or widower married not more than six months before the earner's death;
- (ii) the whole or any part of the pension is not paid to the widow or widower, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
- (iii) no pension, or a pension at a reduced rate, is payable to the widow or widower (or, where a provision such as is mentioned in sub-paragraph (ii) above operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner."

(3) In paragraph 7(4) of Schedule 1A to the Pensions Act, in paragraph (a) (adaptations of section 41C(3) in its application for certain purposes to schemes which are not contracted-out) after sub-paragraph (iii) there shall be added—

“(iv) from paragraph (e), the words from “as respects” to “guaranteed minimum pension””;

and paragraph (b) (which made, in relation to schemes which are not contracted-out, similar provision to that made by sub-paragraph (2) above as modified by this sub-paragraph) shall be omitted.

(4) The amendments made by sub-paragraph (1) above shall be deemed to have come into force on 1st November 1986 (the date on which certain amendments relating to commutation, suspension and forfeiture took, or are deemed to have taken, effect).

*The insurance companies which may take transfer values*

10 In section 52C of the Pensions Act (extinguishment of scheme's liability for pensions appropriately secured by insurance policies or annuity contracts) in subsection (4) (meaning of “appropriately secured”) for paragraph (a) there shall be substituted—

“(a) the insurance company with which it is or was taken out or entered into—

- (i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and
- (ii) satisfies, or satisfied at the relevant time, prescribed requirements; and”.

*Grants by the Occupational Pensions Board to advisory bodies*

11 The following section shall be inserted after the section 57A of the Pensions Act inserted by paragraph 3 above—

**“57B Grants by the Board to advisory bodies etc**

(1) The Occupational Pensions Board may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.

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- (2) The Secretary of State may pay to the Occupational Pensions Board such sums as he may think fit towards any expenditure of theirs in making grants under this section.”

*Levy towards meeting cost of the Pensions Ombudsman,  
the Registry and certain grants made by the Board*

- 12 After section 60 of the Pensions Act there shall be inserted the following section—

**“60ZA Levies towards meeting certain expenditure under this Act**

- (1) For the purpose of meeting some or all of the expenditure under section 57B, Part IVA, and section 59K of this Act, regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.
- (2) Any levy imposed under this section shall be payable to the Secretary of State by or on behalf of—
- (a) the administrators of such public service pension schemes as may be prescribed,
  - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed, or
  - (c) such other persons as may be prescribed,
- at such rates and at such times as may be prescribed.
- (3) The amount payable by any person on account of the levy shall be a debt due from him to the Secretary of State and shall be recoverable accordingly.
- (4) Regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section, but this subsection is without prejudice to the generality of subsection (1) above.”

*Extension of certain pension scheme provisions to Northern Ireland.*

- 13 In section 68(4) of the Pensions Act (provisions which extend to Northern Ireland) for the words “Section 57 of this Act extends” there shall be substituted the words “The following provisions of this Act, namely, sections 57, 59B, other than subsections (4) and (5)(b), and 59K(1), (2), other than paragraph (a)(ii), (3), (4) and (9) extend”.

*Revaluation: extension of certain provisions to widowers*

- 14 In section 9(4) of the 1986 Act, in paragraph (i) (which was inserted by paragraph 16(b) of Schedule 6 to the 1989 Act and which specifies certain provisions in Schedule 1A to the Pensions Act which are to be construed as if “widow” included “widower”) after the word “paragraphs” there shall be inserted “2(2)(e)”.

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*Overriding effect of certain 1989 Act amendments*

- 15 (1) In paragraph 19 of Schedule 6 to the 1989 Act (which made minor amendments to the requirements specified in Schedule 1 to the 1986 Act which appropriate schemes must satisfy) after sub-paragraph (2) there shall be added—

“(3) If immediately before the passing of the Social Security Act 1990 there is in force in relation to an occupational or personal pension scheme either—

(a) a contracting-out certificate under Part III of the Pensions Act which states that the scheme is contracted-out by virtue of section 32(2A) of that Act, or

(b) an appropriate scheme certificate under Part I of the 1986 Act, then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraph (1) or (2) above, they shall be overridden by that provision.”

- (2) In paragraph 20 of Schedule 6 to the 1989 Act (amendments relating to the manner of giving effect to protected rights) after sub-paragraph (3) there shall be added—

“(4) If immediately before the passing of the Social Security Act 1990 there is in force in relation to an occupational or personal pension scheme either—

(a) a contracting-out certificate under Part III of the Pensions Act which states that the scheme is contracted-out by virtue of section 32(2A) of that Act, or

(b) an appropriate scheme certificate under Part I of the 1986 Act, then, to the extent that the rules of the scheme are inconsistent with any provision made by sub-paragraphs (1) to (3) above, they shall be overridden by that provision.”