



STATUTORY INSTRUMENTS.

S.I. No. 4 of 2011

CHILDREN ACTS ADVISORY BOARD SPOUSES' AND CHILDREN'S
CONTRIBUTORY PENSION SCHEME, 2011

(Prn. A11/0069)

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The Children Acts Advisory Board in accordance with the Children Act 2001 (Number 24 of 2001), (as amended by the Child Care (Amendment) Act 2007, (Number 26 of 2007)), in accordance with section 239 of that Act, with the approval of the Minister and with the consent of the Minister for Finance, hereby makes the following Scheme.

1. Citation

This Scheme may be cited as the Children Acts Advisory Board Spouses' and Children's Contributory Pension Scheme, 2011.

2. Commencement

The Scheme will commence with effect from 7 November 2003, which shall be known as the date of commencement.

3. Definitions

3.1 "adoption order" means an adoption order made under the Adoption Acts, 1952 to 2010;

3.2 "Allowances" means such allowances in the nature of pay lawfully determined or lawfully approved by the Children Acts Advisory Board, which are designated as pensionable by the Children Acts Advisory Board, but excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment toward or in respect of such emoluments;

3.3 "child", subject to paragraph 7.1, means a child or step-child or lawfully adopted child of the deceased, who is—

(a) a person under sixteen years of age, or

(b) a person under twenty-two years of age who is receiving full-time instruction at any university, college, school or other educational establishment, or

(c) a person under twenty-two years of age who is undergoing full-time instruction or training by any person (in this Scheme referred to as "the employer") for any vocation, profession or trade, being instruction or training approved of by the Children Acts Advisory Board for the purposes of this subparagraph, or

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th January, 2011.*

(d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and who, when his or her permanent incapacity first occurred, was a person described in any of the foregoing clauses of this subparagraph;

3.4 “Children Acts Advisory Board” means the organisation in question;

3.5 “Contributing Member” means a serving member of the Main Scheme;

3.6 “Contributory Survivor’s Pension” means contributory survivor’s pension payable under the Social Welfare Acts;

3.7 “death gratuity” except in the expression “preserved death gratuity” means a gratuity payable in accordance with paragraph 8.2 (f) (i) of the Main Scheme;

3.8 “deceased’s pension” means:-

(a) in case, otherwise than on retirement on medical grounds, he or she is awarded a pension,

(i) in relation to a member who is not fully insured, the amount of such pension, and

(ii) in relation to a member who is fully insured, the pension which would have been granted to him or her if it had been calculated by reference to net pensionable remuneration (Spouses’ and Children’s Scheme) instead of net pensionable remuneration (Main Scheme) at the date of retirement as increased by reference to pension increases granted under paragraph 11 of the Main Scheme during the period between retirement and death;

(b) in case, on retirement on medical grounds, he or she is awarded a pension, the pension which would have been granted to him or her if it fell to be calculated by reference to—

(i) in relation to a member who is not fully insured,

(I) his or her pensionable remuneration at the date of retirement as increased by reference to pension increases granted under paragraph 11 of the Main Scheme during the period between retirement and death, and

(II) the pensionable service which he or she would have had if he or she had served to the age of sixty-five years, and

(ii) in relation to a member who is fully insured,

(I) his or her net pensionable remuneration (Spouses’ and Children’s Scheme) at the date of retirement as increased by reference to pension increases granted under paragraph 11 of

the Main Scheme during the period between retirement and death, and

- (II) the pensionable service which he or she would have had if he or she had served to the age of sixty-five years;
- (c) in case a preserved pension was in payment to the deceased,
- (i) in relation to a member who is not fully insured, the amount of such pension, and
 - (ii) in relation to a member who is fully insured, the preserved pension which would have been granted to him or her if it had been calculated by reference to net pensionable remuneration (Spouses' and Children's Scheme) instead of net pensionable remuneration (Main Scheme) at the date of resignation as increased by reference to pension increases granted under paragraph 11 of the Main Scheme during the period between resignation and death;
- (d) in case, having resigned with entitlement to a preserved pension, the deceased dies before the age at which the preserved pension became payable or before making application for the preserved pension, an amount equal to—

$$\frac{D \times E}{80}$$

where D is the number of years of pensionable service at the date of resignation, subject to a maximum of 40 years, and E is

- (i) in relation to a member who is not fully insured, his or her pensionable remuneration at the date of resignation as increased by reference to pension increases granted under paragraph 11 of the Main Scheme during the period between resignation and death, and
 - (ii) in relation to a member who is fully insured, his or her net pensionable remuneration (Spouses' and Children's Scheme) at the date of resignation as increased by reference to pension increases granted under paragraph 11 of the Main Scheme during the period between resignation and death;
- (e) in case the deceased elected to be paid benefits under 8.3 (g) or 8.4 (g) as appropriate, of the Main Scheme, the amount of the preserved pension which would have been awarded to the deceased on attaining normal pension age if he had not so elected;
- (f) in case he or she dies while serving as a member of the Main Scheme, the pension for which he or she would be eligible if clause (b) of this subparagraph applied to him or her;

- 3.9 “former member” means a person who was awarded a pension and retirement gratuity or preserved pension and lump sum;
- 3.10 “fully insured” means insured for State Pension (Contributory) under the Social Welfare Acts;
- 3.11 “lawfully adopted child” means a child adopted by a member (whether alone or jointly with any other person) either in pursuance of an adoption order or in accordance with the law of a country or territory other than the State and recognised by the law of the State as valid. Where a married member applies for an adoption order in respect of a child and dies before the adoption procedure is completed and the child is subsequently adopted by the member’s spouse, the child shall, from the date on which the member has custody of him or her, be deemed, for the purposes of this Scheme, to be the member’s lawfully adopted child;
- 3.12 “Main Scheme” means the Children Acts Advisory Board Employee Superannuation Scheme, 2011;
- 3.13 “member” means a person who, pursuant to paragraph 4, is a member of this Scheme;
- 3.14 “Minister” means the Minister for Health and Children;
- 3.15 “net pensionable remuneration (Spouses’ and Children’s Scheme)” means the amount by which pensionable remuneration exceeds once the rate of “State Pension (Contributory)” payable on the last day of pensionable service to a person who has no adult dependant or qualified children;
- 3.16 “Net pensionable remuneration” means the amount by which pensionable remuneration exceeds twice the annual maximum personal rate of “State Pension (Contributory)” payable on the last day of pensionable service to a person who has no adult dependant or qualified children;
- 3.17 “Pensionable allowances” means the average of any allowances paid to the member calculated in accordance with the provisions of paragraph 5.6 of the Main Scheme;
- 3.18 “Pensionable remuneration” means the aggregate of retiring salary and pensionable allowances provided that, in the case of a member who is work-sharing at retirement, pensionable remuneration shall be deemed to be the pensionable remuneration applicable in his or her case if he or she were not work-sharing;
- 3.19 “pensionable service” means service reckonable under paragraph 6.1 of the Main Scheme;
- 3.20 “Remuneration” means the aggregate of salary and allowances (multiplied by 52.18 in the case of weekly allowances);

- 3.21 “retirement gratuity”, means a gratuity awarded under the provisions of paragraph 8.2(c) or 8.2(d) of the Main Scheme;
- 3.22 “retirement on medical grounds” means retirement in accordance with the provisions of paragraph 9.1 of the Main Scheme on completion of five or more year’s actual pensionable service;
- 3.23 “Retiring salary” means the salary of the member at the date of retirement or death where—
- (a) a member has had the same scale of salary and has been in the same grade for the last three years of his or her pensionable service, or
 - (b) a member who is under 62 years of age dies in service, or
 - (c) a member retires or is retired on medical grounds before 60 years of age with sufficient potential service to age 60 to avoid averaging.
- In any other case retiring salary shall be taken as the total calculated by multiplying by 1/1095 the annual rate of salary appropriate on the last day of pensionable service for each grade in which the member served during the last three years of pensionable service, and multiplying the result by the number of days of his or her employment in each grade during those years, subject to the retiring salary so taken not exceeding the annual basic rate of salary payable at the time of retirement or death;
- 3.24 “Salary” means the annual basic rate (or the weekly basic rate multiplied by 52.18) of remuneration payable from time to time as lawfully determined or lawfully approved by the Children Acts Advisory Board, excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment toward or in respect of such emoluments;
- 3.25 “Social Welfare Acts” means the Social Welfare Acts 1981 to 2010 including any enactment which amends or extends any or all of those Acts and any regulation, warrant or order made thereunder;
- 3.26 “spouse” means a partner to a marriage recognised by the law of the State as valid;
- 3.27 “State Pension (Contributory)” means the State Pension (Contributory) payable under the Social Welfare Acts;
- 3.28 “years” means a figure determined by the formula $A + B/365$ where A is the number of completed years in the period in question and B is any number of days additional to a completed year or a number of completed years in that period, and “*year*” shall be construed accordingly;

4. Membership

All members of the Main Scheme shall be members of this Scheme.

5. Power to grant Spouses' and Children's Pensions

Subject to the provisions of this Scheme, the Children Acts Advisory Board may, on the death of a contributing or former member (in this Scheme referred to as "the deceased") to whom or in respect of whom a pension or death gratuity, or preserved pension or preserved death gratuity has been, or is awarded, grant in respect of his or her service—

- (a) where he or she leaves a spouse, a pension to that spouse (hereafter in this Scheme referred to as a "spouse's pension"), and
- (b) where he or she leaves a child or children (whether or not a spouse's pension is, or may be, granted) a pension for such child or children (in this Scheme referred to as a "children's pension").

6. Spouse's Pension

6.1 A spouse's pension shall not be granted or paid under this Scheme—

- (a) if the spouse was at the time of the death of the member cohabiting with a person other than the deceased as man and wife, or
- (b) in respect of any time after the said death when the spouse is remarried or is so cohabiting with any person.

6.2 Notwithstanding paragraph 6.1, where,

- (a) a pension under this Scheme is not granted or ceases under the said paragraph 6.1, and
- (b) at a date subsequent to the date of the marriage or cohabitation by reason of which the pension was withheld or ceased the Children Acts Advisory Board is satisfied that the marriage or cohabitation has come to an end, or that there are compassionate grounds for the payment of pension, the Children Acts Advisory Board may, if it thinks fit, grant or regrant, as may be appropriate, the pension as from,
 - (i) in case the marriage or cohabitation has come to an end, the date on which the marriage or cohabitation ended,
 - (ii) in any other case, a date not earlier than the date on which the relevant application is received by the Children Acts Advisory Board,

provided that, where the spouse is entitled to benefit under this or any other public sector spouses' and children's pension scheme by virtue of the fact that his or her spouse of the second or later marriage was a member of this or any other such Scheme, a spouse's pension shall not be payable under this Scheme unless the spouse's pension payable by virtue of the second or later marriage is less than the spouse's pension payable under this Scheme.

- 6.3 Subject to the provisions of paragraph 6.1 and 21.2 a spouse's pension may be paid for the whole of the period beginning on the death of the deceased and ending with the death of the spouse.
- 6.4 (a) The rate of a spouse's pension shall be one-half of the rate of the deceased's pension.
- (b) (i) In the case of the death of a contributing or former member who was fully insured, the Children Acts Advisory Board may, at its discretion, pay to his or her spouse a supplementary pension, the amount of which shall not exceed the difference between—
- (I) the rate of spouse's pension resulting from the calculation at paragraph (4)(a), together with the personal rate of Contributory Survivor's Pension, if any, payable to the spouse, and
- (II) the rate of spouse's pension which would have resulted from the calculation at paragraph (4)(a) if the member had not been fully insured.
- (ii) The supplementary pension shall be payable in respect of any period or periods during which the spouse—
- (I) fails to qualify for Contributory Survivor's Pension where such failure is not due to causes within his or her own control, or
- (II) qualifies for Contributory Survivor's Pension at less than the maximum personal rate due to causes outside his or her own control.
- 6.5 Notwithstanding paragraph 6.4, where on the death of a contributing or former member, other than a former member who qualifies for a preserved pension, a spouse's pension becomes payable to his or her spouse, the rate of that pension may, in respect of the first month after his or her death, be increased to—
- (a) in case he or she dies while a contributing member, one twelfth of his or her pensionable remuneration.
- (b) in case he or she dies after being granted a pension,
- (i) in relation to a member who is not fully insured, where the rate of pension payable to him or her on the date of his or her death is greater than the rate of spouse's pension otherwise payable under the Scheme, one twelfth of the said rate of pension,
- (ii) in relation to a person who is fully insured, where the rate of pension payable to him or her on the date of his or her death, if it had been calculated on the basis of net pensionable remuneration (Spouses' and Children's Scheme) instead of net pensionable remuneration (Main Scheme), is greater than the rate of spouses

pension otherwise payable under this Scheme, one twelfth of the said rate of pension.

provided that the rate as so increased shall be reduced by the rate of any children's pensions payable under this Scheme, and provided also that the amount payable to the spouse under this Scheme in respect of the period of one month commencing on the day immediately following that of the deceased's death may be paid at any time on or after the first day of the said period.

7. Children's Pensions; Beneficiaries

7.1 The following shall not be regarded as a child within the meaning of this Scheme namely:

- (a) a person who was not wholly or mainly dependent on a member immediately prior to the member's death
- (b) a person who is married or cohabiting with another person as man and wife, or
- (c) a person referred to in subparagraph 3.3(c) to, or in respect of, whom emoluments in respect of such instruction or training are payable by, or on behalf of, the employer and which are of such an amount as makes the person self-supporting,

provided that if there are compassionate grounds for so doing, the Children Acts Advisory Board may, as regards a person who apart from this sub-paragraph would be such a child, direct that notwithstanding this sub-paragraph the person shall, with effect from such date as is specified in the direction, be regarded as being such a child and in case the Children Acts Advisory Board makes a direction under this sub-paragraph, then for so long as the direction is in force this Scheme shall, as regards the person to whom the direction relates, be construed and have effect in accordance with the direction.

7.2 Where, in relation to a person referred to in subparagraph 3.3(b) or 3.3(c), a break occurs in his or her full-time instruction or training, then unless the Children Acts Advisory Board otherwise directs, he or she shall, for the duration of such break, be regarded as having ceased to be a child for the purposes of this Scheme.

7.3 A child shall not be eligible for a children's pension in respect of more than one member.

7.4 Where there would, apart from paragraph 7.3, be an eligibility for children's pension in respect of two or more members, the child will count as eligible in respect of one of them in the way which in the opinion of the Children Acts Advisory Board, gives the most favourable overall result for the child in question.

8. Children's Pensions; rate and mode of payment

- 8.1 A children's pension under this Scheme will be paid to the parent or step-parent of the children if the eligible children are in his or her care, and in case any child in respect of whom a pension is payable is not in such care, the pension will be paid either to the child or to such other person as the Children Acts Advisory Board may determine. If the children are in the care of more than one person, different parts of the children's pension will be paid to those persons in such proportions as the Children Acts Advisory Board may determine.
- 8.2 In all cases, the pension is to be applied for the benefit of the children for whom it is granted.
- 8.3 A children's pension may be paid only in relation to the period or periods subsequent to the date of death of the deceased.
- 8.4 The rate of children's pension under this Scheme shall be—
- (a) where the deceased leaves no spouse or, if he or she leaves a spouse and the spouse dies, after his or her death,
 - (i) where there is only one child, one-third of the deceased's pension,
 - (ii) where there are two or more children, a rate in respect of each child equivalent to one-half of the deceased's pension divided by the number of children.
 - (b) subject to paragraph 8.5, where the deceased leaves a spouse,
 - (i) where there are not more than three children, one-sixth of the deceased's pension for each child,
 - (ii) where there are more than three children, a rate in respect of each child equivalent to one-half of the deceased's pension divided by the number of children.
- 8.5 (a) Where the children of the deceased are at the time of, or at any time after, his or her death in the care of some person other than a parent or step-parent, the Children Acts Advisory Board may, if it thinks fit, direct that for so long as they are in such care, paragraph 8.4(a) shall apply notwithstanding that the spouse is still alive, and in case the Children Acts Advisory Board so directs this subparagraph shall be construed and shall have effect in accordance with the direction.
- (b) Where some but not all of the children of the deceased are at the time of, or at any time after, his or her death in the care of a person other than their parent or step-parent, the rate of that portion of the children's pension which is payable in respect of the children who are in the care of that person may be calculated by reference to the rates specified in paragraph 8.4(a); provided that the amount of children's

pension payable in respect of the deceased person shall not exceed one-half of the rate of the deceased's pension.

- 8.6 Notwithstanding the foregoing provisions of this paragraph, where the deceased leaves a spouse and no spouse's pension is granted to him or her under this Scheme, or, if one is so granted to him or her and it ceases to be paid before his or her death, no pension shall be payable under this Scheme to the children of that spouse as respects any period comprised within the lifetime of the spouse or within the time in respect of which no spouse's pension is payable, as may be appropriate, unless the Children Acts Advisory Board in its absolute discretion directs that such a pension shall be so payable, and in case the Children Acts Advisory Board gives a direction under this paragraph it may, if it thinks fit, further direct that paragraph 8.5 shall apply as respects any such period.

9. Payment of Pension

Pensions payable under this Scheme shall be paid monthly in arrears except that where paragraph 6.5 applies in respect of a deceased member, the Children Acts Advisory Board may decide that the amount of pension in respect of the month in question may be paid before the expiry of that month.

10. Periodic Contributions

- 10.1 Contributions shall be payable as follows:—

- (a) in the case of a member who is fully insured, the rate of the contribution shall be one and one-half per cent of the amount of the remuneration from time to time payable to him or her (or where he or she is in receipt of reduced remuneration because of absence from employment, of the amount of the remuneration that would be payable to him or her if he or she were not so absent).
- (b) in the case of a member who is not fully insured, the rate of the contribution shall be one and one-half per cent of the amount of the salary from time to time payable to him or her (or where he or she is in receipt of reduced salary because of absence from employment, of the amount of the salary that would be payable to him or her if he or she were not so absent).

- 10.2 The contribution shall be paid in respect of the period commencing on the date of commencement or the date on which he or she becomes a member whichever is the later, and ending when he or she ceases to be a contributing member and at such times and in such manner as the Children Acts Advisory Board may determine.

- 10.3 No contributions shall be payable under this Scheme by a member for any period which does not constitute pensionable service.

- 10.4 Contributions payable under this paragraph are in this Scheme referred to as "periodic contributions".

11. Refund of Contributions

- 11.1 If a member ceases to be a contributing member other than on death and on so ceasing is not eligible for the grant of a pension and retirement gratuity, or preserved pension and preserved lump sum, then, if his or her pensionable service is not transferred to another organisation or service, the whole of his or her periodic contributions shall be returned to him or her.
- 11.2 If a member retires on health grounds with less than five years and opts in accordance with the provisions of 8.2 (b) of the Children Acts Advisory Board Employee Superannuation Scheme, 2011 (Main Scheme) to accept a gratuity or gratuities in lieu of any other benefits payable under the Main Scheme the whole of his or her periodic contributions shall be returned to him or her.
- 11.3 A member who, on ceasing to be a contributing member, has paid periodic contributions for a period in excess of 40 years may have returned to him or her, or, if membership ceases due to death, to his or her legal personal representative, such of those contributions beginning with his or her initial contribution and working forward, as is necessary to secure that the period in respect of which such contributions are paid by him or her without being returned does not exceed 40 years.
- 11.4 Where any contributions are returned under this paragraph they shall be returned without interest and less an amount equal to any income tax liability of the member in respect of such contributions.
- 11.5 Where periodic contributions are returned in accordance with this paragraph to a person who subsequently becomes a member of this Scheme, he or she shall refund to the Children Acts Advisory Board the amount of the periodic contributions so returned to him or her, together with compound interest on that amount at the rate of six per cent per annum, with half-yearly rests from the date of payment to him or her.

12. Former Members becoming contributing members

- 12.1 Subject to paragraph 12.2, where a former member becomes a contributing member of this Scheme, any entitlement to spouse's pension or children's pension under this Scheme in respect of his or her previous membership shall cease.
- 12.2 Where a person, on becoming a contributing member of this Scheme, had at any time previously been a member of this Scheme and had paid periodic contributions during such period of membership, the period in respect of which he or she paid such periodic contributions shall be excluded in determining the number of relevant years under paragraph 13(8) provided—
- (a) no refund of those contributions is, or was, paid, or
 - (b) paragraph 11.4 applies.

13. Non-periodic Contributions

13.1 Where a member was married throughout the period, or for a portion of the period, during which this Scheme applied to him or her and he or she ceases to be a contributing member and such cesser is due to—

(a) death, or

(b) retirement on pension or resignation with entitlement to a preserved pension,

then, unless the number of relevant years is nil, a contribution under this paragraph shall be payable by way of reduction in the amount of his or her retirement gratuity or death gratuity or preserved lump sum or preserved death gratuity, or in such other manner as the Children Acts Advisory Board may require.

13.2 A contribution under this paragraph shall be one per cent of the member's pensionable remuneration multiplied by the number of relevant years.

13.3 Where a contribution under this paragraph is being deducted from a preserved lump sum or preserved death gratuity, the contribution shall be calculated by reference to an amount equal to the member's pensionable remuneration at date of resignation as increased by reference to pension increases granted under paragraph 11 of the Main Scheme in the interval between the date of resignation and the date—

(a) on which he or she attains the age at which the pension would become payable, in the case of a preserved lump sum, or

(b) of his or her death, in the case of a preserved death gratuity.

13.4 Where, subsequent to the date on which a member ceases to be a contributing member, the pension payable to him or her or to his or her spouse (but not the retirement gratuity, death gratuity, preserved lump sum or preserved death gratuity) falls to be increased because of an increase in the pensionable service of the member, the Children Acts Advisory Board may adjust the amount of the contribution under this paragraph to take account of the increase.

13.5 At the discretion of the Children Acts Advisory Board and subject to conditions specified by the Children Acts Advisory Board, a member may elect to pay, over a period of twelve months beginning on a date specified by the Children Acts Advisory Board, being a date not earlier than the date of the election, additional contributions equal in each case to the amount of the periodic contributions payable in respect of that period and in case one or more such additional contributions are made, this paragraph shall apply to the person by whom the contribution or contributions is or are made subject to the modification that, in calculating what is the number of relevant years, that number shall be reduced by one for every contribution made by the person under this paragraph.

- 13.6 Where a member, to whom this paragraph applies, gave service otherwise than as a member of the Children Acts Advisory Board which is pensionable service under paragraph 6.1 of the Main Scheme, any portion of that service during which he or she paid periodic contributions under a scheme similar to this Scheme may, provided those contributions were not refunded to him or her, or having been so refunded have been repaid by him or her with appropriate compound interest applied, be excluded in determining the number of relevant years under this paragraph.
- 13.7 In this paragraph, “the number of relevant years” means—
- (a) in the case of a member who being then married, ceases to be a contributing member,
 - (i) if such cesser is caused otherwise than by death or retirement on medical grounds, the number of years of pensionable service which he or she then had,
 - (ii) if such cesser is due to death or retirement on medical grounds, the number of years of pensionable service which he or she would have if he or she had served to age 65, or, if earlier, to the date on which his or her contract of employment would expire,reduced in each case by the number of years if any, for which periodic contributions have been paid by him or her and are not returnable.
 - (b) in the case of a member who, being then unmarried, ceases to be a contributing member, the number of years of pensionable service which he or she had on the date of termination of his or her last marriage before such cesser, reduced by the number of years if any, for which periodic contributions have been paid by him or her and are not returnable.
- 13.8 Where a member who is not fully insured is liable for non-periodic contributions and his or her pensionable remuneration includes pensionable allowances he or she will be liable for a deduction of one per cent of the pensionable allowances in respect of each year during which he or she paid periodic contributions up to the date of termination of his or her last marriage before he or she ceased to be a contributing member.
- 13.9 Where a person to whom paragraph 12.1 applies became a former member by retiring on pension, whether on retirement on medical grounds, or otherwise, then the contribution payable under paragraph 13.2 at the termination of his or her final period of contributing membership shall be reduced by the amount of the contributions paid under paragraph 13.2 when he or she became a former member, provided there was no refund of that contribution.
- 13.10 Pensionable service in excess of 40 years shall be left out of account for the purposes of this paragraph.

14. Marriage of members whose early death is to be foreseen

Where a member or a former member marries and—

- (a) he or she dies within the year beginning on the date of the marriage, and
- (b) there are no children born of the marriage, and
- (c) the Children Acts Advisory Board is of the opinion that his or her death within the year beginning with the date of the marriage was, at that date, to be foreseen by him or her or his or her spouse,

for the purposes of this Scheme the marriage may be regarded by the Children Acts Advisory Board as not having taken place, and in case the marriage is so regarded all necessary adjustments (including, if need be, repayment to the Children Acts Advisory Board of the sums paid in respect of pensions already granted under this Scheme) shall be made accordingly.

15. Duty to give information and make declaration

- 15.1 A member of this Scheme shall give to the Children Acts Advisory Board such information as is necessary for the proper operation of this Scheme in relation to the member.
- 15.2 The spouse of a deceased member shall give to the Children Acts Advisory Board such information as is necessary for the proper operation of this Scheme in relation to any application by him or her for a spouse's pension or a pension for the children of that member.
- 15.3 A person having the care of a child of a deceased member who applies for a children's pension in respect of that child shall give to the Children Acts Advisory Board such information as is necessary for the proper operation of this Scheme in relation to that child.

16. Declarations

Payment of pension under this Scheme shall be subject to the making by the spouse and where children's pension is not payable to the spouse, the person having the care of the children in question, of a declaration in such form and at such times as the Children Acts Advisory Board may determine.

17. Repayment of pensions overpaid

If at any time a person receives payments on foot of a pension and such person is not entitled under this Scheme to such payments, or if a person receives payments on foot of a pension which exceed those which are appropriate under this Scheme, such person or, in case such a person is dead, the legal personal representative of such person, shall pay to the Children Acts Advisory Board on demand such payments or excess payments, as may be appropriate, and such payments or excess payments may, in default of payment, be recoverable by the Children Acts Advisory Board as a simple contract debt in any court of competent jurisdiction.

18. Assignments

Every assignment of, or charge on, and every agreement to assign or charge, a pension under this Scheme shall be void and, on the bankruptcy of any person entitled to a pension under this Scheme, that pension shall not pass to any trustee or other person acting on behalf of the creditors. If the pensioner becomes incapable of giving a receipt for payments due, the Children Acts Advisory Board shall have discretion to make such payments in whole or in part to such persons, including the authorities of any institution having care of the pensioner, as the Children Acts Advisory Board thinks fit, and the Children Acts Advisory Board shall be discharged from all liability in respect of any sum so paid.

19. Abatement by reference to other benefits

19.1 Where, either directly or indirectly, the Children Acts Advisory Board provides, or helps to provide, or contributes towards, a financial benefit for the spouse and/or children of a member, other than under

(a) this Scheme, or

(b) the provisions of the Main Scheme, or

(c) the Social Welfare Acts, or

(d) the Social Welfare (Occupational Injuries) Act 1966,

the Children Acts Advisory Board shall not make an award under this Scheme unless it is authorised to do so by the Minister with the consent of the Minister for Finance. In authorising an award in such a case, the Minister, with the consent of the Minister for Finance, may direct the Children Acts Advisory Board to adjust the amount of an award to take such account as he or she considers appropriate of the financial benefit in question.

19.2 Where, arising from the application of paragraph 19.1, an award is not made under this Scheme, the whole of the periodic contributions paid by the member shall be returned to his or her legal personal representative and paragraph 13 of this Scheme will not apply in his or her case.

19.3 Where, arising from the application of paragraph 19.1, the amount of an award is adjusted the Children Acts Advisory Board may return to the member's legal personal representative such proportion of the periodic contributions paid by the member as is authorised by the Minister with the consent of the Minister for Finance and may make such adjustment in any contribution which would otherwise be due under paragraph 13 of this Scheme as is authorised by the Minister with the consent of the Minister for Finance.

20. Increases in Pensions

The Children Acts Advisory Board may grant such increase in such pensions under this Scheme as may be authorised from time to time by the Minister with the consent of the Minister for Finance.

21. Cesser or Reduction of Benefit

21.1 Where a member is dismissed or resigns or otherwise ceases to hold employment and has been guilty of misconduct involving a financial loss to the Children Acts Advisory Board or the State, the Children Acts Advisory Board may, at its discretion, refuse or reduce any award which might otherwise be payable under this Scheme (including a refund of contributions) in order to make good such a loss.

21.2 The Children Acts Advisory Board may, at its discretion, reduce or cease paying a pension awarded under this Scheme if the pensioner has been guilty of misconduct involving a financial loss to the Children Acts Advisory Board or the State, in order to make good such a loss.

22. Appeals

If a person is aggrieved by the failure or refusal of the Children Acts Advisory Board to make an award under this Scheme or by the amount of any award (including the award of pension increases) made, he or she may appeal to the Minister who shall refer the dispute to the Minister for Finance who shall, within three months of the dispute being referred to him or her, issue a determination in accordance with Article 5.1 of the Pensions Ombudsman Regulations 2003 (S.I. No. 397 of 2003).

23. Termination or amendment of Scheme

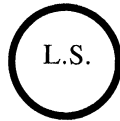
The Children Acts Advisory Board reserves the right to amend or terminate this Scheme at any time subject to the approval of the Minister and the concurrence of the Minister for Finance and subject to giving three months' notice of impending changes to members of the Scheme. Benefits secured for or in respect of a member or former member prior to the date of amendment or termination will not be affected.

The Minister for Finance hereby consents to the above Scheme.

BRIAN LENIHAN,
Minister for Finance.
dated this 13 day of January, 2011.

The Minister for Health and Children hereby approves of the above Scheme.

MARY HARNEY,
Minister for Health and Children.
dated this 13 day of January, 2011.



GIVEN under the Seal of the Children Acts Advisory Board,
13 January 2011.

FINBARR O'LEARY,
Deputy Chief Executive.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Scheme may be cited as the Children Acts Advisory Board Spouses' and Children's Contributory Pension Scheme, 2011. It provides for superannuation benefits for spouses and children of Scheme members.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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