



STATUTORY INSTRUMENTS.

S.I. No. 497 of 2009

INDUSTRIAL DEVELOPMENT AUTHORITY SPOUSES' AND
CHILDREN'S CONTRIBUTORY PENSION SCHEME 2009

(Prn. A9/1803)

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INDUSTRIAL DEVELOPMENT AUTHORITY SPOUSES' AND
CHILDREN'S CONTRIBUTORY PENSION SCHEME 2009

Forfas, in exercise of the powers conferred on it by Paragraph 3 of the Second Schedule to the Industrial Development Act, 1993 (No. 19 of 1993), with the approval of the Minister for Enterprise, Trade and Employment given with the consent of the Minister for Finance, hereby makes the following scheme

1. Short Title

This Scheme may be cited as the Industrial Development Authority Spouses' and Children's Contributory Pension Scheme 2009

2. Commencement

The Scheme will commence with effect from 1 April 1970 in respect of male members and 1 November 1981 in respect of female members, 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 1998;
- 3.2 “allowances” means such allowances in the nature of pay lawfully determined or lawfully approved by the Authority, which are designated as pensionable by the Authority, 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 “the Agency” means Forfas, the body established in that name by Section 5 of the Industrial Development Act, 1993;
- 3.4 “the Authority” means the Industrial Development Authority as defined in paragraph 3.1 of the Principal Scheme. All references to the Authority should be read, as appropriate, to include “or the Agency”;
- 3.5 “child”, subject to paragraph 7.1, means a legitimate child or lawfully adopted child of the deceased, or, on or after 1 January 1979, a step child of the deceased who is—
- (a) a person under sixteen years of age, or

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th December, 2009.*

- (b) prior to 1 January 1997, a person under twenty-one years of age or since 1 January 1997, 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) prior to 1 January 1997, a person under twenty-one years of age or since 1 January 1997, 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 Authority for the purposes of this subparagraph, or
- (d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and who, when his permanent incapacity first occurred, was a person described in any of the foregoing clauses of this subparagraph, (provided that in case the person reached the age of 21 years before 1 January 1979, this definition shall not apply to him during the period commencing on the day he reaches that age and ending on 31 December 1978)

3.6 "children's pension" has the meaning assigned to it by paragraph 5;

3.7 "contributing member" means a member who is serving as a pensionable employee of the Authority;

3.8 "Contributory Survivor's Pension" means contributory survivor's pension payable under the Social Welfare Acts;

3.9 "death gratuity" except in the expression "preserved death gratuity" means a gratuity payable in accordance with paragraph 11 of the Main Scheme;

3.10 "deceased's pension" means:-

- (a) in case prior to 1 January 1979, otherwise than on retirement on a medical certificate, he is awarded a pension, the amount of such pension,
- (b) in case prior to 1 January 1979, he retires on a medical certificate and has at least five years pensionable service, an amount equivalent to one-eightieth of his net pensionable remuneration for each year of pensionable service,
- (c) in case prior to 1 January 1979, he retires on a medical certificate and either is a person mentioned in paragraph (b) of this definition or was awarded a pension with effect from 1 January 1979, the pension which he would be eligible if paragraph (e) of this definition applied to him,
- (d) in case on or after 1 January 1979, otherwise than on retirement on a medical certificate, he is awarded a pension, the amount of such pension,

- (e) in case on or after 1 January 1979, on retirement on a medical certificate he is awarded a pension, the pension which would be granted to him if it fell to be calculated by reference to:
- (i) his net pensionable remuneration at the date of retirement, and
 - (ii) the pensionable service he would have had, had he served to the age of sixty-five years of age
- (f) in case, having been appointed on or after 1 January 1979, a preserved pension was in payment to the deceased, the amount of such pension,
- (g) in case, having resigned with entitlement to a preserved pension, having been appointed on or after 1 January 1979, the deceased dies before age 60 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 his net pensionable remuneration at date of resignation as increased by reference to pension increases granted under paragraph 17 of the Main Scheme during the period between his resignation and death,

- (h) in case,
- (i) prior to 1 January 1979, he dies while serving as a pensionable employee having given at least five years pensionable service, or
 - (ii) on or after 1 January 1979, he dies while serving as a pensionable employee

the pension for which he would have been eligible if paragraph (e) of this definition applied to him;

- 3.11 “former member” means a person who, being then married, retired from his position as a pensionable employee and was awarded a pension and retirement gratuity or preserved pension and lump sum, or, if he retired on a medical certificate before 1 January 1979, had at least five years reckonable service and is awarded a gratuity;
- 3.12 “fully insured” means insured for State Pension (Contributory) under the Social Welfare Acts;
- 3.13 “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 (before the termination of his contributing membership)

- 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, be deemed, for the purposes of this Scheme, to be the member's lawfully adopted child;
- 3.14 "Main Scheme" means the Industrial Development Authority Staff Superannuation Scheme 1970 (as amended);
- 3.15 "medical certificate" means, in relation to the retirement of any person, a medical certificate having regard to which the Authority is satisfied that the person to whom the certificate relates is incapable from infirmity of mind or body of discharging the duties of his office and that that infirmity is likely to be permanent;
- 3.16 "member" means a person who, pursuant to paragraph 4, is a member of this Scheme;
- 3.17 "Minister" means the Minister for Enterprise, Trade and Employment;
- 3.18 "net pensionable remuneration" means the amount by which pensionable remuneration exceeds twice the annual maximum personal rate of Old Age (Contributory) Pension;
- 3.19 "net remuneration" means the amount by which remuneration exceeds twice the annual maximum personal rate of Old Age (Contributory) Pension;
- 3.20 "Old Age (Contributory) Pension" means the contributory old age pension payable under the Social Welfare Acts to a single person excluding any increase that is payable on age grounds, or by virtue of the recipient living alone, or in respect of a qualified adult or child dependant;
- 3.21 "pension", except in the expression "preserved pension", means a pension under Paragraph 9 of the Main Scheme;
- 3.22 "pensionable allowances" means the annual average of any allowances paid to the member calculated in accordance with the provisions of Department of Finance Circular 10/2008;
- 3.23 "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 case if he were not work-sharing;
- 3.24 "pensionable service" means service reckonable under paragraph 8 of the Main Scheme;
- 3.25 "periodic contributions" has the meaning assigned to it by Paragraph 10.4;

- 3.26 “preserved death gratuity” means a gratuity payable by virtue of Paragraph 11.3 of the Industrial Development Authority Staff Superannuation Amendment Scheme 1981;
- 3.27 “preserved pension” and “preserved lump sum” means respectively a pension and a lump sum payable by virtue of Paragraphs 11.2 and 11.3 of the Industrial Development Authority Staff Superannuation Amendment Scheme 1981;
- 3.28 “Principal Scheme” means The Industrial Development Authority Staff Superannuation Scheme 1970;
- 3.29 “Remuneration” means the aggregate of salary and allowances (multiplied by 52.18 in the case of weekly allowances);
- 3.30 “retirement gratuity”, means a gratuity awarded under the provisions of paragraph 10 of the Main Scheme;
- 3.31 “Retiring salary” has the meaning assigned to it by paragraph 6.1 of the Industrial Development Authority Staff Superannuation Amendment Scheme 2009;
- 3.32 “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 Authority, 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;
- 3.33 “spouse” means a partner to a marriage recognised by the law of the State as valid;
- 3.34 “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
- 3.35 In this Scheme, with effect from 1 November 1981, and except in Paragraphs 2 and 4, every word importing the masculine gender shall be construed as if it also imported the feminine gender, and every word importing the feminine gender shall be construed as if it also imported the masculine gender

4. Membership

4.1 The following persons shall be members of this Scheme:

- (a) all male members of the Main Scheme appointed on or after 1 April 1970,

- (b) all male members of the Main Scheme serving on 1 April 1970, having been appointed prior to that date, who are not specifically excluded from membership,
- (c) all female members of the Main Scheme appointed on or after 1 November 1981,
- (d) all female members of the Main Scheme serving on 1 November 1981, having been appointed prior to that date, who during the period 1 July 1981 to 31 October 1981 do not exercise an option.

In this paragraph “option” means an option whereby the person by whom it is exercised elects not to join this Scheme

4.2 In the case of:

- (a) members of the Main Scheme appointed on or after 11 July 1986,
- (b) members of the Main Scheme serving on 11 July 1986, having been appointed prior to that date, who during the period ending on 10 July 1986, so elect

this Scheme shall apply subject to the modifications set out in the Appendix.

In this paragraph “elect” means the process whereby the person elects to join this Scheme and in such cases this Scheme shall apply subject to the modifications set out in the Appendix

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

Subject to the provisions of this Scheme, the Authority may, on the death of a contributing or former member, or a person whose spouse died while he was a contributing 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 service—

- (a) where he leaves a spouse, a pension to that spouse (hereafter in this Scheme referred to as a "spouse's pension"), and
- (b) where he had a spouse at any time after this Scheme first applied to him, whether or not the marriage continued until his death and whether or not a spouse’s pension is, or can be, granted, a pension for the children of this marriage, and in the circumstances specified in this Scheme for other children of his (in this Scheme referred to as a “child’s pension”),

provided that any marriage of the deceased which takes place after he has ceased to be a contributing member shall not be taken into account for the purposes of this Scheme, and accordingly any reference to a marriage,

spouse, the spouse or the children of the deceased shall be construed in accordance with the foregoing

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 Authority is satisfied that the marriage or cohabitation has come to an end, or that there are compassionate grounds for the payment of pension, the Authority 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 Authority,

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 the 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 20.2 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 Authority may, at its discretion, pay to his 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 6.4(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 6.4(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 own control, or
 - (II) qualifies for Contributory Survivor's Pension at less than the maximum personal rate due to causes outside his 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 spouse, the rate of that pension may, in respect of the first month after his death, be increased to—
- (a) in case he dies while a contributing member, one twelfth of his pensionable remuneration
 - (b) in case he dies after being granted a pension and the rate of pension payable to him on the date of his death 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 A pension may not be granted under this Scheme for a child:

- (a) if the deceased remained unmarried during the period commencing on 1 April 1970, or, if later, the date on which this Scheme first applied to him, and ending on the date on which he ceased to be a contributing member; or
- (b) if the child was conceived after the deceased ceased to be a contributing member; or
- (c) because he is the adopted child of the deceased, if:

- (i) the deceased was unmarried throughout the time this Scheme applied to him; or
- (ii) he was adopted by the deceased after:
 - (a) the date of termination of the deceased's last marriage; or
 - (b) the date on which the deceased ceased to be a contributing member,

whichever was the earlier; or
- (d) because he is the step-child of the deceased in respect of any period prior to 1 January 1979 or if the deceased's marriage to the child's parent took place after the deceased's last day of reckonable service; or
- (e) a person who was not wholly or mainly dependent on a member immediately prior to the member's death; or
- (f) a person who is married or cohabiting with another person as man and wife; or
- (g) a person referred to in paragraph 3.5(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 Authority may, as regards a person who apart from this subparagraph 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 Authority makes a direction under this subparagraph, 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 paragraph 3.5(c), a break occurs in his full-time instruction or training, then unless the Authority otherwise directs, he 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 Authority, 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 relevant member's spouse if the eligible children are in 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 Authority 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 Authority 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 leaves a spouse and the spouse dies, after her death,
 - (i) during the period from 1 April 1970 to 31 May 1973:
 - (A) where there is only one child, one sixth of the deceased's pension
 - (B) where there are two or more children, one sixth of the deceased's pension for the first child and one twelfth for each additional child up to a fourth additional child;
 - (ii) on or after 1 June 1973:
 - (A) where there is only one child, one third of the deceased's pension,
 - (B) 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) during the period from 1 April 1970 to 31 May 1973:
 - (A) where there are not more than six children, one twelfth of the deceased's pension for each child,
 - (B) where there are more than six children, a rate in respect of each child equivalent to X/Y where X is one-half of the deceased's pension and Y is the number of children;
 - (ii) on or after 1 June 1973:

- (A) where there are not more than three children, one sixth of the deceased's pension for each child,
 - (B) 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 death in the care of some person other than a spouse, the Authority 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 Authority 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 death in the care of a person other than his spouse, 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 the spouse under this Scheme, or, if one is so granted and it ceases to be paid before the death of that spouse, 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 Authority in its absolute discretion directs that such a pension shall be so payable, and in case the Authority 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 advance except that where paragraph 6.5 applies in respect of a deceased member, the Authority may decide with effect from 1 January 1979, 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 (a) The contribution shall comprise of one and one-half per cent of the amount of remuneration or, in the case of a fully insured member the rate of the contribution shall be one and one-half per cent of the amount of the net remuneration payable provided that in the case of a member who is a part-time employee or a work-sharer, the contributions shall be calculated in accordance with the formula $A \times B \div C$, where

A is the amount of the contribution which would be payable by an equivalent whole-time employee,

B is the number of hours (excluding overtime) worked by the member concerned, and

C is the standard number of hours applicable to an equivalent whole-time post.

- (b) Where the member is in receipt of a reduced rate of pay because of absence from employment, the contributions in respect of that period will be calculated by reference to the rate of pay that would be payable to him if he were not so absent

10.2 The contribution shall be paid in respect of the period commencing on 1 April 1970 or the date on which he becomes a member whichever is the later, and ending when he ceases to be a contributing member and at such times and in such manner as the Authority 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,

- (a) ceases to be a contributing member and was unmarried at all times during his membership of the Scheme, or
- (b) ceases to be a contributing member otherwise than on death, having been married at any time during the period during which the Scheme applied to him and is not eligible for the grant of a pension and lump sum or preserved pension or preserved lump sum, or
- (c) before 1 January 1979, ceases to be a contributing member due to death or retirement on a medical certificate and on so ceasing was married and had less than five years pensionable service,

then if his pensionable service is not transferred for pension purposes to another organisation or service, the whole of his periodic contributions shall be returned to him or his legal representative

11.2 In any case other than a case mentioned in sub paragraph (a), (b) or (c) of paragraph 11.1, a member on ceasing to be a contributing member may have returned to him, or if his membership ceases due to death, his legal personal representative, such of those contributions, if any, beginning with his initial contribution and working forward, or, in the case of a member covered by sub paragraph (b) of this paragraph, his final contribution and

working back, as is necessary to secure that the period in respect of such contributions are paid by him without being returned:

- (a) does not exceed 40 years, and
 - (b) if he is unmarried when he ceased to be a contributing member, does not exceed a period equal to the length of service on the date of his spouse's death,
 - (c) if he ceased to be a contributing member before 1 January 1979, an exact number of years
- 11.3 Where a married member retires on a medical certificate on or after 1 January 1979 and his spouse subsequently dies before the member attains the age of 65 years of age, contributions paid in respect of the period subsequent to the date of the spouse's death will be returned to him
- 11.4 If a member retires on health grounds with less than five years service and opts in accordance with the provisions of paragraph 7.1 of the Industrial Development Authority Superannuation (Amendment) Scheme, 1981 to accept a gratuity or gratuities in lieu of any other benefits payable under that scheme, the whole of his periodic contributions shall be returned to him
- 11.5 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
- 11.6 Where periodic contributions are returned in accordance with this paragraph to a person who subsequently becomes a member of this Scheme, and opts to avail of the provisions of paragraph 13 of the Main Scheme (which enables the reckoning of prior pensionable service on repayment, with interest, of returned contributions) he shall refund to the Authority the amount of the periodic contributions so returned to him, together with compound interest on that amount at such rate per annum as may be specified by the Authority with the approval of the Minister and the concurrence of the Minister for Finance, with half-yearly rests from the date of payment to him

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 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 paid such periodic contributions shall be excluded in determining the number of relevant years under paragraph 13.7 provided—

- (a) no refund of those contributions is, or was, paid, or
- (c) paragraph 11.6 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 and he 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, or
- (c) death or retirement on a medical certificate prior to 1 January 1979, after at least five years pensionable service,

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 retirement gratuity or death gratuity or preserved lump sum or preserved death gratuity, or in such other manner as the Authority may require

13.2 A contribution under this paragraph shall be one per cent of

- (a) the member's net pensionable remuneration, if fully insured or
- (b) the member's pensionable remuneration, if not fully insured

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 net pensionable remuneration or pensionable remuneration, as appropriate, at date of resignation as increased by reference to pension increases granted under paragraph 17 of the Main Scheme in the interval between the date of resignation and the date—

- (a) on which he attains the age of sixty years in the case of a preserved lump sum, or
- (b) of his 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 to his 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 Authority may adjust the amount of the contribution under this paragraph to take account of the increase

13.5 At the discretion of the Authority and subject to conditions specified by the Authority, a member may elect to pay, over a period of twelve months beginning on a date specified by the Authority, 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 Authority which is pensionable service under paragraph 8 of the Main Scheme, any portion of that service during which he paid periodic contributions under a scheme similar to this Scheme may, provided those contributions were not refunded to him, or having been so refunded have been repaid by him 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 before 1 January 1979,
 - (i) if such cesser is caused otherwise than by death, the number of years of pensionable service which he then had,
 - (ii) if, after five years or more completed years of pensionable service, such cesser was due to death, the number of completed years of pensionable service which he would have had if he had served to retiring age,

reduced in each case by the number of completed years, if any for which periodic contributions have been paid by him and are not returnable;

- (b) in relation to a member who, being then unmarried ceases to be a contributing member before 1 January 1979, the number of years of pensionable service which he had on the date of termination of his last marriage before such cesser, reduced by the number of completed years, if any, for which periodic contributions have been paid by him and are not returnable;
- (c) in the case of a member who, being then married, ceases to be a contributing member on or after 1 January 1979,
 - (i) if such cesser is caused otherwise than by death or retirement on a medical certificate, the number of years (any fraction of a year being taken into account on a pro-rata basis) of pensionable service which he had

- (ii) if such cesser is due to death or retirement on a medical certificate, the number of years (any fraction of a year being taken into account on a pro-rata basis) of pensionable service which he would have had if he had served to age sixty five,

reduced in each case by the number of years (any fraction of a year being taken into account on a pro-rata basis), if any, for which periodic contributions have been paid by him and are not returnable;

- (d) in the case of a member who, being then unmarried ceases to be a contributing member on or after 1 January 1979, the number of years (any fraction of a year being taken into account on a pro-rata basis) of pensionable service which he had on the date of termination of his last marriage before such cesser, reduced by the number of years (any fraction of a year being taken into account on a pro-rata basis), if any, for which periodic contributions have been paid by him and are not returnable

13.8 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 final period of contributing membership shall be reduced by the amount of the contributions paid under paragraph 13.2 when he became a former member, provided there was no refund of that contribution

13.9 Pensionable service in excess of 40 years shall be left out of account for the purposes of this paragraph

13.10 Any reduction effected under this paragraph in the amount of any lump sum shall be left out of account for the purposes of paragraph 11.2 of the Main Scheme and, accordingly, the question whether any and, if so, what gratuity may be granted under that paragraph shall be determined as if no such reduction as aforesaid has been or had to be made

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

Where a member or former member marries and—

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

for the purposes of this Scheme the marriage may be regarded by the Authority as not having taken place, and in case the marriage is so regarded all necessary adjustments (including, if need be, repayment to the Authority

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 Authority 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 Authority such information as is necessary for the proper operation of this Scheme in relation to any application by the spouse 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 Authority such information as is necessary for the proper operation of this Scheme in relation to that child

15.4 The legal personal representative of a deceased member shall give to the Authority such information as is necessary for the proper operation of this Scheme in relation to the spouse or any children of that member

16. Declarations

Payment of pensions 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority thinks fit, and the Authority shall be discharged from all liability in respect of any sum so paid

19. Abatement by reference to other Benefits

Where, directly or indirectly, the Authority 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 Authority 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 Authority to adjust the amount of an award to take such account as he or she considers appropriate of the financial benefit in question

20. Increases in Pensions

The Authority 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 Authority or the State, the Authority 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 Authority 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 Authority 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 Authority to make an award under this Scheme or by the amount of any award (including the award of pension increases) made, he 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, 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 Authority 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.

APPENDIX

In the case of members referred to in Paragraph 4.2 of this Scheme, the Scheme shall apply in respect of such members with the following modifications:—

Paragraph 3

- (1) In the definition of “child” in Paragraph 3.5, the word “legitimate” shall be deleted.
- (2) In the definition of “former member” in Paragraph 3.10, the words “being then married” shall be deleted.
- (3) In paragraph 3.11, the words “before the termination of his contributing membership” shall be deleted.

Paragraph 5

- (1) In lines 2 to 3, the words “or a person whose spouse dies while he was a contributing member” shall be deleted.
- (2) The following shall be substituted for clause 5(b):—

“(b) where he leaves a child or children (whether or not a spouses’ pension is, or may be granted) a pension for such children (in this Scheme referred to as a children’s pension).”
- (3) The proviso (lines 13 to 16) shall be deleted.

Paragraph 7

Paragraph 7(1) shall be deleted.

Paragraph 8

- (1) In Line 1 of Paragraph 8.1, the words “the relevant member’s spouse” shall be deleted and substituted by the words “a parent or step parent”.
- (2) In line 2 of Paragraph 8.5(a), the words “a spouse” shall be deleted and substituted by the words “a parent or step parent”.
- (3) In line 2 of Paragraph 8.5(b), the words “his spouse” shall be deleted and substituted by the words “a parent or step parent”.

Paragraph 11

- (1) The following shall be substituted for Paragraph 11.1:-

“11.1 If a member ceases to be a contributing member otherwise than on death and on so ceasing is not eligible for a grant of a pension and retirement gratuity or preserved pension and preserved lump sum, then if his pensionable service is not transferred for pension purposes to another

organization or service, the whole of his periodic contributions shall be returned to him.”

(2) The following shall be substituted for Paragraph 11.2:—

“11.2 A member, who on ceasing to be a contributing member, has paid periodic contributions in excess of forty years shall have returned to him or (if his membership ceases due to death) to his legal personal representative, such of those contributions beginning with his initial contributions and working forward, as is necessary to secure that the period in respect of which contributions have been paid by him without being returned does not exceed forty years.”

(3) Paragraph 11.3 shall be deleted.



GIVEN under the Seal of Forfas,
9 December 2009.

EOIN O'DRISCOLL,
Chairperson.

The Minister for Enterprise, Trade and Employment hereby approves the
above Scheme.

9 December 2009.

MARY COUGHLAN,
Minister for Enterprise, Trade and Employment.

The Minister for Finance hereby consents to the giving of the above approval.

9 December 2009.

BRIAN LENIHAN,
Minister for Finance.

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,
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