



STATUTORY INSTRUMENTS.

**S.I. No. 582 of 2014**

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RULES FOR PRE-EXISTING PUBLIC SERVICE PENSION SCHEME  
MEMBERS REGULATIONS 2014

RULES FOR PRE-EXISTING PUBLIC SERVICE PENSION SCHEME  
MEMBERS REGULATIONS 2014

I, BRENDAN HOWLIN, Minister for Public Expenditure and Reform, in exercise of the powers conferred on me by section 2 of the Superannuation and Pensions Act 1976, hereby make the following Regulations:

1. These Regulations may be cited as the Rules for Pre-existing Public Service Pension Scheme Members Regulations 2014.

2. These Regulations shall come into operation on 10th December 2014.

3. The Rules set out in the Schedule to these Regulations will apply to the employees of a relevant body if adopted as a Scheme, in a Statutory Instrument, in accordance with the relevant statutory provisions, including Ministerial approval requirements, which provide for the making of a Superannuation Scheme for that body.

4. ‘relevant body’ means a body which comes within the definition of paragraphs (e), (h), (i) or (j) of the definition of ‘public service body’ in section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012, and which makes a Scheme or amending Scheme adopting the Rules as set out herewith.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 26th December, 2014.*

SCHEDULE

Rules for Pre-existing Public Service Pension Scheme Members 2014

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## Rules for Pre-existing Public Service Pension Scheme Members 2014

## Part 1

## PRELIMINARY AND GENERAL

## 1. Title

The title of this document is “Rules for Pre-existing Public Service Pension Scheme Members 2014”.

## 2. Purpose and Application

These rules will apply to the staff of a relevant body if adopted as a Scheme in a Statutory Instrument, in accordance with the relevant statutory provisions, including Ministerial approvals, which provide for the making of a Superannuation Scheme for that body.

## 3. Definitions (Parts 1 and 2)

“Minister” means the Minister for Public Expenditure and Reform;

“Relevant Minister” means a Minister (other than the Minister) specified in the Act providing for the making of a superannuation scheme or arrangement for a relevant body, as having the function of approving such a scheme; where the Relevant Minister for a relevant body is the Minister, “with the approval of the Relevant Minister and the consent of the Minister” shall be read as “with the approval of the Minister”;

“relevant body” means a body which comes within the definition of paragraphs (e), (h), (i) or (j) of the definition of “public service body” in section 5 of the 2012 Act, and which makes a Scheme or amending Scheme adopting these rules;

“scheme” means a superannuation scheme referred to in Article 2 and which is a pre-existing public service pension scheme as defined in the 2012 Act;

“the 2012 Act” means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37 of 2012);

“the 2004 Act” means the Public Service Superannuation (Miscellaneous Provisions) Act 2004 (No. 7 of 2004).

*Part 2*

## RULES FOR MEMBERS’ PERSONAL PENSIONS PROVISIONS AND SURVIVOR’S PENSION

## 4. Definitions (Part 2)

“active member” means a member who has not terminated his or her employment with the relevant body through resignation, retirement, dismissal or death;

“actual annual remuneration” means the annualised rate of remuneration payable to the member or former member on his or her the last day of paid service as a scheme member;

“actual pensionable service” means service as defined in Article 10 but excluding notional service as defined at Article 10(1)(f), (g), (h), (i) and (j);

“adoption order” means an order for the adoption of a child made before the establishment day for the Adoption Authority of Ireland, by An Bord Uchtála under the Adoption Acts 1952 to 1998, or on or after the establishment day for the Adoption Authority of Ireland, by that Authority under the Adoption Act 2010;

“allowances” means such allowances in the nature of pay, lawfully determined or lawfully approved by the relevant body, which are designated as pensionable by the relevant body with the approval of the Relevant Minister and the consent of the Minister, 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 payment toward or in respect of such emoluments;

“child” (subject to Article 36) means a child or step-child or lawfully adopted child of a deceased member, where the child—

- (a) has not attained the age of 16 years,
- (b) has not attained the age of 22 years and is receiving full-time instruction at any university, college, school or other approved educational establishment;
- (c) has not attained the age of 22 years and is undergoing full-time instruction or training by any person (in these rules referred to as “the employer”) for any vocation, profession or trade and the instruction or training is approved of by the relevant body for the purposes of this Paragraph, or
- (d) 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 to whom Paragraph (a), (b) or (c) related;

“children’s pension” has the meaning given to it in Articles 33 to 37;

“civil partner” means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“contributory State Pension” means the State Pension (Contributory) payable under the Social Welfare Acts;

“contributory survivor’s pension” means “the Widow’s, Widower’s or surviving Civil Partner’s (Contributory) Pension” payable under the Social Welfare Acts;

“deceased member” has the meaning given in Article 28(1);

“death gratuity” has the meaning given in Article 22;

“former member” means a person who, having ceased to be an active member, is entitled to or is in receipt of retirement benefits under this Scheme or is entitled to claim at some future date retirement benefits under this Scheme;

“fully insured” means having employment in respect of which the person concerned is an employed contributor within the meaning of section 12(1) of the Social Welfare Consolidation Act 2005—

(a) who is liable for an employment contribution payable at the rate specified in section 13(2) of that Act, not being a person to whom article 81, 82, 83, or 88 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) applies, or

(b) to whom article 87 of those Regulations applies;

“ill-health vesting period” means, in relation to retirement on medical grounds, the equivalent of 5 years’ whole-time actual pensionable service or, for any retirement that takes place on or after 1 August 2012, 5 years’ in pensionable service whether whole-time or part-time;

“lawfully adopted child” means a child adopted by a Scheme member or former Scheme 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;

“Local Government Superannuation Code” means any scheme or regulation made under the Local Government (Superannuation) Act 1980 (No. 8 of 1980) other than the Local Government (Superannuation) (Gratuities) Regulations 1984 (as amended) or the provisions of Part V of the Local Government (Superannuation) (Consolidation) Scheme 1998;

“lump sum” means an amount, other than pension, calculated in accordance with this Scheme and due as a consequence of retirement, or resignation of the member;

“member” has the meaning given in section 2 of the Pensions Act 1990, that is, in relation to this Scheme, any person who, having been admitted to membership under the rules of the Scheme, remains entitled to any benefit under the Scheme. It includes an active member, a former member and a pensioner;

“minimum pension age” has the meaning given in Article 6;

“net pensionable remuneration” in relation to a Scheme member, means the amount by which the pensionable remuneration of such Scheme member exceeds twice the maximum rate of contributory State Pension payable from time to time to a person who has no adult dependant or child dependant;



“net pensionable remuneration (survivor’s benefits)” means the amount by which pensionable remuneration exceeds the maximum rate of contributory State Pension payable on the last day of pensionable service to a person who has no adult dependant or qualified children;

“new entrant” has the meaning given in section 2 of the 2004 Act;

“part-time employee” means an employee who works less than the standard hours of a comparable employee in a whole-time post;

“pension” means the benefit or benefits, other than any lump sum, payable periodically—

- (a) to a person, in respect of his or her pensionable service, as a consequence of his or her retirement, resignation, or otherwise ceasing or having ceased to be a Scheme member, or
- (b) in respect of such service, to another person as a consequence of death or otherwise,

but does not include payments, or so much of any payment, paid solely in respect of any injury caused as a result of such service;

“pension adjustment order” means an order made by the Court under section 12 of the Family Law Act 1995, section 17 of the Family Law (Divorce) Act 1996 or section 121 or 187 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“Pension Scheme” in relation to this Scheme, is an occupational pension scheme for the provision of pension and lump sums and the implementation of the rules set out in this document;

“pensionable post” means, subject to the approval of the Relevant Minister with the consent of the Minister, a post or position in the relevant body which is declared in the conditions of service attaching to the post to be a pensionable post for the purposes of this Scheme or which is stated in a written offer of appointment to the post to be a pensionable post for the purposes of the Scheme;

“pensionable remuneration” has the meaning given in Article 9(4);

“pensionable service” has the meaning given in Article 10;

“pensioner” means a member who is in receipt of a benefit under this Scheme;

“Pensions Ombudsman Regulations” means the Pensions Ombudsman Regulations 2003 to 2007 including any enactment or regulation which amends or extends, or may amend, or extend any or all of those regulations;

“Personal Public Service Number” is an identifier issued by the Department of Social Protection from an identifying series maintained by the Department;

“personal rate” in relation to a contributory Social Welfare benefit, means the rate of such benefit payable under the Social Welfare Acts to a single person excluding any addition that is payable on age grounds, or by virtue of the recipient living alone, or in respect of a qualified adult or child dependent and “maximum personal rate” shall be construed accordingly;

“preserved death gratuity” has the meaning given in Article 16;

“preserved lump sum” has the meaning given in Article 14 and Article 16;

“preserved pension” has the meaning given in Article 14 and Article 15;

“preserved pension age” has the meaning given in Article 6;

“public service body” has the meaning given in section 5 of the 2012 Act;

“public service pension scheme” has the meaning given in section 1(1) of the 2004 Act;

“reduced rate”, in relation to any Social Welfare benefit, means the personal rate of such benefit if that rate is less than the maximum personal rate of contributory State Pension;

“reference pension” has the meaning given in Article 29;

“remuneration” means the aggregate of salary and allowances (multiplied by 52.18 in the case of weekly allowances);

“salary” means the annual basic rate of remuneration, excluding allowances, payable from time to time as lawfully determined or lawfully approved by the relevant body, and excluding any sums 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;

“Social Welfare Acts” means the Social Welfare Acts 1981 to 2014 including any enactment which amends or extends any or all of those Acts and any Regulation, Warrant or Order made under those Acts or as amended;

“Social Welfare Benefit” means State Pension (Contributory), State Pension (Transition); Illness Benefit, Invalidity Pension or Jobseekers Benefit payable under the Social Welfare Acts or any equivalent contributory benefit, by whatever name called, substituted for any of those benefits in any future enactment amending the Social Welfare Acts;

“spouse” means a partner to a marriage recognised at a given time by the law of the State as valid;

“survivor’s pension” has the meaning given in Article 28;

“Temporary Rehabilitation Remuneration” or “Pension rate of Pay” means a payment made, in certain circumstances, by the relevant body to a member on

sick leave. Any period in respect of which the member is in receipt of such a payment does not constitute pensionable service in this Scheme and the payment does not constitute remuneration;

“transfer network” means the Public Service Transfer Network or the Local Government Transfer Network under the Local Government Superannuation Code which provides for the transfer of service between participating public service pension schemes under certain conditions;

“transfer value payment” means—

(a) a payment calculated in accordance with such tables approved and in such manner as is determined by the Minister or the Minister for the Environment, Community and Local Government under the Local Government Superannuation Code,

or

(b) a payment from an approved pension scheme or arrangement to the Scheme so as to secure additional service for a member in accordance with such tables approved by the Minister;

— as appropriate;

“vesting period” means, for any period ending after 1 June 2002, 24 months’ service as an active Scheme member, whether whole-time or part-time, otherwise 5 years’ actual pensionable service;

“work-sharer” means a whole-time employee who, under an arrangement which has been approved by the Relevant Minister with the consent of the Minister, works less than the standard hours of the whole-time post;

“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 the completed number of years in that period, and “year” shall be construed accordingly.

## 5. Membership

(1) “Pensionable employee” means a person employed in a pensionable post.

(2) Membership of the Scheme does not apply to a person,—

(a) who is in membership of a retirement benefit scheme of any body associated with the relevant body,

(b) who is not a new entrant and whose actual pensionable service on attaining age 65 would be less than the vesting period, or

(c) who is under age 16.

(3) Membership is compulsory for all pensionable employees, other than those referred to in Paragraph (2), provided that membership in respect of part-time employees is implemented by the relevant body in accordance with Department of Finance Circular 20/2005.

(4) On an employee's first appointment to a pensionable post the relevant body shall make available to him or her a copy of the rules of the Scheme.

(5) A member who is not a new entrant may not continue in membership after having reached the age of 65.

*Rules for Members' Personal Scheme Benefits*

6. Minimum Pension Age and Preserved Pension Age

(1) An active Scheme member or former Scheme member attains minimum pension age when he or she has—

(a) completed the vesting period, and

(b) in the case of a new entrant has reached the age of 65, and in all other cases has reached the age of 60

and shall accordingly be eligible to receive retirement benefits under this Scheme.

(2) The preserved pension age is age 65 for new entrants and age 60 for all other members.

7. Contributions for Personal Scheme Benefits

(1) The Relevant Minister shall decide, in accordance with public policy approved by the Minister, whether a member is liable for contributions.

(2) Every member who is liable for contributions shall pay appropriate contributions provided for in this Article as and from the date of commencement of his or her membership of this Scheme in respect of all periods in paid employment as an active member of the Scheme.

(3) The rate of contribution shall comprise 5% of pensionable remuneration or, in the case of a fully insured member, 3.5% of net pensionable remuneration and 1.5% of pensionable remuneration—

(a) to be deducted by the relevant body in each pay period from the member's remuneration, and

(b) where in respect of any such period that the member was not working on a whole-time basis, as adjusted by reference to the proportion that the number of hours worked bears to the number of hours that would have been worked if working on a whole-time basis.

(4) Where a member is in receipt of a reduced rate of remuneration because of absence from employment on sick leave, the contributions in respect of that period will be calculated by reference to the rate of pay payable to him or her if he or she were not so absent.

#### 8. Return of Contributions in certain cases

(1) In the case of a member who has completed less than the vesting period—

- (a) whose active membership ceases otherwise than on medical grounds or death, and
- (b) who does not transfer his or her pensionable service to another organisation in accordance with the transfer network,

his or her contributions (including contributions paid under Article 38) shall be returned to him or her by the relevant body less an amount equal to any income tax or other statutory liability. Accordingly, the person is, except where Paragraph (2) applies, not entitled to receive any further benefit under this Scheme in respect of the period of such membership.

(2) Where a person—

- (a) has had contributions returned under Paragraph (1),
- (b) is subsequently re-employed as a pensionable employee in this Scheme or in another public service pension scheme to which the service may be transferred, and
- (c) pays such amount to the relevant body as would, on the date of payment or of the final payment where Paragraph (3) applies, represent the amount of contributions paid to him or her with compound interest on such amount and at such rate per annum as may be specified by the relevant body with the approval of the Minister,

then he or she shall have his or her pensionable service, referred to in Paragraph (1), restored.

(3) For the purposes of Paragraph (2), the relevant body may at its discretion agree to accept payment of the amount concerned in more than one payment but compound interest will continue to apply on all outstanding contributions.

#### 9. Retiring Salary, Pensionable Remuneration and Pensionable Allowances

(1) Retiring Salary means—

- (a) in the case of a member whose actual and potential service to the end of his or her contract of employment is less than 1 year, the rate of salary multiplied by the number of days in the contract divided by 365;

- (b) where a member had the same scale of salary and has been in the same grade for the last 3 years of his or her pensionable service, the salary of the member at the date of retirement or death;
- (c) where a member had not had the same scale of salary or had not been in the same grade in the last 3 years of his or her pensionable service and—
  - (i) where that member is under 62 years of age and dies in service, the salary of the member at the date of death, or
  - (ii) where that member retires or is retired on medical grounds before age 60 with potential service of 3 years or more to age 60 so as to avoid averaging, the salary of the member at date of retirement.

(2) In any case other than those set out in Paragraph (1), retiring salary shall be averaged by multiplying by 1/1095 the annual rate of salary appropriate on the last day of pensionable service for each grade or salary scale in which the member served during the last 3 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 retirement or death. Where the pensionable service of the member is less than 3 years, the number of days of pensionable service shall be substituted for 1095.

(3) “Pensionable Allowances” means the average of any allowances, as defined in Article 4 and reckonable for pension purposes in accordance with the provisions of Department of Finance Circular 10/2008.

- (4) (a) “Pensionable Remuneration”, means the pensionable salary, pensionable allowances and emoluments held from time to time, and
- (b) “pensionable remuneration at the final day of service” means the aggregate of retiring salary, pensionable allowances and emoluments at retirement,

at all times expressed in the case of a work-sharer or part-time employee on a whole-time basis.

#### 10. Pensionable Service

(1) Subject to the provisions of sections 52(6) and 52(7) of the 2012 Act and where those provisions do not apply, subject to a maximum of 40 years, pensionable service, for the purpose of calculating benefits under this Scheme is the aggregate of—

- (a) paid pensionable service as a Scheme member, other than service in respect of which the member, under Article 21, opted to retain entitlement to preserved benefits, provided that any period during which a member was or is a work-sharer or a part-time employee shall be

reckonable in the proportion which the hours worked bear to comparable whole-time hours;

- (b) paid service with the relevant body prior to the date of commencement in respect of which all contributions have been paid;
- (c) any periods of whole-time temporary service with the relevant body in respect of which contributions have been paid;
- (d) any periods of part-time service as provided for in Department of Finance Circular 20/2005;
- (e) actual service transferred via the transfer network;
- (f) notional service purchased by a member in accordance with provisions approved by the Minister;
- (g) notional service purchased by a member and transferred via the Transfer Network;
- (h) any notional service credited under Article 18(3);
- (i) in the case of a member for whom a transfer value in respect of superannuation benefits in a former employment other than service referred to in Paragraphs (f) and (g) is received by the relevant body, such additional service as the amount of the transfer value will purchase on the basis of actuarial tables approved by the Minister;
- (j) such additional period of notional service (to be referred to as “professional added years”) as may be granted by the relevant body with the approval of the Relevant Minister in accordance with conditions determined by the Minister;
- (k) such additional service as may be credited by the repayment, with compound interest, of a marriage gratuity in accordance with terms approved by the Minister;
- (l) any period of service in a public service body which is required by Statute to be regarded as pensionable service for the purposes of this Scheme.

## 11. Pension Calculation on Retirement

(1) A member who is not fully insured who retires having attained the minimum pension age shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of his or her pensionable remuneration at retirement for each year of pensionable service.

(2) A member who is fully insured who retires having attained the minimum pension age, shall be eligible to receive a pension of an amount per annum calculated in accordance with the formula:

$[A \times C / 200] + [B \times C / 80]$ , where

A is

- (a) if the member's pensionable remuneration is less than or equal to 3 and 1/3rd times the annual maximum personal rate of contributory State Pension payable on the last day of the member's pensionable service, the amount of the member's pensionable remuneration;

or

- (b) if the member's pensionable remuneration exceeds 3 and 1/3rd times the annual maximum personal rate of contributory State Pension payable on the last day of the member's pensionable service, that part of the member's pensionable remuneration which equals 3 and 1/3rd times the rate of contributory State Pension;

B is that part (if any) of the member's pensionable remuneration which exceeds 3 and 1/3rd times the annual maximum personal rate of contributory State Pension payable on the last day of the member's pensionable service; and

C is the amount of the member's pensionable service.

## 12. Lump Sum Calculation on Retirement

A member who retires having attained the minimum pension age shall be eligible to receive a lump sum calculated at the rate of 3/80th of pensionable remuneration for each year of pensionable service subject to a maximum of 120/80th.

## 13. Balancing Gratuity on Death in Retirement

(1) If the person who has been granted a pension and lump sum dies and the aggregate amount of—

- (a) pension paid or payable (including any amount which would have been payable had the provisions of Article 24, 25 or 26 not applied), and
- (b) the lump sum (before any deductions are made for non-periodic contributions in respect of survivor's benefits)

is less than the gratuity which would have been granted to his or her legal personal representative, had the former member died on the date of his or her retirement, the legal personal representative shall be eligible to receive a gratuity equal to the deficiency.

## 14. Preservation of Benefits

(1) Where a member ceases to be an active member after completing the vesting period before preserved pension age other than—



- (a) on retirement on medical grounds with immediate pension, having completed the ill-health vesting period, or
- (b) not having completed the ill-health vesting period and having opted in writing for the gratuities under Article 18(2)

he or she will, on attaining the preserved pension age, be eligible to receive a preserved pension and preserved lump sum, provided that—

- (i) he or she does not receive any other benefit in respect of the service which gives rise to the preserved pension or lump sum, and
- (ii) that service is not reckoned for pension purposes by him or her in another employment in any public service pension scheme.

#### 15. Preserved Pension Calculation

(1) A preserved pension shall be the amount which would have been awarded to the former member under Article 11 if he or she had attained minimum pension age on the date of resignation, as adjusted in accordance with Article 47 in the interval between the date of resignation and the date of attaining minimum pension age.

(2) A preserved pension shall be awarded to the former member on attaining the preserved pension age and on application being made by him or her. Where the former member dies on or after attaining the preserved pension age without having applied for the preserved pension, an amount equal to the preserved pension which would have been payable between the preserved pension age and the date of death shall be payable to the legal personal representative of the former member on valid application being made.

#### 16. Preserved Lump Sum or Preserved Death Gratuity and Preserved Benefits payable on Medical Grounds

(1) The amount of a preserved lump sum or preserved death gratuity shall be the amount which would have been awarded to the former member under Article 12 if he or she had attained the minimum pension age on the date of resignation, as adjusted by reference to Article 47 in the interval between the date of resignation and the date—

- (a) on which he or she attains the preserved pension age, in the case of a preserved lump sum, or
- (b) of his or her death before minimum pension age, in the case of a preserved death gratuity.

(2) A lump sum shall be awarded to the former member on attaining the preserved pension age and on application being made by him or her or, in the event that he or she dies before reaching that age, a preserved death gratuity

shall be payable in respect of the member on application by his or her legal personal representative.

(3) Where a person to whom Paragraph (1) applies incurs permanent ill-health and satisfies the relevant body that, if still serving, he or she would be eligible to retire on medical grounds under Article 18(7), then a preserved pension and preserved lump sum may be paid with effect from the date (not earlier than the former member's application) on which the relevant body is so satisfied.

#### 17. Cost Neutral Early Retirement

(1) In this Article a member has attained the "specified age" where he or she has attained an age such that the difference between that age and preserved pension age is 10 years or less.

(2) Where—

- (a) on or after 1 April 2004, a member, having completed the vesting period, resigns and on the date on which that resignation has effect he or she has not attained the preserved pension age but has attained, or will have attained on that date, the specified age, and
- (b) before the date on which that resignation has effect the member had applied in writing to the relevant body to have his or her pension and lump sum benefits paid with effect from that date, and
- (c) the relevant body agrees to those benefits being so paid,

then those benefits shall be calculated by reference to the calculation of the member's preserved benefits, but the amount of each benefit shall be reduced by reference to the member's age at date of resignation in accordance with actuarial tables as may be approved and issued from time to time by the Minister.

(3) For the avoidance of doubt, the provisions of the Department of Finance Circular 10/2005, or as amended, shall apply to the calculation and payment of Cost Neutral Early Retirement benefits.

#### 18. Retirement on Medical Grounds

(1) A member who has completed at least one year's actual pensionable service and less than the vesting period who retires, or is retired on medical grounds in accordance with Paragraph (7), shall be eligible to receive a gratuity of 1/12th of pensionable remuneration at retirement for each year of pensionable service.

(2) A member who has completed the vesting period but not the ill-health vesting period who retires, or is retired on medical grounds in accordance with Paragraph (7), shall be eligible to receive a gratuity of 1/12th of pensionable remuneration for each year of pensionable service and, in addition, a gratuity equal to 3/80th of pensionable remuneration for each year of pensionable

service, provided the member opts in writing to accept such gratuities in lieu of any preserved benefits under the Scheme.

(3) A member who has completed the ill-health vesting period and who retires or is retired on medical grounds in accordance with Paragraph (7), may, at the absolute discretion of the relevant body, have a period of notional service (referred to as “ill-health added years”) as provided for in Paragraph (4), added to his or her pensionable service and have pension and lump sum payable from a date determined by the relevant body.

(4) The ill-health added years shall be calculated as follows—

- (a) a member whose actual pensionable service is between 5 and 10 years will be allowed an equivalent amount of ill-health added years, provided such added years do not exceed the additional amount of pensionable service the member would have had, if he or she served to age 65 or, if earlier, the date on which the member’s contract of employment would expire;
- (b) a member whose actual pensionable service is between 10 and 20 years will be allowed the more favourable of—
  - (i) added years equal to the period by which 20 years exceeds the member’s actual pensionable service, provided such added years does not exceed the additional amount of pensionable service the member would have had if he or she had served to 65 or, if earlier, to the date on which his or her contract of employment would expire; or
  - (ii) 6 years and 243 days, the added years not to exceed the additional amount of pensionable service the member would have had if he or she served to age 60 or, if earlier, to the date his or her contract of employment would expire;
- (c) A member who has more than 20 years of actual pensionable service at retirement will be allowed added years, whichever is the lesser of—
  - (i) 6 years and 243 days, or
  - (ii) the amount of additional service the member would have had, if he or she had served to age 60, or, if earlier, to the date on which his or her contract of employment would expire.

(5) Where there is a limit stipulated for the total amount of added years in Paragraph (4) by reference to potential service to age 60 or 65, such years will be calculated in respect of work-sharing or part-time members as provided for in Department of Public Expenditure and Reform Circular 11/2012.

(6) In calculating added years under Paragraph (4), service which is transferrable under Article 10(1)(e) but has not been transferred shall be taken into account by the relevant body as if it was actual pensionable service, but

only for the purpose of the calculation of the number of added years to be allowed, and that service shall not be taken into account as pensionable service for the purposes of making an award under this Scheme.

(7) Where a member retires or is retired on medical grounds, a benefit under this Article shall only be paid where the following conditions are met—

- (a) Medical evidence must be supplied, in relation to which the relevant body must be satisfied that the member is incapable due to infirmity of mind or body of discharging the duties of his or her post and that the infirmity is likely to be permanent. The member must, if requested by the relevant body, undergo medical examination by a registered medical practitioner or an appropriately registered occupational physician nominated by the relevant body;
- (b) the retirement must be wholly due to the infirmity;
- (c) the infirmity must not be caused by the member's own fault or negligence, and
- (d) the member must not have made a false declaration about his or her health nor have suppressed a material fact about his or her health when applying to take up a post in the relevant body.

(8) Where any of the above conditions are not met, Articles 11 and 12 or Articles 14 or 17, if appropriate, shall apply in lieu of benefits under this Article.

#### 19. Supplementary Pension

(1) This Article refers to a member who is fully insured as a member of this Scheme, is in receipt of a pension or preserved pension and has attained the minimum pension age or who is in receipt of a pension awarded under Article 18.

(2) Where a member to whom Paragraph (1) applies—

- (a) for reasons outside of his or her control, fails to qualify for a Social Welfare Benefit or qualifies for a Social Welfare benefit at a reduced rate, and
- (b) is unemployed

then, so long as the relevant body is satisfied that the pre-conditions set out in this Article are met, the former member may, at the discretion of the relevant body, be paid a supplementary pension.

(3) The amount of supplementary pension payable shall be the amount, if any, arrived at by the formula:

A — (B + C) where

A is the amount of pension or preserved pension which would have been payable to the former member if he or she had not been fully insured;

B is the amount of pension actually payable to the former member, and

C is the amount of personal Social Welfare Benefit payable to the former member.

(4) A member who is in receipt of a supplementary pension under this Article, is obliged to inform the relevant body if circumstances change which would affect his or her eligibility for a supplementary pension, or which would impact on the amount of supplementary pension for which he or she is eligible.

(5) The relevant body shall review supplementary pensions in payment annually or at more frequent intervals if it sees fit and shall confirm whether or not a supplementary pension should continue in payment and the rate of such payment (if any).

## 20. Treatment of Earlier Service in the Scheme

(1) “earlier service” means service by reference to which any of the benefits referred to in Paragraph (2) were calculated, subject to the relevant scheme rules.

(2) The maximum service reckonable for benefits under the Scheme is 40 years subject in the case of—

- (a) members who have retained an entitlement to preserved benefits under Article 14;
- (b) members whose pensions were suspended under Article 23;
- (c) members (or former members) whose pensions were abated under the provisions of Article 24, 25 or 26, and
- (d) members with an entitlement to benefits payable from any other public service pension scheme

to maximum service not exceeding the difference between the earlier service and 40 years, provided that in the case of Paragraph (d) where the member had accrued more than 40 years’ service in more than one scheme prior to 28 July 2012, he or she retains an entitlement to the total amount of that service accrued to that date if retained in more than one scheme, in accordance with the provisions of sections 52(6) and 52(7) of the 2012 Act.

## 21. Split Pensions in the Scheme

(1) A new entrant who is entitled to preserved benefits payable at age 60 in respect of earlier service as a member, or a fully insured member who is entitled to preserved benefits as a member during which service he or she was not fully insured, may opt to retain entitlement to the preserved benefits subject to—

- (a) payment of the preserved pension not commencing before the date on which his or her membership of the Scheme ceases,
- (b) in the event of death in service, for the purposes of Article 22(1)(a), actual annual remuneration is reduced by an amount calculated as 3/80th of pensionable remuneration at date of death for each year of earlier service as a Scheme member, and
- (c) in the event of death in service, the aggregate of the reckonable service which gives rise to the preserved death gratuity and the death gratuity shall not exceed 40 years.

## 22. Death Gratuity on Death-in-Service

(1) Subject to Article 21, if a member dies while an active member, his or her legal personal representative shall be eligible to receive the greater of—

- (a) his or her actual annual remuneration payable at date of death, or
- (b) the lump sum that would have been payable had the member retired on medical grounds on the date of his or her death,

and in the case of a part-time member or a work-sharer, the provisions of Department of Public Expenditure and Reform Circular 11/2012 will apply.

## 23. Re-employment of a Pensioner who had Retired on Medical Grounds

(1) Where a member who had retired or was retired on medical grounds, has been awarded a pension and lump sum, or a gratuity only, and is subsequently re-appointed as a pensionable employee—

- (a) if the member was awarded a pension on his or her initial retirement, that pension shall be suspended on his or her re-entry to membership of the Scheme and, on the member's subsequent retirement, at the member's option in writing, either
  - (i) the original pension shall be resumed at a rate based only on the member's service on initial retirement (excluding any ill-health added years), and the member will be awarded an additional pension based on subsequent pensionable service; or
  - (ii) the member's entitlement to the original pension shall be cancelled, and the member's service on initial retirement (excluding ill-health added years) shall be aggregated with subsequent pensionable service to determine pension benefit under the Scheme,
- (b) all of the member's pensionable service shall be reckoned in determining lump sum or death gratuity award under the Scheme, and the amount of any such award on the member's eventual retirement or death shall be reduced by the amount of the lump sum or gratuity paid to the member on his or her initial retirement.

## 24. Re-employment of a Pensioner while in receipt of Early Retirement Pension

## (1) Where—

- (a) a pension is duly payable by the relevant body to a former member in accordance with the terms of the Incentivised Scheme of Early Retirement (ISER) as provided for in Department of Finance Circular 12/2009 or any Voluntary Early Retirement Scheme with similar provisions regarding re-employment in the public service, and
- (b) the pensioner is appointed to a position in respect of which remuneration is paid to him or her by a public service body as a member of a public service pension scheme,

then no more of the pension shall be paid, in respect of any specified period of receipt of the remuneration to which Paragraph (b) relates, than so much as, with that remuneration, equals the pensionable remuneration which the pensioner would have received in respect of that period if, during it, he or she—

- (i) held the position or employment in which he or she served on the last day of his or her initial period of service but was remunerated-
  - (I) at the rate of pensionable remuneration for that position or employment on that day, or
  - (II) at that rate of pensionable remuneration as amended to take account of so much of any change in that rate since that day as may be specified by the Minister.

## 25. Re-employment of a Pensioner by the Relevant Body or Associated Body

## (1) Where—

- (a) a pension is duly payable by the relevant body to a former member under the Scheme (in this Article referred to as the “pensioner”), and
- (b) the pensioner is appointed to a position in respect of which remuneration is paid by the relevant body or any person or firm resident in the State and associated with or directly or indirectly controlled by the relevant body,

then no more of the pension shall be paid, in respect of any specified period of receipt of the remuneration to which Paragraph (b) relates, than so much as, with that remuneration, equals the pensionable remuneration which the pensioner would have received in respect of that period if, during it, he or she—

- (i) held the position or employment in which he or she served on the last day of his or her service but
- (ii) was remunerated—

- (I) at the rate of pensionable remuneration for that position or employment on that day, or
- (II) at that rate of pensionable remuneration as amended to take account of so much of any change in that rate since that day as may be specified by the Minister.

#### 26. Re-employment of a Pensioner by any Public Service Body

(1) Where—

- (a) a pension is duly payable by the relevant body to a former member under the Scheme and
- (b) the pensioner is appointed, on or after 1 November 2012, to a position in respect of which remuneration is paid by a public service body,

then no more of the pension shall be paid, in respect of any specified period of receipt of the remuneration to which Paragraph (b) relates, than so much as, with that remuneration, equals the pensionable remuneration which the pensioner would have received in respect of that period if, during it, he or she—

- (i) held the position or employment in which he or she served on the last day of his or her service but was remunerated—
  - (I) at the rate of pensionable remuneration for that position or employment on that day, or
  - (II) at that rate of pensionable remuneration as amended to take account of so much of any change in that rate since that day as may be specified by the Minister.

#### *Current Rules for Survivor's and Children's Pensions*

#### 27. Application of the Provisions for Survivor's and Children's Benefits

(1) Articles 28 to 41 apply to all members of the Scheme with the exception of those members to whom Paragraph (2) or Article 53 applies.

(2) Articles 28 to 41 and Article 53 do not apply to a person who on commencement of membership of the Scheme, as a condition of his or her appointment to the pensionable post, did not have the rules contained in Articles 28 to 41 nor the rules of Article 53 applied to him or her and, when subsequently given an option to elect to have the rules relating to survivor's and children's pensions applied to him or her, did not so elect.



## 28. Survivor's Pension

(1) Consequent on the death of an active member or former member (in this Scheme referred to as the “deceased member”) and in respect of whom a pension, preserved pension, death gratuity, preserved death gratuity or lump sum payment has been or may be awarded, the relevant body may, where the deceased member is survived by a spouse or civil partner and subject to the other provisions of this Scheme, grant to that spouse or civil partner a pension (in this Scheme referred to as a “survivor’s pension”) in respect of the deceased member’s service as an active member.

(2) The survivor’s pension shall be payable by the relevant body at the rate set out in Article 29.

## 29. Survivor's Pension — Calculation

(1) In this Article, “reference pension” means the pension set out in each of Paragraphs (3) to (8) as appropriate in each case, but with maximum pensionable service of 40 years.

(2) The survivor’s pension shall be one half of the reference pension.

(3) In the case where the former member dies while in receipt of a pension, other than a pension based on Article 18 (Cost Neutral Early Retirement), a preserved pension or a pension awarded on medical grounds, the reference pension is—

- (a) where the deceased member was not fully insured, the amount of such pension, or
- (b) where the deceased member was fully insured, the pension which would have been granted to him or her if calculated by reference to net pensionable remuneration (survivor’s benefits) at the date of his or her retirement, as adjusted by reference to Article 47.

(4) In the case where the former member dies following retirement on medical grounds, the reference pension is the pension which would have been granted to him or her if it fell to be calculated by reference to—

- (a) where the deceased member was not fully insured, his or her pensionable remuneration at date of retirement as adjusted by reference to Article 47, and the pensionable service which the deceased member would have had 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, or
- (b) where the deceased member was fully insured, his or her net pensionable remuneration (survivor’s benefits) at the date of retirement as adjusted by reference to Article 47 during the period between retirement and death and the pensionable service which the deceased member would have had if he or she had served to age 65 or, if earlier, to the date on which his or her employment contract would expire;

provided that in the case of a former member who was work-sharing or part-time, service to age 65 is calculated as set out in the Department of Public Expenditure and Reform Circular 11/2012.

(5) In the case of a preserved pension being in payment to the deceased member or where the deceased member had an entitlement to a preserved pension, having attained the minimum pension age, the reference pension is—

- (a) where the deceased member was not fully insured, the amount of such pension, or
- (b) where the deceased member was fully insured, the preserved pension which would have been payable to him or her if it had been calculated by reference to net pensionable remuneration (survivor's benefits) at the date of resignation as adjusted by reference to Article 47 during the period between resignation and death.

(6) In the case where the deceased member had entitlement to a preserved pension but at date of death had not attained the minimum pension age, the reference pension is an amount equal to:

$D \times E / 80$  where

D is the number of years of reckonable service at the date of resignation and

E is—

- (a) where the deceased member is not fully insured, his or her pensionable remuneration at date of resignation as adjusted by reference to Article 47 during the period between resignation and death, or
- (b) where the deceased member is fully insured, his or her net pensionable remuneration (survivor's pension) at the date of resignation as adjusted by reference to Article 47 during the period between resignation and death.

(7) In the case where the deceased member dies while an active member of the scheme, the reference pension is the pension to which he or she would have been eligible if Paragraph (4) applied to him or her at date of death and as if references in that Paragraph to retirement were removed.

(8) In the case where the deceased member elected to be paid a Cost Neutral Early Retirement pension under Article 17, the amount of the reference pension calculated in accordance with Paragraph (5), had the former member not received a Cost Neutral Early Retirement pension.

### 30. Survivor's Supplementary Pension

(1) In the case of the death of a member or former member who was fully insured the relevant body may, at its absolute discretion, pay to his or her spouse

or civil partner a supplementary pension, the amount of which shall not exceed the difference between—

- (a) the rate of the survivor's pension together with the personal rate of contributory survivor's pension, if any, payable to the spouse or civil partner, and
- (b) the rate of survivor's pension which would have been payable if the deceased member had not been fully insured,

where (a) is less than (b).

(2) The supplementary pension shall be payable in respect of any period or periods during which the spouse or civil partner—

- (a) fails to qualify for contributory survivor's pension where such failure is not due to causes within his or her own control, or
- (b) qualifies for contributory survivor's pension at less than the maximum personal rate due to causes outside his or her control.

### 31. Survivor's Pension — Enhanced in the First Month

(1) Notwithstanding Article 30, where on the death of a member or former member, other than a former member who qualifies for a preserved pension or a Cost Neutral Early Retirement Pension, a survivor's pension becomes payable, the rate of that pension may, in respect of the first month after his or her death, be increased to—

- (a) in the case where the member dies in service, one twelfth of his or her pensionable remuneration,
- (b) in the case where the member dies while in receipt of pension rate of pay or Temporary Rehabilitation Remuneration and that rate is greater than the rate of the survivor's pension, one twelfth of the pension rate of pay or temporary rehabilitation remuneration in payment at date of death, or
- (c) in the case where a former member dies after being granted a pension—
  - (i) in relation to a member who is not fully insured, where the rate of the pension payable to the deceased on the date of his or her death is greater than the rate of survivor's pension payable, one twelfth of the rate of pension payable to the deceased,
  - (ii) in relation to a member who is fully insured, where the rate of pension payable to him or her on the date of death, if it had been calculated on the basis of net pensionable remuneration (survivor's benefits), is greater than the rate of survivor's pension, one twelfth of the rate of the higher pension,

provided that the increased rate shall be reduced by the rate of any children's pension payable.

### 32. Survivor's Pension — Grant and Payment

(1) The spouse or civil partner of a deceased member who survives that member—

- (a) shall not be granted or paid a survivor's pension under the Scheme if that spouse or civil partner was, at the time of the death of the Scheme member, cohabiting with a person other than the deceased member, or
- (b) shall not be paid a survivor's pension under this Scheme in respect of any period after the death of the Scheme member during which the spouse or civil partner is married, in a civil partnership or cohabiting with any person.

(2) Notwithstanding Paragraph (1), where—

- (a) a survivor's pension was not granted to a person by virtue of Paragraph (1)(a) or, if granted, is not being paid to a person by virtue of Paragraph (1)(b), and
- (b) (i) at a date subsequent to the date of any marriage or civil partnership to which Paragraph (1)(b) relates, the marriage or civil partnership has ceased because of the death of the other person concerned, or has been duly dissolved,
- (ii) in the case of any cohabitation to which Paragraph (1) relates, the relevant body is satisfied that the cohabitation has ceased, or
- (iii) there are, in the opinion of the Relevant Minister with the consent of the Minister, having considered an application, compassionate grounds for the payment of a survivor's pension,

then the relevant body may, if it considers it to be just and equitable in all the circumstances, grant or re-grant, as the case may be, a survivor's pension as and from the date determined in accordance with Paragraph (3).

(3) The date to be determined for the purposes of Paragraph (2) shall be—

- (a) in the case of a marriage or civil partnership, the date on which the marriage or civil partnership ceased because of the death of the other person concerned or the date on which the marriage or civil partnership was dissolved,
- (b) in the case of cohabitation, the date on which the cohabitation ended or, where such date cannot be established with certainty by the relevant body, such date as appears to the relevant body to be the date from which in its opinion, cohabitation is likely to have ceased, and

(c) in a case to which Paragraph (2)(b)(iii) relates, the date decided by the Relevant Minister with the consent of the Minister, being a date not earlier than a date on which the relevant application is received by the Relevant Minister.

(4) Subject to Paragraphs (1) to (3), a survivor's pension may only be paid in respect of a period commencing on the day following the date of the death of the Scheme member concerned and ending on the day of the death of the spouse or civil partner of that deceased member.

(5) A spouse or civil partner may not receive more than one survivor's pension from the Scheme in respect of more than one member.

(6) As provided in section 54 of the 2012 Act and regulations made under that Act, with effect from 1 November 2012, a person shall be eligible to receive only one survivor's pension from a public service pension scheme or schemes, except in the case where the person is eligible for more than one pension in respect of a person who was in receipt of or eligible to receive more than one public service pension.

### 33. Children's Pension — Grant

(1) Consequent on the death of a Scheme member or former Scheme member and to whom or in respect of whom a pension, preserved pension, death gratuity, preserved death gratuity or lump sum payment has been or may be awarded, the relevant body may, where the deceased member is survived by one or more dependent children, grant for such children a pension (in these rules referred to as a "children's pension").

(2) A children's pension may be paid only in relation to the period or periods subsequent to the date of death of the member or former member concerned, as the case may be, and subject to the rules in the Scheme.

### 34. Children's Pension — Calculation

(1) The rate of children's pension shall be—

(a) where the deceased member or former member leaves neither a spouse nor a civil partner or, if he or she is survived by a spouse or a civil partner who dies after his or her death—

(i) where there is only one child, one-third of the reference pension as defined in Article 29, or

(ii) where there are 2 or more children, at a rate for each child equal to one-half of the reference pension divided by the number of children.

(b) Subject to Paragraphs (2), where the deceased member or former member leaves a spouse or a civil partner—

- (i) where there are 3 or fewer children, one-sixth of the reference pension for each child, or
- (ii) where there are 4 or more children, at a rate for each child equal to one-half of the reference pension divided by the number of children.

(2) Where a child or children of the deceased are at the time of his or her death or at any time after that date in the care of some person other than the spouse or civil partner and no survivor's pension is payable then, the relevant body may, if it thinks fit, direct that for as long as they are in such care, Paragraph (1)(a) shall apply notwithstanding that the spouse or civil partner is still alive.

### 35. Children's Pension where no Survivor's Pension in Payment

(1) Where the deceased member leaves a spouse or civil partner and no survivor's pension is granted to him or her under the Scheme, or if one is so granted and it ceases to be paid before his or her death, no children's pension shall be payable under this Scheme within the time in respect of which no survivor's pension is payable.

(2) Notwithstanding Paragraph (1), the relevant body may, in its absolute discretion, direct that such children's pension may be payable and the relevant body may, if it further thinks fit, direct that the provisions of Article 34(2) apply. This discretion may not be exercised in a case where a survivor's pension is not payable due to the provisions of Article 32(6).

### 36. Children's Pension — Beneficiaries

(1) A person who is a child of a deceased member shall not be regarded as a child for the purposes of the payment of a children's pension in any of the following cases—

- (a) a person who was not wholly or mainly financially dependent on the deceased member immediately before the deceased member's death;
- (b) a person who is married, in a civil partnership or cohabiting with another person;
- (c) a person to whom Paragraph (b) or (c) of the definition of "child" in Article 4 refers, in respect of whom emoluments for education, instruction or training are payable by or on behalf of an employer which are of an amount which makes the person self-supporting,

provided that, if there are compassionate grounds for doing so, the relevant body may, at its discretion, set aside this Paragraph for a period or periods and continue a children's pension under the Scheme, but subject to any directions by the Minister regarding the determination of the circumstances in which compassionate grounds may, or may not, exist.

(2) Where in respect of a person to whom Paragraph (1)(c) relates, a break occurs in his or her education, instruction or training, then unless the relevant body otherwise, in its absolute discretion, directs, he or she shall, for the duration of such break, be regarded as a child for the purposes of this Scheme.

(3) (a) Where, in relation to a person to whom Paragraph (b) or (c) of the definition of a child in Article 4 refers, a break occurs in his or her full-time education, instruction or training, then unless the relevant body in its absolute discretion otherwise directs, he or she shall, for the duration of such a break, be regarded as having ceased to be a child for the purposes of the Scheme.

(b) Where a child, referred to in Paragraph (a), is undertaking a multi-annual programme of instruction or training, the relevant institution's holiday period shall not constitute a break provided the child resumes the programme of training or instruction immediately following the holiday period.

(4) A child shall not be eligible for a children's pension in respect of more than one former scheme member. Where there would, apart from this Paragraph, be eligibility for children's pension in respect of two or more deceased members, the child will be eligible in respect of only one of them in a way in which in the opinion of the relevant body gives the most favourable overall result for the child in question.

### 37. Children's Pension — to whom paid

(1) Subject to Paragraphs (2) and (3), a children's pension shall be paid to the parent, step-parent or guardian of the child if that child is in his or her care.

(2) Where a child in respect of whom a children's pension is payable is not in the care of his or her parent, step parent or guardian, the pension shall be paid either to the child or to such other person as the relevant body may determine.

(3) Where a child in respect of whom a children's pension is payable is in the care of more than one person, the children's pension may be paid to each of those persons in such proportions as the relevant body may determine. In making such a determination, the relevant body shall do so in accordance with any directions, guidelines, circulars or any other instructions issued by the Minister.

(4) In all cases, the pension is to be applied for the benefit of the children for whom it is granted.

### 38. Periodic Contributions for Survivor's Pension

(1) In the case of an active member who is not fully insured periodic contributions shall be payable at the rate of  $1\frac{1}{2}$  % of the salary payable to the member, or where he or she is in receipt of reduced salary because of absence from employment during a period of sick leave, of the amount of salary that would have payable to him or her if he or she was not so absent, or where he or she is in receipt of reduced salary because of absence from employment during a

period of sick leave, of the amount of salary that would be payable to him or her if he or she was not so absent.

(2) In the case of an active member who is fully insured, periodic contributions shall be payable at the rate of  $1\frac{1}{2}\%$  of pensionable remuneration or, where he or she is in receipt of reduced remuneration because of absence from employment during a period of sick leave, of the amount of salary, or pensionable remuneration, as the case may be, that would be payable to him or her if he or she was not so absent.

(3) The contributions shall be paid in respect of the period commencing the date on which he or she becomes a member and ending when he or she ceases to be an active member and will be paid at such times and in such manner as the relevant body may determine.

(4) No contributions shall be paid under this Scheme by a member in respect of any period during which the member is not in receipt of remuneration.

(5) Contributions payable under this Article are referred to in this Scheme as “periodic contributions”.

### 39. Return of Periodic Contributions

(1) If a member retires on medical grounds with less than 5 years’ pensionable service and opts in accordance with the provisions of Article 18(2) to accept a gratuity or gratuity in lieu of preserved benefits, the whole of his or her periodic contributions shall be returned to him or her.

(2) A member who, on ceasing to be an active member, has paid periodic contributions for a period in excess of 40 years may have returned to him or her, or if his or her membership ceases due to death, to his or her legal personal representative, the amount of contributions which exceed 40 years’ contributions, starting with the initial contributions made by the member.

(3) Where a member who was awarded a pension on retirement on medical grounds in accordance with Article 18 is re-employed by the relevant body in a pensionable capacity, then any non-periodic contributions in respect of potential service to age 65 deducted from the lump sum payable on the initial retirement shall be returned to him or her.

(4) Where any contributions are returned under this Article, they shall be returned without interest added and less an amount equal to any income tax or any other statutory liability, by the relevant body in respect of such contributions.

(6) Where periodic contributions are returned in accordance with this Article, except in the case of a return of excess contributions provided for in Paragraph (3), to a person who subsequently becomes a member, Paragraphs (2) and (3) of Article 8 shall apply as if the contributions were returned under Paragraph (1) of Article 8.



#### 40. Former members re-employed by the Relevant Body or in another public service body — Implications for Survivor’s entitlements

(1) Subject to Paragraph (2), where a former member is re-employed and becomes an active member and does not opt under Article 21 for a split pension, any entitlement to survivor’s pension and children’s pension in respect of his or her previous membership shall cease and survivor’s and children’s pensions, subject to the provisions of the Scheme, will be calculated on the basis of the combined service.

(2) Where a person, on becoming a member, had at any time previously been a member of this Scheme, had paid periodic contributions during that period of membership and does not opt under Article 21 for a split pension, the earlier period shall be excluded in determining the number of relevant years under Article 41(1) provided—

(a) no return of those contributions is, or was, paid, or

(b) any returned contributions were repaid under Article 39(6).

#### 41. Non-Periodic Contributions

(1) In this Article, “the number of relevant years” means—

(a) in the case of a member who then being married or in a civil partnership, ceases to be a member—

(i) for any reason other than death or retirement on medical grounds, the number of years of pensionable service which he or she then had, or

(ii) because of death or retirement on medical grounds, the number of years of pensionable service which the member would have had if he or she served to age 65, or, if earlier, 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 the member and were not returned to him or her,

(b) in the case of a member who, being then unmarried or not in a civil partnership, ceases to be a member—

(i) for a reason other than death, the number of years of pensionable service the member had on the date of termination of his or her last marriage or civil partnership while in service,

(ii) due to death (and there is no Pension Adjustment Order in place in respect of the Survivor’s Pension on death-in-service), the number of years of pensionable service which he or she had at the termination of his or her last marriage or civil partnership,

- (iii) due to death (and there is in place a Pension Adjustment Order in respect of the Survivor's Pension on death-in-service), the number of years of pensionable service which the member would have had, 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 the member and were not returned to him or her. In the case of a member who is part-time or worksharing, potential service to age 65 is calculated in accordance with Department of Public Expenditure and Reform Circular 11/2012,

- (c) in the case of a member who was not married and was not in a civil partnership at any time from the date of becoming a member to the date of ceasing to be a member, the number of relevant years is nil, provided the relevant body deducted periodic contributions during all the period of his or her membership.

(2) Where a member was married or in a civil partnership at any time during his or her Scheme membership, and he or she ceases to be a member due to—

- (a) death,
- (b) retirement on pension, or
- (c) having an entitlement to a preserved pension,

then, unless the number of relevant years is nil, a contribution shall be payable by way of reduction in the amount of his or her retirement lump sum (including a lump sum awarded under Article 17) or death gratuity or preserved lump sum or preserved death gratuity in such a manner as the relevant body may require.

(3) Subject to Paragraph (4) a contribution under this Article shall be at the rate of 1% of the member's pensionable remuneration multiplied by the number of relevant years and shall be called in this Scheme a "non-periodic contribution".

(4) Where a non-periodic contribution is being deducted from a preserved lump sum or a 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 adjusted by reference to Article 47 in the interval between the date of resignation and the date—

- (a) he or she attains minimum pension age, in the case of a preserved lump sum, or
- (b) of his or her death, in the case of a preserved death gratuity.

(5) Where, subsequent to the date on which a member becomes entitled to a pension, the pension payable to him or her or to his or her spouse or civil partner (but not the retirement lump sum, death gratuity, preserved lump sum

or preserved death gratuity) falls to be increased because of an increase in pensionable service of the member, the relevant body may adjust the amount of the non-periodic contribution to take account of the increase.

(6) At the discretion of the relevant body, and subject to conditions specified by the body, a member may elect to pay, over a period of 12 months, one or more additional contribution equal in each case to the amount of periodic contributions payable in respect of that period and in case one or more such contribution is made, in calculating the number of relevant years, that number shall be reduced by one for every additional contribution made by the member.

(7) Where a member gave service other than as an employee of the relevant body, but which is pensionable service under Article 10, any portion of that service during which he or she paid periodic contributions in a public service pension scheme similar to this Scheme may be excluded in determining the number of relevant years by reference to this Article, provided that those contributions have not been refunded to him or her, or having been refunded have been repaid by him or her with compound interest.

(8) Where the pensionable remuneration of a member who is not fully insured includes pensionable allowances, he or she will be liable for a deduction of 1% of each pensionable allowance in respect of each year during which the member paid periodic contributions up to the date of termination of his or her last marriage or civil partnership before ceasing active membership of the Scheme, and where the member is married or in a civil partnership at the time of retirement, for each year during which periodic contributions were paid by the member.

(9) Pensionable service in excess of 40 years shall be left out of account for the purposes of this Article.

#### *Obligations on the Relevant Body and Beneficiaries*

#### 42. Obligation to pay benefits

(1) In respect of pensionable service as a member of this Scheme, pension benefit and lump sum benefit (including any such benefit that is a preserved pension benefit or preserved lump sum benefit and any such benefit that is a survivor's or children's benefit and any such benefit that is a gratuity) shall only be paid under the rules of this Scheme.

(2) The calculation and payment of any benefits which fall due to be paid under this Scheme shall be a function of—

(a) the relevant body or

(b) such other body that the Relevant Minister or the Minister has directed in writing to carry out such function either generally or in respect of any class or classes of active or former Scheme members.

(3) Nothing in Paragraph (2) shall be read so as to prevent the relevant body making arrangements for the payment as its agent of any Scheme benefit through a third party.

(4) Pensions payable under this Scheme shall be paid in arrears and shall continue—

- (a) throughout the life of the former Scheme member concerned, and
- (b) where appropriate, after the former Scheme member's death, during the period of entitlement in respect of any other person concerned.

(5) Where a benefit is payable under this Scheme to a person who is a beneficiary of the Scheme (in this Article called "the relevant person") with respect to whom the relevant body is satisfied, on the certificate of a registered medical practitioner, that the relevant person concerned is unable by reason of mental or physical disability to give a receipt for the amount, that relevant body may, unless a court of competent jurisdiction has otherwise ordered, pay the benefit—

- (a) wholly or partly to any institution or person having care of the relevant person, or
- (b) as to part thereof, to any institution or person having care of the relevant person, and, as to the remainder, wholly or partly to either or both—
  - (i) the spouse or civil partner of the relevant person, and
  - (ii) such persons as the relevant authority considers to be dependants of the relevant person,

and in such manner as the relevant body thinks fit and on the condition that the payments made are applied for the benefit of the relevant person.

(6) No action by the relevant body under Paragraph (5) affects any enduring power of attorney provided for in accordance with Part II of the Powers of Attorney Act 1996.

(7) Any payments made under Paragraph (5) shall discharge the relevant body as makes them, as fully as if they were made directly to the relevant person.

#### 43. Assignment of Benefits

Other than as provided for in Article 42(5) or Article 45, every assignment of, or charge on, and every agreement to assign or charge a pension under this Scheme shall be void.

#### 44. Abatement by Reference to other Benefits

(1) Where, either directly or indirectly, the relevant body provides or helps to provide or contributes towards a financial benefit for the spouse or civil partner and/or children of a member, other than under—

- (a) this Scheme,
- (b) the Social Welfare Acts, or
- (c) the Social Welfare (Occupational Injuries) Act 1966,

the relevant body shall not make an award under the Scheme unless it is authorised to do so by the Relevant Minister with the consent of the Minister. In authorising an award in such a case, the Relevant Minister, with the consent of the Minister, may direct the relevant body to adjust the amount of the award to take into account, as he or she considers appropriate, the financial benefit in question.

(2) Where arising from the application of Paragraph (1)—

- (a) an award is not made under the Scheme, the whole of the periodic contributions paid by the member shall be returned to his or her legal personal representative and no non-periodic contributions will be payable or, if paid, will be returned in the same way, or
- (b) the amount of an award is adjusted, then an appropriate proportion of contributions, as authorised by the Relevant Minister with the consent of the Minister, will be returned to the member's legal personal representative.

#### 45. Cesser or Reduction of Benefit

(1) In accordance with the provisions of the 2012 Act, where a member—

- (a) is dismissed or retired, or resigns or retires, as a consequence of misconduct involving a finding of a financial loss to the relevant body or the State, or
- (b) otherwise ceases to hold employment
  - (i) as a consequence of misconduct involving a finding of a financial loss to the relevant body or the State, or
  - (ii) in contemplation of such a finding which is substantially made,

then the relevant body may, in order to make good the loss together with compound interest at a rate as may be determined by the Minister from time to time for the purpose of making good the value of the loss, take any action set out in Paragraph (2).

(2) For the purposes of Paragraph (1), the relevant body may—

- (a) where contributions would, but for this Article, be returned to a Scheme member under Article 8 or Article 39, reduce or not return the amount of such returnable contributions,

(b) in any other case (including a case to which provisions relating to death or retirement on medical grounds relate) refuse or reduce any preserved pension, any preserved lump sum or any other benefit with effect on and from the date the person ceases to hold employment which might otherwise be duly payable.

(3) Where a pension is being paid to a person by the relevant body and that person is convicted in any court of an offence in the commission of which a financial loss to the relevant body or the State has occurred, then the relevant body may reduce or cease paying the pension in order to make good such loss together with compound interest at a rate as may be determined by the Minister from time to time for the purpose of making good the value of the loss.

(4) Interest to which this Article relates shall be charged in respect of the period between the date on which the loss was incurred and the date of the final payment.

#### 46. Duplication of benefit, including Survivor's Pensions, not allowed

(1) A member shall not be entitled to reckon in this Scheme the same period of time more than once for the purposes of a pension, lump sum or survivor's pension or gratuity, unless in the case of a gratuity, having been entitled to repay such gratuity, he or she has done so.

(2) If pensionable remuneration is being earned by an active Scheme member in respect of simultaneous employment in another public service body, then the member's pensionable remuneration and service in respect of one full-time employment only or the aggregated equivalent of one full-time employment only shall be taken into account to compute the benefits in this Scheme and the pension scheme of the other public service body concerned in respect of any periods of simultaneous employments.

(3) Where a member's service with the relevant body ceases (whether on retirement, death or otherwise), benefit under this Scheme shall be reduced by reference to any sum, other than one to which the prior approval of the Minister has been obtained, which is payable to or in respect of him or her on such cesser, other than under this Scheme, by the relevant body under any other arrangement (whether by way of insurance or otherwise) to which the relevant body has contributed.

#### 47. Adjustment to Pensions

The relevant body shall implement such adjustments to pensions in payment as may be authorised from time to time by the Minister.

#### 48. Duty to give information

(1) A person who—

(a) becomes a Scheme member,

- (b) applies for a Scheme benefit,
- (c) is the legal personal representative of a deceased member, or
- (d) the representative of any beneficiary or potential beneficiary of the Scheme

shall give to the relevant body all information necessary to administer the pension scheme and to process the payment of any pension benefit, including information relating to any public service pension to which a member may be entitled other than a pension from this Scheme. This includes, where required, proof of age and marital and civil partnership status.

#### 49. Duty to make Declarations

(1) Any active member or anyone who applies for a Scheme benefit or a person to whom Article 23, 24, 25 or 26 applies who has—

- (a) an entitlement to or is in receipt of any superannuation benefit from a public service pension scheme, or
- (b) is in receipt of any remuneration from a public service body, shall provide a declaration to that effect to the relevant body.

(2) Any person who applies for a benefit from this Scheme shall make a declaration to the relevant body of any preserved benefit or any preserved lump sum or any other retirement benefit from any other public service pension scheme that he or she is in receipt of or to which he or she has an entitlement.

(3) Any person to whom Article 23, 24, 25 or 26 applies shall upon application for a public service pension from a relevant body or another public service body make a declaration to the body concerned as to whether or not he or she is in receipt of any remuneration from any public service body and provide any relevant information required by the relevant body or other public service body for the purposes of Article 23, 24, 25 or 26.

#### 50. Repayment of Retirement Benefits, etc., overpaid

- (1) If at any time a person receives—
  - (a) retirement benefits, or other benefits under this Scheme, to which the person is not entitled under the rules of this Scheme, or
  - (b) an amount in respect of retirement benefits, or other benefits under this Scheme, which is greater than that which the person is entitled to under the rules of this Scheme,

then the person or, where he or she has died, his or her legal personal representative, shall repay to the relevant body such payments or excess payments as may be appropriate.

(2) Repayments for the purposes of Paragraph (1) may be in a form, including any reduction in benefits payable under this Scheme at that time, or be in accordance with a payment schedule, as may be agreed between the parties concerned with the approval of the Relevant Minister and the consent of the Minister.

(3) In default of any repayment in accordance with this Article, the full amount of the excess payment outstanding may be recovered by the relevant body as a simple contract debt in any court of competent jurisdiction.

#### 51. Confirmation of certain Benefits paid or in payment

(1) In this Scheme, a “pre-scheme benefit provision” means any provision relating to any benefit, accrued, paid or in payment by the relevant body, implemented under terms and administrative arrangements approved by the Relevant Minister with the consent of the Minister and provision for which is not made by any other provision of this Scheme.

(2) Any pre-scheme benefit provision in place before this Scheme is made is confirmed and if the terms and conditions of the arrangements of the pre-scheme benefit provision are such that it is to continue during a period after the making of this Scheme, then any benefit based on that pre-scheme benefit provision shall, subject to those terms and conditions, continue to be paid during that period.

#### 52. Appeals

The appeals provisions of the Pensions Act, as amended, and any enactment which amends or extends that Act and any Regulation, Warrant or Order made under that Act shall apply, including the Pensions Ombudsman Regulations.

#### *Closed Scheme Rules for Survivor’s and Children’s Pensions*

#### 53. Survivor’s and Children’s Pensions — Closed Scheme Rules

(1) This Article sets out the rules for the Closed Survivor’s and Children’s Pension Scheme, to be known as the “Closed Scheme Rules”.

(2) This Article relates to members of this Scheme to whom Articles 28 to 41 and Paragraph (2) of Article 27 do not apply and those members shall be referred to as “Closed Scheme Members”.

(3) The Rules of the Civil Service Widows’ and Children’s Contributory Pension Schemes, 1977 to 1981 shall apply as the Closed Scheme Rules, in respect of benefits and contributions, to Closed Scheme Members as if those members, for the purposes of these rules only, were established civil servants. Article 4 of the Civil Service Widows’ and Children’s Contributory Pension Scheme, 1977 (S.I. No. 132 of 1977), as amended by the Civil Service Widows’ and Children’s Contributory Pension (Amendment) Scheme, 1981, does not apply to the Closed Scheme Rules.





GIVEN under my Official Seal,  
10 December 2014.

BRENDAN HOWLIN,  
Minister for Public Expenditure and Reform.

EXPLANATORY NOTE

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

These Regulations provide for the Superannuation Rules to apply to the employees of a relevant body if adopted as a Scheme, in a Statutory Instrument, in accordance with the relevant statutory provisions, including Ministerial approval requirements, which provide for the making of a Superannuation scheme for that body.

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