

# NORTHERN IRELAND CIVIL SERVICE ADDITIONAL VOLUNTARY CONTRIBUTION SCHEME

## DECLARATION OF SCHEME

1. This scheme may be cited as the Northern Ireland Civil Service Additional Voluntary Contribution Scheme.
2. This scheme shall come into force on 1 January 1989 and shall have effect from that date.
3. The sole purpose of this scheme is to make payments that a scheme registered under chapter 2 of part 4 of the Finance Act 2004 is authorised to make under chapter 3 of that part to and in respect of persons who are eligible to participate in the scheme and are admitted to membership of it.
4. This scheme shall be administered in accordance with the provisions set out herein after and the rules set forth in the schedule hereto.
5. The provisions and rules of this scheme are drawn, and shall continue to be drawn, in such a way to enable the scheme to be registered under Chapter 2 of Part 4 of the Finance Act 2004.
6. (a) (i) Before making a scheme amending or revoking this scheme, the Department of Finance and Personnel shall consult with persons appearing to the Department of Finance and Personnel to represent persons likely to be affected by the proposed scheme;  
(ii) No such scheme shall make any provision which would have the effect of reducing the amount of any benefits accrued before the coming into operation of the scheme unless the persons consulted in accordance with sub-paragraph (a)(i) have agreed to the inclusion of that provision.  
  
(b) No provision shall be made in an amending scheme which could result in payments being made by the scheme that exceed the de-regulation threshold for the purposes of section 158(1)(a) of the Finance Act 2004.
7. The Department of Finance and Personnel shall be responsible for the discharge of all the duties imposed on the Administrator of the scheme under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988.
8. The moneys necessary for the purposes of this scheme shall be furnished:
  - (a) by contributions to be made by members;
  - (b) by contributions to be made by the employers of members;
  - (c) by the Department of Finance and Personnel
9. (a) Each member's contributions shall be invested in such investments as the Department of Finance and Personnel or its agent, H.M. Treasury may from time to time determine save that such contribution may not be used for the purpose of making any loan whatsoever.  
  
(b) Without prejudice to the generality of (a), the Department of Finance and Personnel, in accordance with a member's instructions, may invest the member's contributions:
  - (i) in an insurance policy or policies taken out with an authorised provider.
  - (ii) in a deposit account or accounts with a building society authorised by virtue of Part II of the Building Societies Act 1986 or such other legislation of the United Kingdom as may be in force in respect of the authorisation of a building society to accept deposits from the administrator of an approved retirement benefits scheme.

10. (a) Relevant benefits under this scheme shall be paid by the Department of Finance and Personnel in accordance with the provisions and rules of this scheme.
  - (b) Relevant benefits shall be purchased, in accordance with the member's instructions, by the Department of Finance and Personnel from such authorised providers as the Department may determine from time to time, or as the member may in writing specify.
  - (c) Where a member elects for the purchase of benefits to be provided by such authorised provider as he may specify under paragraph 10(b) (not being an authorised provider determined by the Finance and Personnel), the making of that election will have the effect of discharging any liability of the Department of Finance and Personnel to pay those benefits to or in respect of that Member.
11. (a) Transfer values may be paid and accepted under this scheme in accordance with the rules set forth in the scheme hereto.
  - (b) Without prejudice to the effect of section 95 of the Pension Schemes (Northern Ireland) Act 1993, where a transfer value is paid under this scheme the Department of Finance and Personnel will be discharged from any obligation to provide any benefits to which the transfer value relates.
12. The Department of Finance and Personnel or its agent H.M.Treasury may determine any question arising under this scheme and its determination on any such question shall be final.
13. Any sums received by the department of Finance and Personnel by virtue of this scheme shall be paid into a suspense account or accounts used for the purpose of this scheme.

## SCHEME RULES

### 1. Definitions

In this Scheme:

“1972 Section” means Section II of the PCSPS(NI)

“2002 Section” means Section I of the PCSPS(NI)

“2007 Section” means Section III of the PCSPS(NI);

“Authorised Provider” has the same meaning as “Authorised Provider” in Article 3(8) of the Superannuation (Northern Ireland) Order 1972.

“Dependant” means-

- (i) in the case of a Member who belongs to the 1972 Section, the Member’s spouse or civil partner, an eligible child as defined in the 1972 Section and any other individual who is (or was at the date of the Member’s death) financially dependent on the Member; and
- (ii) in the case of a Member who belongs to the 2002 Section, a surviving spouse or surviving civil partner or, where there is no surviving spouse or surviving civil partner, a surviving adult dependant as defined in rule E.2 of the 2002 Section, an eligible child as defined in rule E.9 of the 2002 Section and any other individual who is (or was at the date of the Member’s death) financially dependent on the Member; and
- (iii) in the case of a Member who belongs to the 2007 Section, a surviving spouse or surviving civil partner or, where there is no surviving spouse or surviving civil partner, a surviving adult dependant as defined in rule F.2 of the 2007 Section, an eligible child as defined in rule F.8 of the 2007 Section and any other individual who is (or was at the date of the Member’s death) financially dependant on the Member;

“Employer” means the employer in respect of service with whom a Member is accruing benefits under the PCSPS(NI);

“Final Remuneration” means the greater of:-

- (1) the highest remuneration of any one of the five years preceding the retirement date, or date of leaving service if earlier, being the aggregate of:
  - (a) the basic pay (which means total taxable earnings less fluctuating emoluments) for the year in question; and
  - (b) the average over the last 3 years, ending with the expiry of the year for which the basic pay is calculated, of any fluctuating emoluments (or, if fluctuating emoluments have not been payable over a period of at least 3 years, the average over the period during which they have been payable); and
- (2) the average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before the retirement date, or the date of

leaving service if earlier; provided that any year's earnings, other than the 12 months ending with the retirement date or date of leaving service if earlier, used in the calculation may first be increased in proportion to the increase in the Index from the end of the year in question up to the retirement date or date of leaving service if earlier;

"Fluctuating Emoluments" in relation to a year include commission, overtime and bonuses for that year;

"Former spouse or Former civil partner" means a person entitled to a Pension Credit giving rise to a liability upon the Department of Finance and Personnel in respect of a pension credit within the meaning of Article 26(1)(b) of the Welfare Order 1999;

"Implementation Period" means the four month period specified in Article 31(1) of the Welfare Order 1999 subject to any regulations made by the Department of Health, Social Services and Public Safety under Article 31(4) or Article 38(2)(a) of that Order or any extension granted by the Pensions Regulator in accordance with Article 30(4) Of that Order;

"Index" at any time, means the index of retail prices published by the Central Statistical Office of the Chancellor of the Exchequer, or any successor agreed as appropriate by the Board of Inland Revenue, for the calendar month three months prior to that time;

"Member" means a person admitted to participation in the Scheme in accordance with the Rules;

" Normal Retirement Date" means-

- (i) in the case of a Member who belongs to the 1972 Section, the date on which he reaches pension age as defined in rule 1.11 of the 1972 Section; and
- (ii) in the case of a Member who belongs to the 2002 Section, the date on which he reaches pension age as defined in rule A.1(4) of the 2002 Section; and
- (iii) in the case of a Member who belongs to the 2007 Section, the date on which he reaches pension age as defined in rule A.1(4) of the 2007 Section;

"PCSPS(NI)" means Principal Civil Service Pension Scheme (Northern Ireland) made under Articles 3(1) and 4(1), (2) and (4) of the Superannuation (Northern Ireland) Order 1972;

"Pension Credit" means a credit under Article 26(1)(b) of the Welfare Order 1999;

"Pension Debit" means a debit under Article 26(1)(a) of the Welfare Order 1999;

"Pension Debit Member" means a person whose benefits or future benefits under this Scheme have been reduced in accordance with Article 28 of the Welfare Order 1999;

"Pension Sharing Order" means any order or provision specified in Article 25 of the Welfare Order 1999 giving rise to a liability upon the Department of Finance and Personnel under this Scheme in respect of a Pension Credit;

'Pensionable Service' means pensionable service within the meaning of rule 1.4 of the 1972 Section, active membership period within the meaning of rule A.7 of the

2002 Section or active membership period within the meaning of rule A.12 of the 2007 Section, as the case may be;

“Personal Pension Scheme” means a Registered Scheme that is a “personal pension scheme” as defined in section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“Qualifying Arrangement” means an arrangement specified in paragraph 6 of Schedule 5 to the Welfare Order 1999 which is not disqualified by virtue of paragraph 7 of that Schedule; and

“Registered Scheme” means a pension scheme that is registered under Chapter 2 of Part 4 of the Finance Act 2004.

“Service” means actual service-

- (a) in employment in the civil service of the state;
- (b) in employment of any of the kinds listed in Schedule 1 to the Superannuation (Northern Ireland) Order 1972; or
- (c) in any office so listed;

except that service does not include service in any of the categories of employment specified in rule 1.4 of the PCS(S)(NI) or service in relation to which a person or category of staff may otherwise be ineligible for membership of that scheme;

“the Scheme” means the Northern Ireland Civil Service Additional Voluntary Contribution Scheme;

“the Welfare Order 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I.11));  
and

without prejudice to the foregoing definitions, the interpretation and application of such definitions and of any other expressions in this Scheme shall be consistent with the Scheme being registered under Chapter 2 of Part 4 of the Finance Act 2004.

## **2. Membership and closing the scheme to new members**

- (a) Subject to paragraph (b), any individual who is in Pensionable Service may become a Member of the Scheme by making written application in such form as the Department of Finance and Personnel shall require and by having such application accepted.
- (b) The Department of Finance and Personnel may with effect from such date as it may determine close the Scheme to individuals in Pensionable Service who are not Members of the Scheme at that date.

## **3. Conclusions**

### **3.1 Payment of contributions and switching**

Subject to paragraph 9 of the Declaration of Scheme:

- (a) a Member may make contributions to the Scheme of such amount, at such times and in such manner as may be specified by the Department of Finance and Personnel or its agent the Cabinet Office, with the approval of the institution with which the contributions are to be invested;

(b) the Department of Finance and Personnel shall, as soon as practicable, invest the contributions, with the institution and in the manner chosen by the Member, in order to provide benefits which fall within the scope of Rule 4.1;

(c) the investments made in respect of a Member with an institution may be realised and reinvested at the request of the Member with that or any other institution determined by the Department of Finance and Personnel or its agent the Cabinet Office, in such amounts, at such times and in such manner as may be specified by the Department of Finance and Personnel or its agent the Cabinet Office, with the approval of the institutions concerned.

3.2 This rule has been deleted.

3.3 Temporary absence

During a period of temporary absence from employment or secondment, without in either case becoming a member of another Retirement Benefits Scheme, a Member's contributions to the Scheme may continue in such circumstances as the Department of Finance and Personnel or its agent the Cabinet Office may determine from time to time, but only if the Member remains in full membership of the PCSPS(NI).

3.4 Change of employment

(a) Contributions may continue when a Member changes employment provided that the Member remains in Pensionable Service.

(b) Contributions shall cease if a Member ceases to be in Pensionable Service.

3.5 Employer's contributions

No contributions or donations will be accepted from a Member's Employer or the Department of Finance and Personnel other than in meeting the expenses of establishing and administering the Scheme.

3.6 Transfer values

A transfer value shall only be accepted by the Scheme if it meets such conditions as the Department of Finance and Personnel may determine.

#### **4. Benefits**

4.1 Benefits which may be provided

(a) Subject to paragraph (d) and to Rule 4.4, a Member will be entitled to whatever benefits secured by the contributions paid by the member, and by any transfer value accepted under Rule 3.6. The benefits normally permitted are:

(1) if the member is under 75 at the date of death, a lump sum payable on the death of a Member;

(2) a return of the Member's contributions, to the extent of the total realisable value of the investments made by the Department of Finance and Personnel with the contributions paid by the member,

either on the death of the Member before his pension starts or in the circumstances referred to in Rule 4.7(iii);

- (3) subject to rule 4.5 and paragraphs (e) to (g), a pension payable on the death of the Member on or after his pension starts to one or more Dependants throughout the remainder of their lifetime;
- (4) subject to Rules 4.3 and 4.5, a pension payable to the member from a date chosen by the member throughout the remainder of his or her lifetime, under which-
  - (i) payment may be guaranteed to be payable for up to 10 years after the pension starts in any event; or
  - (ii) payments may be guaranteed to be payable for up to 5 years after the pension starts with any balance in respect of any period between death and the expiry of the period of 5 years being paid in one lump sum on death unless paragraph (h) applies; and
  - (iii) the maximum by which the pension may be increased is up to 3% for each complete year or, if greater, in proportion to the increase in the Index which has occurred since payment of the pension commenced;
- (5) if a pension is paid under sub-paragraph (4) before the Member has reached his 75<sup>th</sup> birthday, a lump sum paid to the Member at the time that the pension is paid not exceeding the permitted maximum, as defined in paragraph 2 of schedule 29 of the finance Act 2004; and
- (6) a lump sum meeting the conditions required for it to be a lifetime allowance excess lump sum for the purposes of part 4 of the Finance Act 2004 (see paragraph 11 of schedule 29 to that Act).

(b) Pensions may be level in payment, increase at a fixed rate, vary in line with the Index or with the value of units in a unit trust, managed fund or insurance company fund or be provided on a with-profits basis.

(c) In the case of benefits payable when, or after, the Member's pension starts, the choice of which of the above types of benefit shall be payable shall be made by the Member before his pension starts.

(d) If the benefits payable to a contributor under this rule are subject to a Pension Debit, the benefits which would be payable under this rule if no Pension Debit applied to those benefits shall be reduced to the extent required by Article 28 of the Welfare Order 1999.

(e) Paragraphs (f) and (g) apply if a pension is payable to a child of a Member, unless the child was at the date of the Member's death dependent on the Member because of physical or mental impairment.

(f) Any pension payable to a child of a Member shall be payable until the child reaches the age of 18, or if later, until the child ceases to receive full-time education or vocational training. This is subject to paragraph (g).

(g) If a child of a Member is still receiving full-time education or vocational training on his 23<sup>rd</sup> birthday any pension payable to him shall cease on that date unless-

- (i) the Member died before 6<sup>th</sup> April 2006, or
  - (ii) the Member has a pension in payment under the scheme on 5<sup>th</sup> April 2006 and the child is born before 6<sup>th</sup> April 2007.
- (h) This paragraph applies-
- (i) where but for this paragraph a lump sum would be payable on the Member's death in respect of a guaranteed period as permitted by rule 4.1(a)(4)(ii);
  - (ii) the Member's pension under the scheme began after 5<sup>th</sup> April 2006; and
  - (iii) the Member reaches the age of 75 or over at the date of his death.

Where this paragraph applies, any balance of pension payable shall continue to be paid in the form of pension during the guaranteed period. The pension shall be paid to the person or persons to whom the lump sum would have been paid in accordance with rule 4.6 but for this paragraph.

#### 4.2 Choice of benefits

The Member shall choose the type of pension to be secured under Rule 4.1 and the authorised provider from which it is purchased by the Department of Finance and Personnel.

#### 4.3 When pension may be taken

The Member's pension must be taken on any date chosen by the Member which is:

- (a) not later than whichever is the later of:
  - (i) the date that is the day before the Member's 75<sup>th</sup> birthday, and
  - (ii) the date the Member's pension under the PCSPS(NI) starts;and
- (b) not earlier than:
  - (i) in the case of a person who became a Member before 6<sup>th</sup> April 2006, the Member's 50<sup>th</sup> birthday, or
  - (ii) in all other cases, the Member's 55<sup>th</sup> birthday.

#### 4.4 Benefits that must not be provided

The following benefits and payments must not be provided or made by the scheme-

- (a) an unauthorised payment within the meaning of section 160(5) of the Finance Act 2004;
- (b) an unsecured pension within the meaning of paragraph 4 of Schedule 28 to the Finance Act 2004; and
- (c) an alternatively secured pension within the meaning of paragraph 5 of that Schedule.

#### 4.5 Lump sums

Subject to rule 4.1(a)(5) and (6), and rule 4.7(iii), benefits payable to the Member may normally only be taken in pension form but a lump sum payment may be made-

- (a) If the legislative requirements for commuting a pension on grounds of triviality are met, being the requirements set out in paragraph 7 of schedule 29 to the Finance Act 2004 and in regulations made under section 8C(1)(c) of the Pension Schemes (Northern Ireland) Act 1993; or
- (b) if the Department of Finance and Personnel is satisfied on medical evidence that the Member is in exceptional circumstances of serious ill-health and the lump sum would be a serious ill-health lump sum within the meaning of paragraph 4 of Schedule 29 to the Finance Act 2004.

In such circumstances the whole of the Member's pension may be commuted for a lump sum, from which any tax payable by the Department of Finance and Personnel shall be deducted.

#### 4.6 Payment of lump sums on death

Any lump sum payable on a Member's death shall be paid or applied (by way of settlement or otherwise) within 2 years of the Member's death by the Department of Finance and Personnel to or for the benefit of any one or more of-

- (a) any person nominated by the Member in writing;
- (b) the Member's Dependants, children, parents, grandparents and descendents or such persons; and
- (c) the Member's personal representatives.

The decision as to which person or persons should receive part or all of the lump sum and how much each shall receive shall be at the absolute discretion of the Department of Finance and Personnel. Any part of the lump sum which has not been so paid or applied within 2 years of Member's death shall be paid to the Member's personal representatives. For the purpose of this Rule, a lump sum includes a refund of contributions.

#### 4.7 Leaving the Scheme

A Member may cease to be a Member of the Scheme at any time before benefits provided under Rule 4.1 are taken by requiring the Department of Finance and Personnel (in such manner as may, subject to Part IV, Chapter IV of the Pension Schemes (Northern Ireland) Act 1993, be specified by the Department of Finance and Personnel) to do one or more of the following as appropriate-

- (a) to transfer the value of the Member's accrued benefits to a Registered Scheme of a subsequent employer, or to a Personal Pension Scheme subject, in each case, to the scheme being willing to accept the transfer value and satisfying the prescribed requirements referred to in section 91 of the Pension Schemes (Northern Ireland) Act 1993.
- (b) to use the value of the Member's accrued benefits to purchase one or more insurance policies of the type described in section 91(2)(c) of the Pension Scheme (Northern Ireland) Act 1993;

- (c) if the Member's Pensionable Service, together with any service whilst a member of a previous employer's pension scheme from which a transfer value has been paid to this Scheme or the PCSPS(NI), totals less than 2 years, to pay the Member the value of his or her accrued benefits after deduction of any tax payable by the Department of Finance and Personnel;
- (d) to transfer the value of the Member's accrued benefits to an arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 of the Finance Act 2004 (see section 169(2) of that Act).

For the purposes of this Rule, the value of a Member's accrued benefits shall be the total realisable value of the investments made by the Department of Finance and Personnel with the contributions paid by the Member after taking into account any reduction applied in accordance with Article 28 of the Welfare Order 1999.

#### 4.8 Transfers to the PCSPS(NI)

If the Department Of Finance and Personnel considers that the amount to which a Member is entitled under this Scheme is insufficient for the purchase of an annuity for the Member, assuming the Member would have taken part of his benefits in lump sum to the extent permitted by Rule 4.1(a)(5) the Department of Finance and Personnel may permit the value of the Member's accrued benefits under this Scheme to be transferred to the 1972 Section, the 2002 Section or the 2007 Section, as the case may be.

#### 4.9 Forfeiture of Benefits

In the case of a Member who belongs to the 1972 Section, the Department of Finance and Personnel may, in the circumstances set out in rule 8.2 of the 1972 Section, withhold benefits payable under this scheme which arise by virtue of any employer's contributions.

In the case of a Member who belongs to the 2002 Section, the Department of Finance and Personnel may-

- (i) withhold benefits payable under this Scheme in the circumstances set out in rule J.2(1) (subject to rule J.3(5)) of the 2002 Section; or
- (ii) withhold benefits payable under this Scheme to a person to whom rule J.2(2) of the 2002 Section applies,

which arise by virtue of any employer's contributions.

In the case of a Member who belongs to the 2007 Section, the Department of Finance and Personnel may:

- (i) withhold benefits payable under this Scheme in the circumstances set out in rule K.3(1) (subject to rule K.2(5)) of the 2007 Section; or
- (ii) withhold benefits payable under the Scheme to a person to whom rule K.3(2) of the 2007 Section applies,

which arise by virtue of any employer's contributions;

Where a member has accrued benefits in more than one Section of the PCSPS(NI), he will be treated as if he belongs only to the Section of which he is an active member or has most recently been an active member for the purpose of determining which of the above paragraphs of this rule apply. The relevant paragraph may be applied in

relation to any benefits payable under this Scheme which arise by virtue of any employer's contributions.

Before benefits may be forfeited under this rule, the procedure in rule 8.2 of the 1972 Section, Rule J.4 of the 2002 Section or Rule K.4 of the 2007 Section, as the case may be, shall be followed.

## **5 Maximum benefits**

This section has been deleted.

## **6. Surrender at the request of, and termination by, the Department of Finance and Personnel or its agent the Cabinet Office**

6.1 (a) The Department of Finance and Personnel or its agent the Cabinet Office may require an institution with which contributions have been invested under the Scheme to surrender the whole or part of the value of such contributions.

(b) If, pursuant to paragraph (a), the Department of Finance and Personnel or its agent the Cabinet Office require a surrender of the whole or part of the value of contributions, it shall reinvest such contributions in accordance with paragraph 9 of the Declaration of Scheme.

(c) If, on or before the date when the Department of Finance and Personnel or its agent the Cabinet Office exercise their right under paragraph (a), a request has been received from a member under Rule 3.1(c), the Department of Finance and Personnel or its agent the Cabinet Office may give effect to such request.

6.2 (a) If, pursuant to its powers under the Superannuation (Northern Ireland) Order 1972, the Department of Finance and Personnel revoke the Scheme, before the effective date of such revocation each Member shall be required by the Department of Finance and Personnel in writing to exercise an option, as appropriate, under Rule 4.7 and shall, when effect has been given to such option by the Department of Finance and Personnel, cease to be a Member of the Scheme.

(b) If a Member fails to exercise an option under paragraph (a) within 3 months of being required to do so, the Department of Finance and Personnel may use the value of the Member's accrued benefits to purchase one or more insurance policies of the type described in section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993.

## **7. Taxation**

7.1 This section applies if-

(a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 occurs in relation to a Member (referred to as "the event" in this section), and

(b) the Member and the scheme administrator for the purposes of section 217 of the Finance Act 2004 (referred to as "the administrator" in this section) are jointly and severally liable in relation to the event.

7.2 The administrator must pay any tax payable on the event.

7.3 The benefits payable to or in respect of the Member, or the transfer payment in the case of event 8 in the table in section 216(1) of the Finance Act 2004, shall be reduced to reflect fully the tax payable under rule 7.2 in accordance with guidance provided by the Department of Finance and Personnel.

**8. Prohibition on assignment or charge on benefits**

By virtue of Article 7(1) of the Superannuation (Northern Ireland) Order 1972, any assignment of or charge on, and any agreement to assign or charge, any benefits payable under this Scheme shall be void except to the extent permitted by Article 41 of the Welfare Order 1999.

**9. Pension sharing on divorce nullity or disollution: transfers out of Pension Credits**

9.1 Discharge of liability of Pension Credit

- (a) Following the making of a Pension Sharing Order the Department of Finance and Personnel shall, within the implementation period, pay the amount of the former spouse's or former civil partner's Pension Credit, as calculated in accordance with rule 9.2 to the person responsible for a Qualifying Arrangement with a view to acquiring rights under that arrangement for the former spouse or former civil partner if-
  - (i) the person responsible for that arrangement is able and willing to accept payment of the Pension Credit, and
  - (ii) paragraph (b) or (c) applies.
- (b) This paragraph applies where the former spouse or former civil partner has consented to the Department of Finance and Personnel making such payment to that Qualifying Arrangement.
- (c) This paragraph applies where the former spouse or former civil partner has not given consent for the purposes of paragraph (b), and the Qualifying Arrangement is one which the Department of Finance and Personnel has determined at its discretion.
- (d) For the avoidance of doubt the Department of Finance and Personnel must, before making a payment under paragraph (c), attempt to seek consent under paragraph (b).

9.2 Amount of Pension Credit: calculation of cash equivalent

For the purposes of rule 9.1, the amount of Pension Credit shall be such sum as shall satisfy the requirements prescribed for the time being by regulations made by the Department of Health, Social Services and Public Safety under Article 27 of the Welfare Order 1999.

9.3 Death of Former Spouse or Former Civil Partner before liability in respect of Pension Credit is discharged

- (a) If the former spouse or former civil partner dies before the Department of Finance and Personnel has discharged its liability in respect of a former spouse's or former civil partner's Pension Credit, the Department of Finance and Personnel shall discharge his liability in accordance with this rule.
- (b) The former spouse or former civil partner may nominate in writing in such form as the Department of Finance and Personnel may require one or more persons to receive his Pension Credit in accordance with the provisions of this rule.
- (c) If the Department of Finance and Personnel receives a nomination in accordance with paragraph (b) it may, if it thinks fit, pay to the person or

persons nominated by the former spouse or former civil partner a lump sum the aggregate of which is equal to 25% of the amount of Pension Credit calculated in accordance with rule 9.2.

- (d) If the Department of Finance and Personnel does not make any payment to a person or persons nominated by the former spouse or former civil partner in accordance with paragraph (c), it shall pay to the deceased former spouse's or former civil partner's personal representatives a lump sum which is equal to 25% of the amount of Pension Credit calculated in accordance with rule 9.2.
- (e) With the balance of the Pension Credit remaining after making a payment under paragraph (c) or (d) the Department of Finance and Personnel may, if it thinks fit, enter into an annuity contract or take out a policy of insurance on behalf of a Dependant of the former spouse or former civil partner, provided that such contract or policy satisfies the requirements of regulation 6(3) of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000 (S.R. 2000 No. 145) as modified, applied or extended from time to time.
- (f) A pension paid to one or more Dependents in consequence of an annuity contract or policy of insurance shall not exceed-
  - (i) where a pension is paid to one Dependant, two thirds of the amount of pension which could have been paid to the former spouse or former civil partner had the whole of the Pension Credit, calculated in accordance with rule 9.2, been used to enter into an annuity contract or to take out a policy of insurance on behalf of the former-spouse or former civil partner and assuming, if the former spouse or former civil partner died before reaching the age of 50, that the former spouse or former civil partner had reached the age 50 immediately before death;
  - (ii) where a pension is paid to two or more Dependents, the total amount of such pension which could have been paid to the former spouse or former civil partner calculated in accordance with sub-paragraph (i).
- (g) The balance of any Pension Credit held by the Department of Finance and Personnel after applying the provisions of this rule shall be retained by this Scheme.

#### 9.4 Charging

The Department of Finance and Personnel may recover charges incurred in connection with any of the activities prescribed for the time being under Article 38 of the Welfare Order 1999 and in accordance with, and to the extent prescribed in regulations made by the Department of Health, Social Services and Public Safety under that Article.

