STATUTORY INSTRUMENTS

1980 No. 1450

EUROPEAN ASSEMBLY

The European Assembly (United Kingdom Representatives) Pensions Order 1980

Made - - - -	18*th September* 1980
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The Secretary of State, in exercise of the powers conferred on him by section 4(1), (2), (3) and (4) of the European Assembly (Pay and Pensions) Act 1979(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and retrospective effect of Order.

1.—(1) This Order may be cited as the European Assembly (United Kingdom Representatives) Pensions Order 1980 and shall come into operation on the 12th December 1980.

(2) This Order shall have effect from the 26th July, 1979.

Interpretation

2.—(1) In this Order, unless the context otherwise requires —

"the Act of 1971" means the Pensions (Increase) Act 1971(b);

"the Act of 1972" means the Parliamentary and other Pensions Act 1972(c);

"the Act of 1973" means the Social Security Act 1973(d);

"the Act of 1975" means the Social Security Pensions Act 1975(e);

"the Act of 1979" means the European Assembly (Pay and Pensions) Act 1979;

"aggregate period of qualifying service" means the aggregate of all periods of reckonable service and all such periods as are referred to in article 18(3)(*b*) and, subject to the provisions thereof, article 19(8);

"aggregate period of reckonable service" in relation to a person means the aggregate of all separate periods of reckonable service of that person together with increases pursuant to articles 18(3)(*c*) and 21;

"basic or prospective pension" has the meaning assigned to it by article 10(8);

"contracted-out scheme" means an occupational pension scheme which is for the time being specified in a contracting-out certificate issued by the Occupational Pensions Board under regulations made in accordance with section 31 of the Act of 1975;

"contribution" except in the expression "contributions equivalent premium" means any amount deducted from salary or deemed to have been paid under article 4 and any reference to the payment of a contribution shall be construed accordingly;

"contributions equivalent premium" has the same meaning as in section 42(1) of the Act of 1975;

"guaranteed minimum" has the same meaning as in section 35 and section 36(3) of the Act of 1975(f);

(a) 1979 c. 50
(b) 1971 c. 56.
(c) 1972 c. 48.
(d) 1973 c. 38.
(e) 1975 c. 60.
(f) Section 35(4) of the Act of 1975 was amended by section 21(4) of, and paragraph 13 of Schedule 3 to, the Social Security Act 1979 (c. 18). Section 35(5) of the Act of 1975 was amended by section 21(4) of, and paragraph 18 of Schedule 3 to the Social Security Act 1979. Section 35(6) of the Act of 1975 was amended by section 3(2) of the Social Security (Miscellaneous Provisions) Act 1977 (c. 5). Section 35(7) of the Act of 1975 was amended by section 22(7) of the Social Security (Miscellaneous Provisions) Act 1977 and further amended by section 21(4) of, and paragraph 18 of Schedule 3 to, the Social Security Act 1979.

"guaranteed minimum pension" has the same meaning as in section 26(2) of the Act of 1975;

"interest" (where the reference is to the payment of any sum with interest) means compound interest at the rate of four per cent per annum calculated with annual rests;

"the life of an Assembly" means the period beginning with the opening of the first session of the Assembly following a general election of Representatives and ending on the day before the opening of the first session of the Assembly following the next such general election;

"the Managers" has the meaning assigned to it by article 3;

"overseas fund or scheme" means a fund or scheme which is established outside the United Kingdom or wholly or primarily administered outside the United Kingdom;

"pensionable salary" has the meaning assigned to it by article 6(7)(*a*);

"the provision as to cohabitation", subject to article 14(9)(*b*), has the meaning assigned to it by article 12(5);

"reckonable service" has the meaning assigned to it by article 5;

"relevant child" has the meaning assigned to it by article 12(5);

"relevant terminal salary" has the meaning assigned to it by article 6(7)(*b*);

"requisite benefit requirements" means the requisite benefits as defined in section 26(2) of the Act of 1975 with the minimum annual rate of the earner's pension being determined in accordance with section 34(2) and 36(2) of the Act of 1975;

"tax year" means a year beginning on the 6th April in a year and ending on the following 5th April.

(2) In this Order, except where the context otherwise requires —

(*a*) a reference to a numbered article or Schedule is a reference to the article of, or the Schedule to, this Order so numbered, and

(*b*) a reference in an article or Schedule to a numbered paragraph is a reference to the paragraph of that article or Schedule so numbered.

Managers

3.—(1) Subject to the provisions of Schedule 1, the Secretary of State may appoint persons as managers to perform such functions in connection with the administration of the provisions of this Order as are conferred on them by this Order and may remove such persons at any time. Notice of such appointment or removal shall be given by the Secretary of State to the person so appointed or removed and to the other persons who are at the time managers immediately after the appointment or removal. Persons appointed as managers under this article are referred to in this Order as "the Managers".

(2) The provisions of Schedule 1 shall have effect with respect to the number, qualification and proceedings of and service of documents upon the Managers.

Contributions from salary

4.—(1) There shall be deducted by the Treasury from each payment of salary to a Representative made pursuant to section 1 of the Act of 1979 an amount equal to six per cent thereof by way of contributions towards the cost of providing the pensions payable under this Order.

(2) If a Representative elects to forgo, for any period, the whole or part of his salary as a Representative he shall for the purpose of this Order be deemed to have paid during that period the amounts required by paragraph (1) of this article in respect of the amounts he elects to forgo.

Reckonable service

5.—(1) Subject to paragraph (2), and to articles 17(5)(*a*), 19(7) and 21, any period during which a person was or is a Representative is a period of reckonable service.

(2) No period of service by a Representative shall be considered a period of reckonable service —

(*a*) in so far as it fell after the time when his aggregate period of reckonable service reached forty years and before the time when he attains or attained the age of sixty-five years; or

(*b*) in so far as it fell after the time when he attained that age and would apart from this paragraph cause his aggregate period of reckonable service to exceed forty-five years.

Pension entitlement

6.—(1) Subject to the provisions of this Order, the Treasury shall pay to a person who has ceased to be a Representative a pension under this article as from the time when the following conditions are or were fulfilled in respect of him, that is to say —

(*a*) he is or was neither a Representative nor a candidate for election to the Assembly;

(*b*) he has or had attained the age of sixty-five years; and

(*c*) his aggregate period of qualifying service is not or was not less than four years, or, if less than four years —

(i) in the case of a man, he ceased to be a Representative during or on a date after the end of the tax year in which he attained the age of sixty-five years, or

(ii) in the case of a woman, she ceased to be a Representative during or on a date after the end of the tax year in which she attained the age of sixty years, or

(iii) in the case of either a man or a woman, he is a person in respect of whom a sum in restitution of his pension entitlement has been received under article 17(4).

(2) Subject to paragraphs (3) and (5), and to articles 7 and 8(3), the annual amount of a pension payable to a former Representative under this article shall be a sum equal to the aggregate of the following amounts, that is to say —

(*a*) an amount equal to one-sixtieth of the Representative's relevant terminal salary multiplied by the number of complete years comprised in his aggregate period of reckonable service, and

(*b*) an amount bearing the same proportion to one-sixtieth of the relevant terminal salary as the number of days comprised in that period after the end of the last complete year comprised in it bears to three hundred and sixty-five.

(3) For the purpose of calculating the annual amount of a pension payable to a former Representative to whom both paragraphs (*a*) and (*b*) of section 1(2) of the Act of 1979 have applied —

(*a*) where the relevant terminal salary of the former Representative is calculated in accordance with paragraph (7)(*b*) by reference to a period during which the Representative was not a person to whom section 1(2)(*b*) of the Act of 1979 applied, his aggregate period of reckonable service shall, for the purpose of making the calculation referred to in paragraph (2), be divided by three in respect of those parts of his aggregate period of reckonable service to which the said section 1(2)(*b*) applied; and

(*b*) where the relevant terminal salary of the former Representative is calculated in accordance with paragraph (7)(*b*) by reference to a period during which the Representative was a person to whom section 1(2)(*b*) of the Act of 1979 applied, his aggregate period of reckonable service shall, for the purpose of making the calculation referred to in paragraph (2), be multiplied by three in respect of those parts of his aggregate period of reckonable service to which the said section 1(2)(*b*) did not apply.

(4) Subject to paragraph (5), a pension under this article or article 8 shall continue for the life of the person to whom it is payable.

(5) No such pension shall be payable to a person in respect of any period during which he is a Representative or a candidate for election as a Representative.

(6) If the employment of any person to whom this Order applies is contracted-out under Part III of the Act of 1975 by reference to this Order and such person has a guaranteed minimum by virtue of the provisions of this Order, then notwithstanding any provision of this Order to the contrary —

(*a*) that person shall be entitled to receive, subject to the provisions of paragraph (5), from the age of sixty-five years in the case of a man and from the age of sixty years in the case of a woman, a pension payable for the remainder of his or her life, at a rate equivalent to a weekly rate of not less than the guaranteed minimum unless his or her rights thereto are extinguished by payment of a contributions equivalent premium under section 42 of the Act of 1975, and

(*b*) if the payment of the guaranteed minimum pension of that person is postponed in the circumstances to which section 33(3) of the Act of 1975 applies, the guaranteed minimum pension of that person shall be increased to the extent, if any, specified in section 35(6) of the Act of 1975 as amended from time to time.

(7) In this article, and the following provisions of this Order —

(*a*) the expression "pensionable salary" means, subject to section 5(2) of the Act of 1979 —

(i) in the case of such a period as is described in section 1(2)(*a*) of the Act of 1979, a Member's pensionable salary for that period;

(ii) in the case of such a period as is described in section 1(2)(*b*) of the Act of 1979, one-third of a Member's pensionable salary for that period; and

(*b*) the expression "relevant terminal salary" —

(i) in respect of a person whose aggregate period of reckonable service is not less than twelve months, means the amount of his pensionable salary for the last twelve months (whether continuous or discontinuous) during which he was a Representative, and

(ii) in respect of a person whose aggregate period of reckonable service is less than twelve months, means an amount calculated by multiplying his pensionable salary by the figure (whether a whole number or not) by which the number of days of his service must be multiplied to equal twelve months.

Commutation into lump sum

7.—(1) Subject to the provisions of article 21, any person who is entitled to receive a pension under article 6 or article 8 may, either before, or not later than one month after, the first instalment of the pension becomes payable, give notice to the Managers that he wishes to commute into a lump sum such part of the pension as is specified in the notice.

(2) Subject to the following paragraphs of this article, where a person has given notice under this article, the Treasury shall pay to that person such lump sum as the Managers direct as in their opinion being actuarially equivalent to the part of the pension specified in the notice, and the annual amount of his pension shall be reduced by such amount as the Managers direct as in their opinion being appropriate in consideration of the payment of that lump sum.

(3) Before making any calculations pursuant to paragraph (2) the Managers shall consult the Government Actuary unless such calculations are made on the basis of tables prepared by the Government Actuary for the purpose of making such calculations.

(4) If the amount of a lump sum calculated pursuant to paragraphs (2) and (3) would exceed the permitted maximum —

(*a*) the amount of the lump sum so calculated shall be diminished by such proportion as is necessary to make it equal to the permitted maximum, and

(*b*) the reduction of the annual amount of pension calculated to take account of the lump sum shall be diminished by the like proportion.

(5) Subject to paragraphs (6) and (7), for the purposes of paragraph (4) the permitted maximum is a sum equal to the aggregate of the amount equal to three-eightieths of the Representative's relevant terminal salary multiplied by the number of complete years in his aggregate period of reckonable service, and an amount bearing the same proportion to three-eightieths of that salary as the number of days comprised in that period after the end of the last complete year comprised in it bears to three hundred and sixty-five.

(6) Sub-paragraphs (*a*) and (*b*) of article 6(3) shall apply for the purpose of calculating the permitted maximum in respect of a Representative to whom both paragraphs (*a*) and (*b*) of section 1(2) of the Act of 1979 have applied, as they apply for the purpose of the calculation referred to in article 6(2).

(7) In determining the amount of the lump sum under this article the permitted maximum shall if necessary be diminished so that the annual amount of pension shall not be reduced under paragraph (2) below the rate of the guaranteed minimum pension.

Early retirement

8.—(1) Subject to paragraph (5), any person who has ceased to be a Representative and who fulfils the conditions specified in article 6(1)(*a*) and (*c*) and has attained the age of sixty years but not that of sixty-five years may apply to the Managers for an immediate pension under paragraph (2).

(2) If the Managers direct that they are satisfied that such a person does not intend to stand for re-election to the Assembly the Treasury shall pay him a pension, subject to paragraph (3), as if he had attained the age of sixty-five years on the date of his application or such later date as may be specified in the application.

(3) The annual amount of a pension payable under paragraph (2) both before and after he attains the age of sixty-five years, shall, subject to article 7, be an amount calculated under the provisions of article 6 reduced by such amount as the Managers after consulting the Government Actuary direct as in their opinion being appropriate having regard to the length of the period beginning with the date of his application or such later date referred to in paragraph (2) as may be specified in the application and ending with the date on which he would attain the age of sixty-five years.

(4) In any case where the rate of pension to which a woman who ceases to be a Representative would be entitled under paragraphs (1), (2) and (3) is less than the minimum annual rate calculated in accordance with the requisite benefit requirements, the annual rate of pension to which she is entitled under those paragraphs shall be such minimum annual rate.

(5) A person who is a Representative on the last day of the life of an Assembly and who has, on such day, attained the age of sixty-two years and has been a Representative for a period or periods amounting to not less than twenty-five years, may apply to the Managers, before the end of the day of the opening of the next following Assembly, for a pension under this paragraph payable from the day following the date when the salary payable to him as a Representative ceases to be payable and, if the Managers direct that they are satisfied that he does not intend to stand for re-election to the Assembly, the Treasury shall pay him a pension under this paragraph as from the time when that salary ceases to be payable, calculated, subject to article 7, in accordance with article 6.

Ill-health pensions

9.—(1) A person who because of ill-health has ceased to be a Representative before attaining the age of sixty-five years may apply to the Managers for an early pension under article 6 if at the time when he so ceased he would have been entitled to receive a pension under article 6 but for his not having attained such age.

(2) If on an application under paragraph (1) the Managers direct that they are satisfied —

(*a*) that the applicant does not intend to seek re-election to the Assembly,

(*b*) that his ill-health would prevent him from adequately performing the duties of a Representative, and

(*c*) that his ceasing to be a Representative was a direct consequence of his ill-health,

he shall be entitled to receive a pension under article 6 as from the time he ceased to be a Representative.

(3) A person who, if he were to cease as mentioned in paragraph (1) at a particular date in the future because of ill-health, would become entitled to make an application under that paragraph may make such an application to the Managers before that date specifying in the application the date when he proposes so to cease, and if the Managers are satisfied that at the date so specified the applicant will, if he so ceases, be entitled to an early pension by virtue of paragraph (2) they shall make a direction to that effect.

(4) The annual amount of a pension payable under article 6 to a person by virtue of this article shall, subject to article 7, be calculated in accordance with article 6(2) but for the purposes of the calculation his aggregate period of reckonable service shall, subject to paragraphs (5) and (6), be increased by whichever of the following periods applies in his case, namely —

(*a*) if, apart from this paragraph, his aggregate period of reckonable service on ceasing to be a Representative was less than ten years, a period equal to such aggregate period;

(*b*) if, apart from this paragraph, his aggregate period of reckonable service on ceasing to be a Representative was ten years or more but less than twenty years, a period of six years and eight months or a period equal to the difference between his aggregate period of reckonable service and twenty years, whichever is the longer;

(*c*) in any other case, a period of six years and eight months.

(5) In the case of a person to whom article 6(3)(*a*) applies, the increase referred to in paragraph (4) shall be divided by three in respect of that part of the aggregate period of reckonable service (not including any increase under this article) to which section 1(2)(*b*) of the Act of 1979 applied, and in the case of a person to whom article 6(3)(*b*) applies the increase referred to in paragraph (4) shall be multiplied by three in respect of that part of the aggregate period of reckonable service (not including any increase under this article) to which the said section did not apply, and for the purpose of making the calculation referred to in article 6(2), article 6(3) shall not apply in respect of that part of the aggregate period of reckonable service which is attributable to the increase provided by paragraph (4) and this paragraph.

(6) A Representative's aggregate period of reckonable service —

(*a*) shall in no case be increased under paragraph (4) by a period longer than the period between his ceasing to be a Representative and the time when he would attain the age of sixty-five years; and

(*b*) as increased under paragraph (4) shall in no case exceed forty years.

(7) For the purpose of this article, a person who has ceased to be a Representative at the end of the life of an Assembly shall be treated as having so ceased because of ill-health if the Managers direct that they are satisfied that as a direct consequence of his ill-health he did not seek re-election to the Assembly.

(8) A person who because of ill-health has, while neither a Representative nor a candidate for election to the Assembly, retired from gainful work before attaining the age of sixty-five years may apply to the Managers for an early pension under article 6 if at the time when he so retired he would have become entitled to receive a pension under that article but for his not having attained that age.

(9) If, on an application under paragraph (8) the Managers direct that they are satisfied —

(*a*) that the applicant does not intend to seek re-election to the Assembly,

(*b*) that his ill-health would prevent him from adequately performing the duties of a Representative and,

(*c*) that his retirement from gainful work was a direct consequence of his ill-health,

he shall be entitled to receive a pension under article 6 as from the date of the direction.

(10) Where an application is made under paragraph (8) the Managers shall make a direction as to whether they are satisfied as mentioned in paragraph (9) and, if they are so satisfied, shall state in the direction the date from which the pension will be payable, and they shall send a copy of the direction to the applicant.

(11) In this paragraph "gainful work" means work under a contract of employment, or as the holder of an office, or as a self-employed person engaged in a business or profession being in any case work from which the person concerned gains the whole or a substantial part of his income.

(12) Every application under this article must be accompanied by medical evidence of the applicant's state of health.

(13) The Managers may require the applicant to undergo a medical examination by a medical practitioner nominated by them for the purpose, the fees for which shall be paid by the Treasury.

Widows' pensions

10.—(1) Subject to the provisions of this article, the Treasury shall pay to a widow a pension under this article if her late husband, at the time of his death —

(*a*) was entitled to receive a pension under article 6, or

(*b*) was not so entitled but had an aggregate period of reckonable service of not less than four years.

(2) Subject to paragraphs (6) and (7), the annual amount of a widow's pension under this article shall be one-half of the basic or prospective pension of her late husband.

(3) Subject to paragraphs (4) and (6), a pension payable under this article to a widow shall continue for her life or until her remarriage; but in the case of remarriage the Treasury shall at any time restore the pension if at such time the Managers direct that they are satisfied that the subsequent marriage has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage.

(4) Subject to paragraph (6), no pension shall be payable under this article to a widow who, at her husband's death, was cohabitating with another person; and if a widow entitled to such a pension cohabits with another person, the pension shall cease to be payable:

Provided that the Treasury shall at any time pay or as the case may be restore the pension if at such time the Managers direct that they are satisfied that the cohabitation has been terminated and that there are exceptional reasons for the payment of the pension.

(5) Where the employment of any man to whom this Order applies is contracted-out under Part III of the Act of 1975 by reference to this Order and he has a guaranteed minimum under this Order his widow shall, upon his death, subject to the provisions of paragraphs (3) and (4), be entitled to a pension for the remainder of her life at a rate equivalent to a weekly rate of not less than half the guaranteed minimum of that man, notwithstanding any provision of this Order to the contrary.

(6) During any period specified in section 36(6) of the Act of 1975 the widow of a Representative or past Representative shall, notwithstanding the provisions of paragraphs (3) and (4), be entitled to a pension under paragraphs (1) and (2) but if after she has attained the age of sixty years she remarries or lives with a man as his wife the pension may be restricted by the Treasury, if the Managers so approve, to the guaranteed minimum pension to which she is entitled.

(7) Where a man dies in circumstances in which, apart from this paragraph, a widow's pension calculated in accordance with paragraph (2) would be payable to a woman married by him within the six months ending with his death, then if —

(*a*) there are no children of that marriage,

(*b*) the man was married to her after he ceased to be a Representative,

(*c*) the rate of the widow's pension payable to her would be in excess of the widow's guaranteed minimum pension, and

(*d*) the Managers direct that it appears to them that his death within the six months was to be foreseen by him at the date of the marriage,

the Treasury shall pay only that part of the widow's pension which comprises the widow's guaranteed minimum pension unless the Managers direct that in the circumstances of the case in their opinion the limit imposed by this paragraph should not apply.

(8) In this Order "basic or prospective pension" —

(*a*) in relation to a person who has died and who had not before his death become entitled to receive a pension under article 6, means the annual amount of the pension calculated in accordance with article 6 which he would have been entitled to receive under that article if he had ceased to be a Representative immediately before his death and he had then fulfilled the conditions specified in sub-paragraphs (*a*) to (*c*) of paragraph (1) of that article, and

(*b*) in relation to a person who has died and who at the time of his death was entitled to receive a pension under article 6, means the annual amount of that pension calculated in accordance with that article; provided that where such annual amount resulted from one or more reductions made under articles 7(2) or 8(3), no such reduction shall be made in calculating the annual amount of that pension for the purposes of this paragraph.

Widowers' pensions

11.—(1) Subject to the provisions of this article, the Treasury shall pay to a widower a pension under this article—

(*a*) as from the day following the date of his wife's death if at the time of her death he had attained the age of sixty-five years or was incapable by reason of bodily or mental infirmity of earning his own living; or

(*b*) where the preceding sub-paragraph does not apply, as from the time when he attains the age of sixty-five years or, before attaining that age, becomes incapable as mentioned in that sub-paragraph.

(2) A widower shall only be entitled to a pension under paragraph (1) if his wife, at the time of her death, either—

(*a*) was entitled to receive a pension under article 6; or

(*b*) was not so entitled, but had been a Representative and had an aggregate period of reckonable service of not less than four years.

(3) The annual amount of a widower's pension under this article shall be one-half of the basic or prospective pension of his late wife.

(4) A pension under this article shall, subject to the following provisions of this article, continue for the life of the widower, but may be terminated by the Treasury if the Managers inform them that he has remarried, or, if the widower has not yet attained the age of sixty-five years, the Managers direct that they are satisfied that he has ceased to be incapable as mentioned in paragraph (1).

(5) The termination of a pension under paragraph (4) on a widower ceasing to be incapable as there mentioned before attaining the age of sixty-five years shall not affect his entitlement to the pension as from the time when he attains that age,

(6) A pension terminated under paragraph (4) may be restored by the Treasury at any time if at such time the Managers direct that they are satisfied that—

(*a*) the marriage upon which it was terminated has come to an end,

(*b*) the pensioner has again become incapable as mentioned in paragraph (1), or

(*c*) for exceptional reasons it is proper to restore the pension.

(7) Article 10(4) shall apply for the purposes of this article with the necessary modifications and with the omission of the words "subject to paragraph (6)".

(8) Where a woman dies in circumstances in which, apart from this paragraph, a widower's pension calculated in accordance with paragraph (3) of this article would be payable to a man married by her within a year ending with her death, then if—

(*a*) there are no children of that marriage, and the Managers inform the Treasury that it appears to them that

(*b*) her death within the year was to be foreseen by her at the date of her marriage,

the Treasury shall not pay a widower's pension under this article unless the Managers direct that they are of the opinion that in the circumstances of the case a widower's pension should be paid.

Children's pensions

12.—(1) Subject to the provisions of this article, the Treasury shall pay a children's pension for the benefit of any relevant child or children of a person who has died and who is or has been married, if at the time of his death the condition specified in sub-paragraph (*a*) or in sub-paragraph (*b*) of article 10(1) is fulfilled in his case.

(2) The annual amount of a children's pension payable under this article for the benefit of any relevant child or children of a person who has died in the circumstances mentioned in the preceding paragraph shall be a sum equal to one quarter of the basic or prospective pension of the deceased for each relevant child not exceeding two.

(3) Where the deceased left a widow or widower who was (or, apart from the provision as to cohabitation would have been) entitled to a pension under article 10 or article 11 and that pension—

(*a*) has ceased to be payable in consequence of the re-marriage of the widow or widower, or

(*b*) was not payable, or has ceased to be payable, by reason of the provision as to cohabitation,

any children's pension under this article shall cease to be payable or, as the case may be, shall not be payable unless and until the Managers direct that they are satisfied that for exceptional reasons the children's pension should be payable.

(4) A children's pension under this article shall be paid to or distributed between such person or persons as the Managers may from time to time direct as in their opinion appearing appropriate, and shall be applied by that person or those persons, without distinction, for the benefit of the relevant child or relevant children of the deceased or such of them as the Managers may from time to time direct as in their opinion appearing appropriate.

(5) In this article "child" in relation to any person includes an illegitimate child or a stepchild, and "relevant child" (subject to the provisions of Schedule 2) means any child of the deceased, or of any wife or husband of the deceased, who—

(*a*) is under seventeen years of age, or

(*b*) is under twenty-two years of age and is within his period of full-time education as defined by that Schedule, or

(*c*) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph or incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by Parliament in a hospital or similar institution so maintained,

and "the provision as to cohabitation" means paragraph (4) of article 10 or that paragraph as applied by article 11(7).

Enhancement of initial widows', widowers' and children's pensions

13.—(1) Where the widow of a man who—

(*a*) has at any time been a Representative, and

(*b*) was at the time of his death entitled to receive a pension under article 6,

is entitled to receive a pension under article 10, paragraphs (2) and (3) of this article shall apply.

(2) If, for any part of the three month period, the aggregate of the following amounts, namely—

(*a*) the amount payable to her by way of pension under article 10 apart from this paragraph; and

(*b*) any amount which is payable to her by way of pension under article 12 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (3) of this article, then for that part of that period the amount payable to her by way of pension under article 10 shall be increased by the difference.

(3) The said amount is the amount which, if the deceased had lived, would have been payable to him for the part of the three month period in question by way of pension under article 6.

(4) Where a man has died and at the time of his death, he—

(*a*) was a Representative; and

(*b*) was not entitled to receive a pension under article 6 but had an aggregate period of reckonable service of not less than four years,

paragraphs (5) to (7) of this article (so far as applicable) shall apply if his widow is entitled to receive a pension under article 10 or if a children's pension under article 12 is payable for the benefit of any relevant child or children of his.

(5) If the deceased died before attaining the age of sixty-five years, the annual amount of any pension payable to his widow under article 10 or for the benefit of any relevant child or children of his under article 12 shall be calculated as if he had immediately before his death ceased to be a Representative because of ill-health and had by virtue of article 9 been entitled to receive a pension under article 6 as from the time when he so ceased.

(6) If, for any part of the three month period, the aggregate of the following amounts, namely—

(*a*) the amount payable to the deceased's widow by way of pension under article 10 apart from this paragraph; and

(*b*) any amount which is payable to her by way of pension under article 12 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (7) of this article, then for that part of that period the amount payable to her by way of pension under article 10 shall be increased by the difference.

(7) The said amount is the amount which, if—

(*a*) the deceased had lived and had at the material time become entitled to a pension under article 6; and

(*b*) the annual amount of that pension had been a sum equal to the Representative's pensionable salary at the rate in force at the material time,

would have been payable to him for the part of the three-month period in question by way of that pension.

In this paragraph "the material time" means the time when the deceased in fact died.

(8) The preceding provisions of this article are without prejudice to paragraphs (3), (4), (6) and (7) of article 10 (duration of widow's pension, and restrictions on payment).

(9) The preceding provisions of this article shall apply in relation to a woman who has died and her widower as they apply in relation to a man who has died

and his widow, subject to modifications that any reference to article 10 shall be read as a reference to article 11, the reference to paragraphs (3), (4), (6) and (7) of article 10 shall be read as a reference to the following provisions of this Order, namely article 11(4), (6) and (8) and article 10(4) as applied by article 11(7), and paragraphs (2) and (6) of this article shall not apply where the widower is entitled to a pension by virtue of article 11(1)(*b*).

(10) In this article "the three month period", in relation to a person who has died, means the period of three-months beginning with the day following the date of his death.

Short term widows' widowers' and children's pensions

14.—(1) Where a person has died and, at the time of his death, he—

(*a*) was a Representative; and

(*b*) had an aggregate period of reckonable service of less than four years; and

(*c*) was not entitled to receive a pension under article 6,

the following provisions of this article (so far as appropriate) shall apply.

(2) Subject to paragraphs (6) to (8), if the deceased was a man and left a widow, the Treasury shall pay to her a pension under this paragraph for the relevant period beginning with the day following the date of the deceased's death, that is to say—

(*a*) if there is no relevant child of the deceased, three months;

(*b*) if there is only one relevant child of the deceased, four months and fifteen days;

(*c*) if there are two or more relevant children of the deceased, six months;

and a pension under this paragraph shall be payable at a rate equal to what was the rate of the deceased's pensionable salary at the time of his death.

(3) If the deceased was a woman and left a widower who, at the time of her death, was incapable by reason of bodily or mental infirmity of earning his own living or had attained the age of sixty-five years paragraph (2) shall apply in relation to the deceased and her widower as it applies in relation to a man who has died and his widow.

(4) Subject to paragraphs (5) and (9) (and whether the deceased was a man or a woman), a pension under this paragraph shall be payable for the benefit of any relevant child or children of the deceased for the relevant period beginning with the day following the date of the deceased's death, that is to say—

(*a*) if there is only one relevant child, two months;

(*b*) if there are two or more relevant children, four months;

and a pension under this paragraph shall be payable at a rate equal to what was the rate of the deceased's pensionable salary at the time of his death.

(5) So much of any pension under paragraph (4) as would otherwise be payable to the widow or widower of the deceased for the benefit of any relevant child or children of the deceased shall not be payable for any period for which a pension under paragraph (2) is payable.

(6) A pension payable under paragraph (2) to a widow shall cease to be payable if she remarries, unless the Managers direct that they are satisfied that there are exceptional reasons for continuing to pay the pension notwithstanding her remarriage.

(7) A pension payable under paragraph (2) to a widower—

(*a*) may be terminated by the Treasury if the Managers inform them that he has remarried or direct that they are satisfied that he has ceased to be incapable as mentioned in paragraph (3); and

(*b*) if so terminated, may be restored by the Treasury at any time if at such time the Managers direct that they are satisfied either that the pensioner has again become incapable as mentioned in paragraph (3) or that for exceptional reasons it is proper to restore the pension.

(8) Paragraphs (4) and (7) of article 10 shall apply for the purposes of paragraph (2) of this article with the necessary modifications, references to that article or to a widow's pension being for this purpose read as referring to paragraph (2) of this article or, as the case may be, to a pension thereunder.

(9) Paragraphs (3) and (4) of article 12 shall apply in relation to a pension under paragraph (4) of this article as they apply in relation to a pension under that article subject, in the case of paragraph (3) of the said article 12, to the modifications that—

(*a*) the reference to a pension under article 10 or 11 shall be read as a reference to a pension under paragraph (2) of this article or a pension under that paragraph as applied by paragraph (3) of this article;

(*b*) the references to the provision as to cohabitation shall be read as references to article 10(4) as applied by paragraph (8) of this article.

Gratuity on the death of a serving Representative

15.—(1) Where a person has died at a time when he was a Representative, the Treasury may, subject to the approval of the Managers, pay a gratuity under this article in respect of him.

(2) A gratuity under this article in respect of a person shall be paid—

(*a*) to the person nominated in any nomination made by him for the purposes of this article which was in force at the time of his death; or

(*b*) if no such nomination was in force at that time, to his personal representatives.

(3) Only the wife or husband of a person ("the nominator") making a nomination for the purposes of this article may be nominated in it, and any such nomination —

(*a*) must be made by notice in writing given to the Managers;

(*b*) may be revoked by a subsequent notice in writing so given by the nominator; and

(*c*) shall cease to have effect if in the lifetime of the nominator the person nominated ceases to be the nominator's wife or husband, as the case may be.

(4) The amount of a gratuity granted under this article in respect of a person shall be whichever of the two following amounts is the greater—

(*a*) the amount of the Representative's pensionable salary at the time of his death;

(*b*) the aggregate of the contributions paid by and not refunded to that person, together with interest on each such contribution from the date on which it was paid.

Gratuity on the death of a Representative after retirement

16.—(1) Where a person dies in circumstances where he has become entitled to receive a pension under article 6 and no pension in respect of him is payable under article 10, 11 or 12 the Treasury may, subject to the approval of the Managers, pay to his personal representatives a gratuity under this article.

(2) For the purposes of determining the amount of the gratuity which may be paid in respect of a person under this article, there shall be calculated—

(*a*) the amount of the gratuity which the Treasury could have paid to the Representative's personal representatives under article 15 if he had died in the circumstances specified in paragraph (1) of that article, and

(*b*) the aggregate amount of the payments made to him by way of pension under article 6 together with any lump sum paid to him under article 7;

and the amount of the gratuity shall be the amount (if any) by which the amount calculated under paragraph (*a*) exceeds the amount calculated under paragraph (*b*) of this paragraph.

Transfers to other pension schemes

17.—(1) Any person who has ceased to be a Representative and who has not become entitled to a pension under this Order other than a guaranteed minimum pension arising under article 6(6) may by notice in writing request the Treasury to pay into or for the purposes of any fund or scheme to which this article applies sums representing the value of that person's accrued pension rights under this Order, and on receipt of such notice the Treasury shall make the payment requested.

(2) This article applies:-

(*a*) to any scheme, other than an overseas scheme, which is an exempt approved scheme within the meaning of section 21(1) of the Finance Act 1970**(a)** if—

(i) it is a contracted-out scheme, or,

(ii) if it is not a contracted-out scheme, a contributions equivalent premium has been paid by the Treasury in respect of the person making the request under paragraph (1);

(*b*) to any fund or scheme, other than an overseas fund or scheme, if—

(i) it is a contracted-out scheme, or,

(ii) if it is not a contracted-out scheme, a contributions equivalent premium has been paid by the Treasury in respect of the person making the request under paragraph (1), and

(a) 1970 c. 24.

(iii) whether or not (i) or (ii) above applies, it is approved by the Managers, provided that the Managers shall before giving such approval consult and have regard to the views of the Commissioners of Inland Revenue as to the suitability of the fund or scheme for the purpose of this article; and

(*c*) to any overseas fund or scheme which is approved by the Managers, provided that the Managers shall before giving such approval consult and have regard to the views of the Commissioners of Inland Revenue and the Occupational Pensions Board as to the suitability of the fund or scheme for the purposes of this article.

(3) For the purposes of this article the value of a person's accrued pension rights under this Order shall be taken to be such sum as for those purposes may be determined by the Treasury. Before making a determination in accordance with this paragraph, the Treasury shall consult the Government Actuary, unless such determination is made on the basis of tables prepared by him.

(4) At the request of any person—

(*a*) in respect of whom any sum has been paid under this article into or for the purposes of an overseas fund or scheme; and

(*b*) who is not at the time the request is made a Representative, the Treasury may receive a sum, out of, or out of moneys held for the purposes of, that fund or scheme, equal to the sum paid under this article together with interest thereon from the date of that payment at such a rate as may be agreed by the Treasury.

(5) Where any sums are paid by the Treasury under paragraph (1) in respect of any person, then—

(*a*) for the purpose of calculating his reckonable service no account shall be taken of any period before the date of that payment unless he is a person in respect of whom a sum is received by the Treasury under paragraph (4), and

(*b*) for the purposes of articles 19 and 20 any contributions paid by him before the date of that payment shall be treated as not having been paid.

Transfers from other pension schemes

18.—(1) At the request, made in accordance with paragraph (2), of any person who is for the time being a Representative, the Treasury may receive any sums payable by way of transfer value in respect of him out of, or out of moneys held for purposes of, any fund or scheme to which this article applies, or under any enactment for the time being in force which authorises the transfer of pension rights.

(2) A request made by a person under paragraph (1) shall not have effect unless it is made before the end of the period of twelve months beginning with whichever is the earlier of such one or more of the following dates as are applicable to him, that is to say—

(*a*) the date of the coming into operation of this Order, if on that date he is a Representative,

(*b*) the earliest date (if any) after the coming into operation of this Order on which he is a Representative.

(3) Where any sums are received by the Treasury under paragraph (1) at the request of a person who is a Representative at the time when the request is made—

(*a*) for the purposes of articles 19 and 20 the sums so received so far as in the opinion of the Managers they represent his own contributory payments, shall be treated as if they were contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under article 4;

(*b*) all periods of service which would have been taken into account for the purpose of calculating his pension benefits under the fund or scheme to which this article applies or otherwise if the transfer of pension rights had not been made shall be taken into account for the purpose of calculating his aggregate period of qualifying service under this Order; and

(*c*) his aggregate period of reckonable service shall be treated as increased by the addition of such period as the Managers direct as in their opinion being appropriate and for the purposes of articles 6(2) and (3), such period shall be deemed to have been a period of service as a Representative to whom paragraph (*a*) of section 1(2) of the Act of 1979 applied.

(4) Before determining any period for the purposes of paragraph (3)(*c*) the Managers shall consult the Government Actuary as to what period would be appropriate in relation to the sums received by the Treasury at the request of the person in question, unless they determine the period in accordance with tables prepared by the Government Actuary, as being appropriate in relation to those sums.

(5) This article applies—

(*a*) to any scheme, other than an overseas scheme, which is an exempt approved scheme within the meaning of section 21(1) of the Finance Act 1970,

(*b*) to any fund or scheme, other than an overseas fund or scheme, if the Managers direct that they approve the fund or scheme for the purposes of this article, provided that the Managers shall before making such direction consult and have regard to the views of the Commissioners of Inland Revenue, and

(*c*) to any overseas fund or scheme which the Managers direct that they approve for the purposes of this article, provided that the Managers shall before making such direction consult and have regard to the views of the Commissioners of Inland Revenue and the Occupational Pensions Board.

Repayment of contributions to the contributor

19.—(1) Subject to paragraphs (3) and (6), any contributions paid by a person under article 4 shall be refunded to him by the Treasury with interest from the dates on which the contributions were paid respectively, if he requests the Treasury to refund the contributions to him and, on the date of that request, the conditions specified in paragraph (2) are fulfilled in relation to him.

(2) The conditions referred to in paragraph (1) are that—

(*a*) the Managers have directed that they approve the refund of the contributions,

(*b*) the contributor has ceased to be a Representative and he has not at any time since he so ceased again become a Representative;

(*c*) his aggregate period of reckonable service is less than four years.

(3) A person who fulfills the conditions specified in paragraph (2)(*b*) and (*c*) shall not be entitled to a refund of the contributions paid by him, if that person is a person who in the case of a man had ceased to be a Representative during or on a date after the end of the tax year in which he attains the age of sixty-five years or in the case of a woman had ceased to be a Representative during or on a date after the end of the tax year in which she attained the age of sixty years.

(4) If, after the refund of contributions to him under this article, the contributor becomes, or (as the case may be) again becomes a person liable to pay contributions under article 4, he may—

(*a*) if he so desires, and makes the repayment before the end of the period of three months beginning with the date on which he becomes so liable, or

(*b*) after the end of that period, with the approval of the Managers,

repay to the Treasury the sum so paid to him with interest from the date on which it was paid to him; and any sum to be paid to the Treasury under this article may, if the Treasury so allow, be paid by instalments over such period, not exceeding three years, as the Treasury think fit.

(5) Any amount whether of principal or interest paid by the contributor to the Treasury under paragraph (4) shall be treated for the purposes of this article as if it were a contribution paid by him at the time when he makes that payment.

(6) The Treasury shall deduct from the amount of any contributions which may be repaid to a person in accordance with the provisions of this article the amount certified by the Secretary of State in accordance with section 47(2) of the Act of 1975 in respect of that person.

(7) In calculating a Representative's reckonable service, no account shall be taken of any period in respect of which contributions paid by him have been—

(*a*) refunded to him under this article, and

(*b*) not subsequently repaid by him to the Treasury.

(8) In calculating a person's aggregate period of qualifying service account shall be taken of any period in respect of which contributions paid by him have been refunded to him under this article and not subsequently repaid by him to the Treasury if that person, after an interval of not more than one month after having ceased to be a person liable to pay contributions under article 4, again becomes liable to pay such contributions.

Repayment of contributions after the death of the contributor

20. Where a person dies or has died—

(*a*) at a time when he was a Representative and which was a time when his aggregate period of reckonable service amounted to less than twelve months, or

(*b*) in circumstances where the conditions specified in article 19(2)(*b*) and (*c*) were fulfilled in relation to him, but where he had not made a request for a refund of contributions under that article,

the Treasury shall refund to his personal representatives the contributions paid by the contributor and not previously refunded to him, with interest from the dates on which the contributions were paid respectively.

Purchase of added years

21.—(1) Subject to the following provisions of this article, articles 4 to 11 of, and the Schedule to, the Parliamentary Pensions (Purchase of Added Years) Order 1978**(a)** ("the Added Years Order") shall have effect with respect to and in connection with the purchase of additional periods of reckonable service by Representatives; and subject to the provisions of the Added Years Order as applied by this article, the aggregate period of reckonable service of a Representative who purchases such an additional period shall be treated as increased by such period.

(2) For the purpose of this article—

(*a*) references in the Added Years Order to a "Member", or to a "Member of the House of Commons" shall, subject to paragraph (3) of this article, be treated as references to a Representative;

(*b*) references to the "Trustees" shall, subject to paragraph (3) of this article, be treated as references to the Managers;

(*c*) references to sections 3, 7 and 11 of the Act of 1972**(b)** shall be treated respectively as references to articles 4, 6 and 7 of this Order;

(*d*) references to section 2 of the Act of 1978 shall be treated as references to paragraphs (1), (2), (3) and (7) of article 9 of this Order;

(*e*) references to the coming into operation of the Added Years Order shall be treated as references to the coming into operation of this Order;

(*f*) the following expressions appearing in the Added Years Order shall have the meanings respectively assigned to them as follows, that is to say:-

(i) "actual reckonable service" in respect of a Representative shall mean his aggregate period of reckonable service excluding any additional period determined under article 18(3)(*c*) and excluding any added years;

(ii) "added year" shall mean a period of reckonable service purchased under the provisions of the Added Years Order as applied by this article;

(iii) "Member's ordinary salary" shall have the meaning given by section 3(6) of the Act of 1972;

(iv) "periodical contributions" shall mean the sums payable by a Representative whose application to purchase added years otherwise than by a single payment has been accepted by the Managers;

(v) "retained benefits" shall mean benefits accrued or accruing to a Representative other than under this Order and being benefits within the classes taken into account by the Commissioners of Inland Revenue in determining maximum benefits for the purposes of their approval of retirement benefit schemes under Chapter II of Part II of the Finance Act 1970;

(a) S.I. 1978/1837.
(b) There are amendments to each of these sections which are not relevant to this Order.

(vi) "retained lump sum benefits" shall mean retained benefits which are payable as single payments whether by way of commutation of accrued pension rights, refund of contributions or otherwise;

(vii) "aggregate period of reckonable service", "pensionable salary", "reckonable service", and "relevant terminal salary" shall have the meanings assigned to them by article 2(1) for the purposes of this Order.

(3) For the purposes of this article, the Added Years Order shall be deemed to be modified as follows:-

(*a*) by the inclusion in articles 4(2) and 8(2) thereof of the following additional condition,to be numbered (vi) and (vii) respectively—

"the Representative is not, at the date when the Managers receive the application, a person to whom section 1(2)(*b*) of the Act of 1979 applies";

(*b*) by the insertion in article 6(1) thereof, after the words "contributions shall be payable", of the words "to the Treasury";

(*c*) by the substitution in article 6(2) thereof of the word "Treasury" for the word "Trustees";

(*d*) by the substitution, for paragraph (2) of article 7 thereof, of the following paragraph—

"(2) If a Representative who has applied to purchase added years by periodical contributions and whose application has been accepted by the Managers ceases to be a Representative in circumstances to which paragraphs (1), (2), (3) and (7) of article 9 do not apply, or ceases to be a person to whom section 1(2)(*b*) of the Act of 1979 does not apply, no contributions will be payable by him from the day following the date when he so ceases, but his reckonable service as a person to whom the said section 1(2)(*b*) did not apply will be increased by $\frac{AxB}{C}$ where:

A is the number of added years he applied to purchase by periodical contributions;

B is the period (expressed to the nearest day) during which periodical contributions have been paid;

C is the total period during which periodical contributions would have been payable if he had remained a Representative to whom the said section 1(2)(*b*) did not apply until he had attained the age of 65 years.";

(*e*) by treating references in articles 7(3) and (5) thereof to service or periods or further periods of service as references to service or to periods or further periods of service as a Representative to whom section 1(2)(*b*) of the Act of 1979 does, or as the context requires, did not apply;

(*f*) by the substitution, in article 7(4) thereof, for the words, "a Member of the House of Commons" where they appear for the second time, of the words "a Representative or a Representative to whom section 1(2)(*b*) of the Act of 1979 did not apply" and for the words "a Member of the House of Commons" where they appear for the third time, and for the words "a Member", the words "a Representative to whom the said section 1(2)(*b*) did not apply";

(*g*) by the insertion, in article 8(2)(iii) thereof, before the words "whichever is the later", of the words "to whom section 1(2)(*b*) of the Act of 1979 does not apply";

(*h*) by the omission of paragraphs (3), (4) and (5) of article 8 thereof;

(*i*) by the substitution, for paragraph (1) of article 9 thereof, of the following paragraph—

"(1) Any Representative who has applied to the Managers to purchase added years by a lump sum payment shall, within the period of six months commencing on the date when his application is accepted by the Managers, make the lump sum payment to the Treasury which shall be calculated by the Managers by reference to his pensionable salary as a Representative at the time when his application was received by the Managers and in accordance with Table B of the Schedule to this Order and the amount of his reckonable service as a Representative to whom section 1(2)(*b*) of the Act of 1979 did not apply shall be increased accordingly with effect from the date that the lump sum payment is received by the Treasury.";

(*j*) by treating the second reference to "the Trustees" in article 9(2) thereof as a reference to the Treasury;

(*k*) by the omission from article 10(1) thereof of the words in brackets;

(*l*) by treating references in article 10 thereof to "reckonable service" as references to such service as a person to whom section 1(2)(*b*) of the Act of 1979 does not apply;

(*m*) by the omission of article 10(3)(*b*) thereof;

(*n*) by the insertion in articles 11(1)(*a*) and 11(2) thereof, after the words "relevant terminal salary", of the words "which, if during his last twelve months' service (whether continuous or discontinuous) he was a person to whom section 1(2)(*b*) of the Act of 1979 applied, shall be calculated for this purpose as if he had not been such a person":

(*o*) by the omission of paragraph 2 of Table B in the Schedule thereto.

(4) Sub-paragraph (*a*) of article 6(3) of this Order shall apply for the purpose of calculating the permitted maximum under article 11 of the Added Years Order as it applies for the purpose of the calculation referred to in article 6(2); and accordingly the reference in the said sub-paragraph to the Representative's aggregate period of reckonable service shall be treated for this purpose as a reference to his actual reckonable service.

Application of pensions

22. Section 20(1) of the Act of 1972 shall apply to pensions under this Order.

Payments due to deceased persons

23. Subsection (1) of section 24 of the Act of 1972, as it has effect by virtue of the Administration of Estates (Small Payments) (Increase of Limit) Order 1975**(a)** and any subsequent order made under section 6(1) of the Administration of Estates (Small Payments) Act 1965**(b)** and subsections (2) and (3) of the said section 24, shall have effect with respect to sums payable by the Treasury by virtue of the provisions of this Order as they have effect with respect to sums payable by the Trustees of the Parliamentary Contributory Pension Fund, and accordingly references in the said subsections (1), (2) and (3) of section 24 to the Trustees shall be construed as references to the Treasury.

(a) S.I. 1975/1137.

(b) 1965 c. 32; section 6(1) was amended by section 24(4) of the Act of 1972. Other amendments thereto are not relevant to this Order.

Deduction of tax from refunds of contributions

24. Section 33 of the Act of 1972 shall apply on the making of any repayment of contributions (including interest on contributions) under article 19 as it applies on the making of any repayment of contributions (including interest on contributions) under section 18 of that Act **(a)** and accordingly the reference to the Trustees in that section shall be construed as a reference to the Treasury.

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

Home Office.
18th September 1980.

Article 3

SCHEDULE 1
MANAGERS

1. The Managers shall not be more than seven in number.

2. No person shall be appointed to be a Manager unless he is a Representative and on ceasing to be a Representative a Manager shall vacate his office.

3. The Managers may act by a majority of those present at any meeting of the Managers at which a quorum is present.

4. The procedure of the Managers shall, subject to the provisions of this Order, be such as the Managers may determine; and the quorum for any meeting of the Managers shall be three.

5. A direction of the Managers shall be in writing and shall continue in force until revoked by a subsequent direction of the Managers notwithstanding any changes in the persons who are Managers and notwithstanding that there are for the time being no Managers.

6. Any notice or other communication addressed to the Managers should be sent to the Managers, the European Assembly (United Kingdom Representatives) Pension Scheme, Loddon House, Basingview, Basingstoke, Hampshire.

Article 12

SCHEDULE 2
PERSONS QUALIFYING FOR CHILDREN'S PENSIONS

1. In this Schedule "the deceased" means the person on whose death a children's pension is or may be payable under article 12 and "child" has the same meaning as in that article.

(a) Section 18 of the Act of 1972 was amended by sections 4(1) and (4) of the Parliamentary and other Pensions and Salaries Act 1976 (c.48) and by section 22(4) of, and paragraphs 1 *(a)* and *(c)* and 5 *(a)* and *(b)* of schedule 1 to, the Parliamentary Pensions Act 1978 (c.56).

2. For the purposes of article 12 a child shall be treated as within his period of full-time education while—

(*a*) he is receiving full-time instruction at any university, college, school or other educational establishment, or

(*b*) he is undergoing full-time or substantially full-time training for any trade profession or vocation;

and any question arising under this paragraph shall be determined by the Managers.

3. A child shall not be treated as a relevant child for the purposes of article 12—

(*a*) as being an illegitimate or adopted child of the deceased, if he was born or adopted, as the case may be, after the termination of the marriage or last marriage of the deceased, or

(*b*) as being the child of a wife of the deceased, if he was born or became her child after the termination of her marriage with the deceased,

unless, in the case of an adopted child falling within sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph, the Managers direct that they are satisfied that before the material event therein mentioned the deceased (or, as the case may be, the deceased and his wife) had already formed the intention of adopting the child, that the child was then wholly or mainly dependent on the deceased, and that the child should be treated as a relevant child.

4. A child shall not be treated as a relevant child for the purposes of article 12 as being—

(*a*) the illegitimate child of the deceased, or

(*b*) a child of a wife of the deceased,

unless the child was wholly or mainly dependent on the deceased at the time of his death.

5. A female child shall not be treated as a relevant child for the purposes of article 12 if, at the date of the death of the deceased, she is married to or cohabiting with another person; and a female child who thereafter marries or cohabits with another person shall thereupon cease to be a relevant child unless and until the Managers direct that they are satisfied that the marriage or cohabitation has been terminated and that for exceptional reasons it is proper that she should be so treated.

6. Where the deceased was a woman, no child of any marriage of hers shall be a relevant child for the purposes of article 12 if the father of the child was living at the death of the deceased, unless the Managers direct that they are satisfied that for exceptional reasons the child should be so treated.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for the pensions payable to or in respect of persons who have ceased to be Representatives to the Assembly of the European Communities for United Kingdom constituencies. The benefits provided by the Order are similar to those conferred on Members of the House of Commons. Generally, the pension entitlement for Representatives who have served for at least four years will be one-sixtieth of their pensionable salary in the last year of service for each year of service, subject to a limit of forty or in some cases forty-five years of service (articles 5 and 6). Part of the pension may be commuted into a lump sum

(article 7). The normal retiring age will be sixty-five years, but there are provisions for early retirement from the age of sixty (article 8). Special provision is made for Representatives retiring early because of ill health (article 9). The Order also provides for pensions to be payable to the widows or widowers of deceased Representatives and to be payable for the benefit of their children (articles 10 to 14). Gratuities are also payable on the death of Representatives or in some cases former Representatives (articles 15 and 16).

The Order provides for transfer values to be received or paid in respect of persons who become or cease to be Representatives (articles 17 and 18). Under the power conferred by section 4(4) of the European Assembly (Pay and Pensions) Act 1979 ("the Act of 1979"), certain statutory provisions relating to the pensions of Members of the House of Commons are applied, with specified modifications, in respect of the pensions payable under this Order (articles 21 to 24). Thus the Parliamentary Pensions (Purchase of Added Years) Order 1978 is applied, with modifications, to enable certain Representatives to purchase additional years of service to count for the calculation of benefits payable under this Order (article 21).

By virtue of the power in section 4(3)(*e*) of the Act of 1979 the Order makes special provision in some respects, including the calculation of pension benefits, for Representatives who are or have been simultaneously Members of the House of Commons (articles 6, 7, 9 and 21).

While the Treasury are responsible under the Act of 1979 for the payment of pensions and other sums under the Order, provision is made for the appointment of Representatives as Managers to perform certain specified administrative functions and for their removal (article 3 and Schedule 1).

Contributions towards the cost of providing the pensions payable under the Order are to be deducted by the Treasury from the salaries paid to Representatives at the rate of six percent except where a Representative has chosen to forgo salary (article 4). Contributions may, in certain limited circumstances, be refunded (articles 19 and 20).

It is intended that the pension scheme provided by the Order will be a contracted-out scheme for the purposes of the Social Security Pensions Act 1975, and conform with the requirements of the Inland Revenue for the approval of occupational pension schemes. The value of pensions provided by the Order will be protected under the Pensions (Increase) Act 1971.

Under the power in section 4(3)(*g*) of the Act of 1979, the Order has effect from the 26th July 1979, the date of the passing of the Act.

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