STATUTORY INSTRUMENTS

1978 No. 1127

AIRCRAFT AND SHIPBUILDING INDUSTRIES

The Shipbuilding (Redundancy Payments Scheme) (Northern Ireland) Order 1978

Laid before Parliament in draft

Made - - - 1*st August* 1978

Coming into Operation 2*nd August* 1978

In exercise of the powers conferred on me by sections 1 and 2 of the Shipbuilding (Redundancy Payments) Act 1978(**a**) and for the purposes mentioned in section 1(1) of that Act, I hereby make the following Order, a draft of which has been laid before and approved by a resolution of each House of Parliament in accordance with section 2(10) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Shipbuilding (Redundancy Payments Scheme) (Northern Ireland) Order 1978 and shall come into operation on the day after it is made.

(2) The Interpretation Act 1889(**b**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Application of the Scheme

2. The Scheme set out in the Schedule to this Order shall have effect as a scheme for Northern Ireland.

Roy Mason,
One of Her Majesty's Principal
Secretaries of State.

Northern Ireland Office.
1st August 1978.

(a) 1978 c. 11.

(b) 1889 c. 63.

SCHEDULE

THE SHIPBUILDING REDUNDANCY PAYMENTS (NORTHERN IRELAND) SCHEME

Interpretation

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

"adjusted previous earnings" in relation to any person means the product of his previous earnings and the appropriate multiplier;

"age amount" in relation to any person means the amount specified in the Table set out in Appendix 1 appropriate to his age on the relevant date;

"appropriate multiplier" in relation to any person means, except in Article 6, the figure specified in the right hand column of Appendix 2 opposite the number in the left hand column equal to the number of complete years in the period ending on the relevant date during which that person was at all times in qualifying employment;

"current earnings" in relation to any person and any week means the average amount of his weekly earnings in employment or as a self-employed person or both during that week and the previous three weeks or, in relation to his third week of employment, his average weekly such earnings in his first three weeks of employment, in relation to his second week of employment, his average weekly such earnings in his first two weeks of employment and, in relation to his first week of employment, the amount of such earnings in that week;

"dismissal" in relation to any person means dismissal by his employer within the meaning of Part II of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a) and "dismissed" shall be construed accordingly;

"earnings", for the purpose of the definition of current earnings, include bonus and shift work payments and overtime payments made in any case where the employee is under his contract of employment required to work overtime and the payment is in respect of overtime so worked but do not include any other payments for overtime working, or payments related to particular working conditions; and where an employee's earnings in any week are affected by unpaid absence, by certified absence from work by reason of injury or ill health for which sickness benefit is payable by his employer, or by any reduction in the normal rate of production from whatever cause, his earnings shall be such amount as that employee would have earned if he had been normally employed in that week;

"eligible employee" has the meaning assigned to it by Article 2(1);

"full-time employment" means employment in which the employee is normally required to work for not less than 16 hours in each week;

"previous earnings" in relation to any person means a week's pay of that person calculated in accordance with Part II of Schedule 2 to the Industrial Relations (Northern Ireland) Order 1976(b) as it applies for the calculation of a week's pay for the purposes of Schedule 3 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, and for all purposes other than Article 7, in calculating a week's pay of any person, payments made to him under Article 7 in respect of any week shall be treated as having been payable to him by his employer under the contract of employment in force on the relevant date;

"qualifying activities" means any of the following activities:—

(*a*) the construction, repair, refitting, conversion or maintenance of ships,

(*b*) the manufacture of slow speed diesel marine engines,

(*c*) the training of persons in any of the skills required for any of the activities mentioned in sub-paragraphs (*a*) and (*b*) above,

(*d*) any activity which is carried on as wholly or mainly ancillary to any of the aforementioned activities;

(a) 1965 c. 19 (N.I.).

(b) S.I. 1976/1043 (N.I. 16).

"qualifying employment", in relation to any person, means employment of that person wholly or mainly in qualifying activities;

"qualifying company" means a relevant company whose business consists wholly or mainly of qualifying activities;

"relevant company" has the meaning assigned to it in section 1(3)(*b*) of the Shipbuilding (Redundancy Payments) Act 1978;

"relevant date", in relation to the dismissal of an employee, has the same meaning as it has in section 13 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 including, for all purposes other than Article 11, subsection (10) of that section in circumstances in which that subsection applies and, in relation to an employee who is transferred, means the date on which he is transferred;

"relevant event" means the closure of any undertaking carried on by a qualifying company, or a reduction in the activities of, or in the number of persons employed in, any such undertaking;

"self-employed person" means a person who is gainfully employed for not less than 16 hours in each week in the United Kingdom, the Channel Islands or the Isle of Man otherwise than under a contract of service and otherwise than in an office (including elective office) with emoluments chargeable to income tax under Schedule E, whether or not he is also so employed;

"slow speed diesel marine engine" means an engine which is—

(*a*) designed for use for the main propulsion of ships; and

(*b*) designed to deliver continuously, at a crankshaft speed of less than 160 revolutions per minute, a power output greater than 4,000 horsepower, as measured under the operating conditions specified in the British Standard Specification published on 19th February 1958 under the number B.S. 649:1958 (specification for the performance of reciprocating compression-ignition (diesel) engines, utilising liquid fuel only, for general purposes);

"the Northern Ireland company", in relation to any employee who is made redundant or transferred, means the Northern Ireland company by whom or by whose wholly owned subsidiary that employee was made redundant or transferrred;

"transfer" means transfer to less well-paid employment and "transferred" shall be construed accordingly;

"unemployed person" means a person who is unemployed and is registered for employment or would be so registered if he were not certified as incapable of work through sickness or injury, and "unemployed" shall be construed accordingly;

"week" means a period of seven days beginning on a Monday;

"year" except in Article 2 means a period of 52 consecutive weeks.

(2) For the purposes of this Scheme—

(*a*) a person shall be deemed to have been made redundant if he has been dismissed by reason of a relevant event and shall be deemed to have been made redundant on the relevant date,

(*b*) a person shall be deemed to have been transferred to less well-paid employment if, by reason of a relevant event, he has been transferred to other employment either with the qualifying company that employed him before the transfer or with some other qualifying company and his previous earnings exceed his current earnings in the first week of the employment to which he was transferred,

(*c*) a person shall be regarded as having been in qualifying employment throughout any week if and only if that week would count in computing a period of employment with any employer for the purposes of Schedule 1 to the Contracts of Employment and Redundancy Payments Act (Northern

Ireland) 1965 or Schedule 1 to the Contracts of Employment Act 1972(a) as if in those Schedules—

(i) references to a person's being employed were references to a person's being employed wholly or mainly in qualifying activities and references to employment were construed accordingly,

(ii) "week" had the same meaning as in this Scheme, and

(iii) paragraph 5(3) and everything after paragraph 5A were omitted,

(*d*) a person shall be regarded as having been employed by a qualifying company throughout any week if and only if that week would count in computing a period of employment with that company for the purposes of Schedule 1 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 as if in that Schedule—

(i) "week" had the same meaning as in this Scheme, and

(ii) paragraph 5(3) and everything after paragraph 5A were omitted, and

(*e*) references to any enactment are references to that enactment as it has effect when this Order is made and include references to any instrument made under that enactment as in operation on that date.

General conditions of eligibility

2.—(1) Any employee of a qualifying company who is or has been made redundant or transferred at any time during the period of two years beginning on 1st July 1977 and who—

(*a*) has on the relevant date attained the age of 19 and has not then attained the age of 65 (if a man) or the age of 60 (if a woman),

(*b*) has at all times in the year ending on the relevant date been employed by a qualifying company, and

(*c*) has had issued in respect of him a certificate such as is mentioned in paragraph (2) below,

shall be eligible for payments under this Scheme, and is hereinafter referred to as an "eligible employee".

(2) The certificate mentioned in paragraph (1)(*c*) above is a certificate given by the Northern Ireland company to the effect that, in its opinion—

(*a*) where the relevant event is the closure of an undertaking, that undertaking will not be re-opened in the foreseeable future,

(*b*) where the relevant event is a reduction in the activities of an undertaking, those activities will not be increased in the foreseeable future, and

(*c*) where the relevant event is a reduction in the number of persons employed in an undertaking, that number will not be increased in the foreseeable future.

Lump-sum payments

3.—(1) The Northern Ireland company shall pay—

(*a*) to every eligible employee who is dismissed and who on the relevant date is under the age of 40, £300;

(*b*) to every eligible employee who is dismissed and who on the relevant date is not under the age of 40 and not over the age of 62 (if a man) or 57 (if a woman)—

(i) the amount by which the aggregate of his age amount and his adjusted previous earnings exceeds the amount of his abatement defined in paragraph (2) below, or

(ii) if he is excluded from entitlement to payments under Article 4 below by virtue of paragraph (5) of that Article, £300;

(a) 1972 c. 53.

(*c*) to every eligible employee who is dismissed and who on the relevant date is over the age of 62 (if a man) or 57 (if a woman) an amount calculated in accordance with the following formula:—

$$£750 + a - b - \frac{c}{24}(£300 + a - b)$$

where—

"a" is the amount of his adjusted previous earnings,

"b" is the amount (if any) of his abatement defined in paragraph (2) below, and

"c" is 24 or, if it be lower than 24, the number of calendar months by which his age on the relevant date exceeds 62 (if a man) or 57 (if a woman), part of a month of his age for this purpose being ignored.

(2) The abatement referred to in paragraph (1) above is the amount by which the aggregate of the employee's age amount, the amount equal to twice his adjusted previous earnings and the amount of any payments he is entitled to under section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 in consequence of his being dismissed exceeds the product of 104 and the amount of his previous earnings.

Periodical payments

4.—(1) The Northern Ireland company shall, subject to paragraph (5) below, make to an eligible employee who—

(*a*) is not under the age of 40 on the relevant date,

(*b*) has been dismissed, and

(*c*) is unemployed or is engaged in full-time employment otherwise than with a qualifying company or is a self-employed person,

a payment calculated in accordance with paragraph (3) below in respect of each week of the period specified in paragraph (2) below throughout which he is unemployed or is so engaged or is a self-employed person.

(2) The period mentioned in paragraph (1) above is—

(*a*) in the case of a person the amount of whose adjusted previous earnings is not less than £1,040, 104 weeks commencing with the week beginning first after the relevant date, and

(*b*) in the case of any other person, the number of weeks commencing with the week beginning first after the relevant date equal to the number ascertained by dividing the amount of his adjusted previous earnings in pounds by 10 and rounding up the resulting quotient to the nearest whole number.

(3) The amount of the weekly payment referred to in paragraph (1) above—

(*a*) shall, in the case of a person the amount of whose adjusted previous earnings is not less than £1,040, be the amount ascertained by dividing the amount of his adjusted previous earnings by 104, and

(*b*) shall, in the case of any other person, be £10 except in relation to the last week of any period resulting from the rounding up of the quotient referred to in paragraph 2(*b*) above in relation to which week it shall be the amount by which the amount of his adjusted previous earnings exceeds the product of £10 and the number resulting from rounding down the quotient referred to in paragraph 2(*b*) above to the nearest whole number:

Provided that, in relation to any person and to a week in which that person is engaged in full-time employment otherwise than with a qualifying company or is a self-employed person, if the amount by which 90 per cent. of his previous earnings exceeds his current earnings is less than the amount calculated in accordance with paragraph (3) above, that person shall, in respect of that week, be paid that lesser amount only and, if 90 per cent. of his previous earnings does not exceed his current earnings, he shall not be entitled to any payment in respect of that week.

(4) In relation to any person and to a week in which that person is engaged in full-time employment otherwise than with a qualifying company, if that person is absent from work without pay and without the consent of his employer (other than by reason of having been certified as incapable of work as a result of sickness or injury) on any day or from any shift in that week, the amount which would otherwise be due to be paid to him in respect of that week shall be reduced by an amount equal to the product of the amount which would otherwise be due and the fraction $\frac{a}{w}$ where "a" is the number of days or shifts in that week on which that person is absent as aforesaid and "w" is the number of days or shifts in that week on which he would have worked had he not been so absent.

(5) If the aggregate of a person's age amount and the amount equal to twice his adjusted previous earnings does not exceed £300 that person shall be excluded from entitlement to payments under this Article.

(6) Nothing shall be payable under this Article to a person in respect of any week after that in which that person attains the age of 65 (if a man) or 60 (if a woman) or dies.

(7) For the purposes of this Article, if a person is unemployed or is engaged in full-time employment otherwise than with a qualifying company or is a self-employed person at the beginning of any week, he shall be deemed to be unemployed or to be so engaged or to be a self-employed person throughout that week.

Re-employment of redundant employees by qualifying companies

5.—(1) If an eligible employee who has been dismissed—

(*a*) is re-employed by a qualifying company within a period, commencing on the relevant date, consisting of a number of weeks which is less than the appropriate multiplier, and

(*b*) has received a lump-sum payment under Article 3 exceeding £300,

his entitlement to payments under Article 4 shall cease and he shall be liable to repay to the Northern Ireland company a sum determined in accordance with the formula set out in paragraph (2) below.

(2) The formula referred to in paragraph (1) above is—

$$a\left(\frac{b-c}{b}\right) \text{ where—}$$

"a" is the lump sum payment under Article 3,

"b" is the appropriate multiplier, and

"c" is, in relation to a person who has been unemployed throughout the period referred to in paragraph (1)(*a*) above, the number of weeks comprised in that period and, in relation to a person who within that period has been engaged in other full-time employment, is the number of weeks in that period throughout which he was unemployed.

6.—(1) If a person becomes liable to repay a sum to the Northern Ireland company under Article 5 and he is subsequently dismissed, then—

(*a*) in reckoning for the purposes of this Scheme the period ending with the relevant date in relation to the subsequent dismissal during which that person was at all times in qualifying employment, there shall be added to the period during which he was at all times actually in qualifying employment a notional period calculated in accordance with paragraph (2) below, and

(*b*) that person shall, for the purposes of Article 2(1)(*b*), be deemed to have been employed by a qualifying company at all times in the year ending on the relevant date relating to the subsequent dismissal.

(2) The notional period referred to above shall be the period specified in Appendix 2 opposite the appropriate multiplier and for this purpose "the appropriate multiplier" is the number in the right hand column of Appendix 2 nearest to the value of the

quantity (b − c) in the formula in Article 5 on the basis of which the amount of the repayment was calculated and if, of two numbers in Appendix 2 neither is nearer, the higher number shall be taken for this purpose.

Periodical payments during re-training

7.—(1) This Article applies to an eligible employee in whose case the following conditions are fulfilled:—

(*a*) he has been transferred to employment which involves his attendance at a course of training provided by a qualifying company with a view to his being retrained in new skills, and

(*b*) the certificate mentioned in Article 2(1)(*c*) and given by the Northern Ireland company in relation to him states that in the opinion of the Northern Ireland company the purpose of his being transferred is to retrain him for employment with a qualifying company which involves the use of those skills.

(2) The Northern Ireland company shall pay to an eligible employee to whom this Article applies a payment calculated in accordance with paragraph (4) below in respect of each week of the period specified in paragraph (3) below during which he is employed for attendance at the course of training if his previous earnings exceed his current earnings in that week.

(3) The period mentioned in paragraph (2) above is 26 weeks commencing with the first week after the relevant date.

(4) The amount of the payment referred to in paragraph (2) above in respect of any person and any week shall be—

(*a*) the amount by which that person's previous earnings exceed his current earnings in that week, or

(*b*) an amount equal to 35 per cent. of his previous earnings,

whichever be the less.

Reduction of payments

8.—(1) The aggregate amount of the payments to be made to a person under this Scheme shall be reduced by an amount calculated in accordance with paragraph (2) below.

(2) The amount of the reduction shall be the aggregate of the supplementary allowances payable to that person in respect of the period from the beginning of the week first following the relevant date to the end of the week immediately preceding the week in which the first payment to him under this Scheme is made or would, but for this Article, be made less the aggregate of the supplementary allowances (if any) which the Supplementary Benefits Commission for Northern Ireland determine would have been payable in lieu of those actually payable had the Commission known the extent of that person's entitlement under this Scheme when those supplementary allowances were determined.

(3) Where the amount of the first payment which would otherwise be made under this Scheme does not exceed the aggregate amount of the reduction that payment shall not be made and the balance (if any) of the amount of the reduction shall be carried forward and set off against later payments in the same manner.

(4) In this Article "Supplementary Benefits Commission for Northern Ireland" has the same meaning as in the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and "supplementary allowance" means supplementary allowance payable under Part II of that Order.

Travelling, resettlement and removal grants

9.—(1) This Article applies to an eligible employee—

(*a*) who has been transferred, and

(*b*) in respect of whom the Northern Ireland company has certified that, had he not been transferred, he would have been dismissed.

(**a**) S.I. 1977/2156 (N.I. 27).

(2) The Northern Ireland company shall, subject to paragraph (4) below, pay to an employee to whom this Article applies—

(*a*) where the employment to which he has been transferred is not within reasonable daily travelling distance of his home on the relevant date, a sum equal to the amount of his resettlement costs (if any), or £2,000, whichever be the less, and

(*b*) in any other case, an amount calculated in accordance with paragraph (3) below in respect of each week of the period of 104 weeks commencing with the week beginning first after the relevant date throughout which he is in the employment to which he has been transferred.

(3) The amount of the weekly payment referred to in paragraph (2)(*b*) above is in relation to any person—

(*a*) the amount by which any additional weekly expenses he may reasonably incur in travelling to his new place of employment exceeds £1, or

(*b*) £10,

whichever be the less.

(4) In relation to an employee to which this Article applies who, because he has been transferred, is eligible under any scheme for the payment of travelling, re-settlement or removal grants or allowances for transferred workers administered by or on behalf of the Department of Manpower Services under section 5 of the Employment and Training Act (Northern Ireland) 1950(**a**)—

(*a*) there shall be deducted from any amount which would otherwise be payable to him under paragraph (2)(*a*) above the aggregate of the amounts of any lump sum payments to which he is eligible under any such scheme, and

(*b*) there shall be deducted from any amount which would otherwise be payable to him under paragraph (2)(*b*) above in respect of any week the aggregate of the amounts to which he is eligible in respect of that week under any such scheme.

(5) The reference in paragraph (3) above to a scheme shall be construed as a reference to any such scheme as amended, re-enacted or modified by or under any enactment.

(6) In this Article "resettlement costs" mean such costs, including fees incurred in connection with the purchase, sale or lease of residential property, as have in the opinion of the Northern Ireland company been reasonably incurred by an employee in removing himself, his dependants and his and their household and personal effects to within reasonable daily travelling distance of his new place of employment.

Company schemes

10.—(1) There shall be deducted from any amount which would otherwise be payable to any person under Article 4 in respect of any week the amount of any payment to which that person is eligible in respect of that week under a company scheme.

(2) There shall be deducted from the amount of the lump sum payment which would otherwise be payable to any person under Article 3 the amount of any lump sum to which that person is eligible under a company scheme.

(3) In this Article the expression "company scheme" means a scheme (in whatever form and whether or not creating legally enforceable rights) operated by a qualifying company for the making of payments to employees of that company who cease to be employed by it.

Disentitlement by reason of employment or residence abroad

11.—(1) An employee shall not be entitled to any payment under this Scheme if on the relevant date he is outside the United Kingdom, unless under his contract of employment he ordinarily worked in the United Kingdom.

(**a**) 1950 c. 29 (N.I.).

(2) An employee who under his contract of employment ordinarily works outside the United Kingdom shall not be entitled to any payment under this Scheme unless on the relevant date he is in the United Kingdom in accordance with instructions given to him by his employer.

(3) No payment shall be made under this Scheme to a person in respect of a week during which he is not ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man.

Time for payment and claiming of payments

12.—(1) No person shall be eligible for a payment under this Scheme unless that payment is claimed within 6 months after the date on which he became eligible for it:

Provided that the Northern Ireland company may admit a claim not so made if satisfied that the delay in making the claim was not attributable to the fault of the person whose claim it is.

(2) Sums payable under this Scheme may be paid in arrear.

Rounding up of benefits

13. The amount of any payment under this Scheme shall, where it includes a fraction of a penny, be rounded up to the next penny.

Determination of questions

14. Any question arising under this Scheme shall be determined by the Northern Ireland company and for this purpose the Northern Ireland company may authorise any of its officers or employees to determine any such question on its behalf:

Provided that where any question arising under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 has been determined under that Act and that determination is relevant to any question arising under this Scheme that determination shall, to the extent that it is so relevant, be binding on the Northern Ireland company.

APPENDIX 1

AGE TABLE

Age in full years	Payment
	£
40	—
41	50
42	100
43	150
44	200
45	250
46	300
47	350
48	400
49	450
50	500
51	550
52	600
53	650
54	700
55	750
56	750
57	750
58	750
59	750
60	750
61	750
62	750
63	750
64	750

APPENDIX 2

LENGTH OF SERVICE TABLE

Length of Service	Multiplier (Weeks of Pay)
Years	
25	40
24	38
23	36
22	34
21	32
20	30
19	28
18	26
17	24
16	22
15	20
14	18·5
13	17
12	15·5
11	14
10	12·5
9	11
8	9·5
7	8
6	6·5
5	5
4	4
3	3
2	2
1	1

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order establishes under the Shipbuilding (Redundancy Payments) Act 1978 a scheme for Northern Ireland for the payment of benefits to employees of any company engaged in shipbuilding the whole of whose equity share capital is owned by or on behalf of the Crown or of any wholly owned subsidiary of such a company who are made redundant or transferred to less well-paid employment during the period of two years beginning on 1st July 1977.

The scheme prescribes the class of persons eligible, the types of benefit and the conditions they must fulfil in order to qualify for benefit.

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