



STATUTORY INSTRUMENTS.

**S.I. No. 420 of 2009**

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AN FORAS ÁISEANNA SAOTHAIR (CLOSED) SPOUSES' AND  
CHILDREN'S CONTRIBUTORY PENSION SCHEME 2009

**(Prn. A9/1467)**

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AN FORAS ÁISEANNA SAOTHAIR (CLOSED) SPOUSES' AND  
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In exercise of the powers conferred on it by Subsections (2) and (3) of Section 4, Section 8 of the Labour Services Act 1987 (No. 15 of 1987) An Foras Áiseanna Saothair hereby makes the following Scheme.

**1. SHORT TITLE**

This Scheme may be cited as An Foras Áiseanna Saothair (Closed) Spouses' and Children's Contributory Pension Scheme, 2009.

**2. COMMENCEMENT**

This Scheme will commence with effect from 8th August 1969, which shall be known as the Date of Commencement

**3. INTERPRETATION**

**3.1** In this Scheme save where the context otherwise requires:

**3.1.1** “**adoption order**” means an adoption order made under the Adoption Acts, 1952 to 1998;

**3.1.2** “**An Foras**” means An Foras Áiseanna Saothair;

**3.1.3** “**child**”, subject to Paragraph 3.2 of this Article means a legitimate child of the deceased or a person lawfully adopted by the deceased or, with effect from 1 January 1979, a step-child of the deceased, who is

- (a) a person under sixteen years of age, or
- (b) a person under twenty-one years of age or, effective from 1st January 1999, twenty-two years of age, receiving full-time instruction at any University, College, School or other educational establishment, or
- (c) a person under twenty-one years of age or, effective from 1st January 1999, twenty-two years of age, undergoing full-time instruction or training by any person (in this Scheme referred to as “The Employer”) for any vocation, profession or trade, being instruction or training approved of by An Foras for the purpose of this Scheme, or

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 23rd October, 2009.*

- (d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and who, when his permanent capacity first occurred, was a person described in any of the foregoing paragraphs of this definition, provided that in case the person reaches the age of twenty-one year prior to 1 June 1973, this definition shall not apply to him during the period beginning on the day he reaches that age and ending on 31 May 1973;

**3.1.4 “children’s pension”** has the meaning assigned to it by Article 5;

**3.1.5 “contributing member”** means a member who is serving as a pensionable employee of An Foras;

**3.1.6 “contributory survivor’s pension”** means contributory survivor’s pension payable under the Social Welfare Acts;

**3.1.8 “death gratuity”**, except in the expression “preserved death gratuity”, means a gratuity payable on death by virtue of sub-paragraph 7.2.(c) of the Main Scheme;

**3.1.9 “the deceased”** has the meaning assigned to it by Article 5;

**3.1.10 “the deceased’s pension”** means—

**3.1.10.1** In relation to a member of the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969 other than a person referred to in 3.1.10.2:

- (a) in case, otherwise than on retirement on medical grounds, he is awarded a pension, the amount of such pension.
- (b) in case, on retirement on medical grounds, he is awarded a pension, the pension which would be granted to him if it fell to be calculated by reference to
- (i) his pensionable remuneration at the date of retirement as increased by reference to pension increases granted under Paragraph 10 of the Main Scheme during the period between the date of retirement and death and
- (ii) the pensionable service that he would have had if he had served to the age of sixty-five years of age;
- (c) in case a preserved pension was in payment to the deceased, the amount of such pension
- (d) in case, having resigned with entitlement to a preserved pension, the deceased dies before age sixty or before making application for the preserved pension, an amount equal to

where D is the number of years of his reckonable service at date of resignation, subject to a maximum of forty years and E is his pensionable remuneration as increased by reference to pension increases granted under Paragraph 10 of the Main Scheme during the period between his resignation and death; and

- (e) in case he dies while serving as a member of the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969, the pension for which he would be eligible if sub-paragraph (b) of this definition applied to him;

**3.1.10.2** in relation to a member of An Chomhairle Oiliúna Superannuation Scheme 1969 who died, resigned or retired prior to 1st January 1978:

- (a) in case, otherwise than on retirement on a medical certificate he is awarded a pension, the amount of such pension
- (b) in case, having given at least five years reckonable service, he retires on a medical certificate, the pension which would be granted to him if it fell to be calculated by reference to his pensionable remuneration at the date of retirement as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between the date of retirement and death, and
  - (i) the reckonable service completed to the date of death if death takes place prior to 1st June 1973, and
  - (ii) the reckonable service which he would have had if he had served to the age of 65 years if death takes place on or after 1st June 1973, and

in case on or after 1st June 1973 he dies while serving as a pensionable employee or in case prior to 1st June 1973 he dies while serving as a pensionable employee having given at least five years' reckonable service, the pension for which he would be eligible if on the date of death he retired on a medical certificate and then had the reckonable service which he would have had if he had served to the age of 65 years;

**3.1.11 “employer”** has the meaning assigned it to by this Article;

**3.1.12 “former member”** means a person who, being then married, is retired as a pensionable employee and was awarded a pension and lump sum or preserved pension and lump sum;

- 3.1.13 “lump sum”** except in the expression **“preserved lump sum”**, means a gratuity under sub-paragraph 7.2(a) of the Main Scheme;
- 3.1.14 “the Main Scheme”** means An Foras Áiseanna Saothair (Closed) Superannuation Scheme 1998;
- 3.1.15 “member”** means a person who, pursuant to Article 4, is a member of this Scheme;
- 3.1.16 “the Minister”** means the Minister for Enterprise, Trade and Employment;
- 3.1.17 “pension”**, except in the expression **“preserved pension”** means a pension under Paragraph 7.1 of the Main Scheme;
- 3.1.18 “pensionable remuneration”** has the meaning assigned to it by Paragraph 5.6 of the Main Scheme;
- 3.1.19 “pensionable service”** means service which is reckonable under Paragraph 6.1 of the Main Scheme;
- 3.1.20 “periodic contributions”** has the meaning assigned to it by Article 10;
- 3.1.21 “preserved death gratuity”** means a gratuity payable on death by virtue of sub-paragraph 7.3(a) of the Main Scheme;
- 3.1.22 “preserved lump sum”** and **“preserved pension”** mean, respectively, a lump sum and a pension payable by virtue of 7.3(a) of the Main Scheme;
- 3.1.23 “remuneration”** has the meaning assigned to it by Paragraph 5.3 of the Main Scheme;
- 3.1.24 “retiring salary”** has the meaning assigned to it by Paragraph 5.4 of the Main Scheme;
- 3.1.25 “spouse”** means a partner to a marriage recognised by the law of the State as valid;
- 3.1.26 “spouse’s pension”** has the meaning assigned to it by Article 5;
- 3.1.27 “years”** has the meaning assigned to it by Paragraph 3.4 of the Main Scheme.
- 3.2 (a)** Where, in relation to a person referred to in sub-paragraph (b) or (c) of the definition of “child” in Paragraph 1 of this Article, a break occurs in his full-time education or training, then unless An Foras otherwise directs, he shall, for the duration of such break, be regarded as having ceased to be a child for the purposes of this Scheme.
- (b) The following shall not be regarded as a child within the meaning of this Scheme, namely:

- (i) a person who was not wholly or mainly dependent on a member immediately prior to the member's death;
- (ii) a person who is married or is cohabiting with another person as man and wife; or
- (iii) a person referred to in sub-paragraph (c) of the said definition of "child" to, or in respect of whom emoluments in respect of such instruction or training are payable by, or on behalf of, the employer and which are of such an amount as makes the person self-supporting,

provided that if there are compassionate grounds for so doing An Foras may, as regards a person who apart from this sub-paragraph would be such a child, direct that notwithstanding this sub-paragraph the person shall with effect from such date as is specified in the direction, be regarded as being such a child and in case An Foras makes a direction, under this sub-paragraph, then for so long as the direction is in force this Scheme shall, as regards the person to whom the direction relates, be construed and have effect in accordance with the direction.

### **3.3 Adopted Child**

- (a) Any reference in this Scheme to an adopted child of a member shall be construed as a reference to a child adopted by him (whether alone or jointly with any other person) either in pursuance of an adoption order or in accordance with the law of a country or territory other than the State and recognised by the law of the State as valid, and references to "legally adopted" or to a person by whom another person has been "adopted" shall be construed accordingly.
- (b) Where a married member applies before the termination of his contributing membership for an adoption order in respect of a child and dies before the adoption procedure is completed and the child is subsequently adopted by the member's spouse, the child shall, from the date on which the member has custody of him, be deemed, for the purposes of this Scheme, to be a member's duly adopted child.

**3.4** In this Scheme, unless the contrary intention appears, every word importing the masculine gender shall be construed as if it also imported the feminine gender and every word importing the feminine gender shall be construed as if it also imported the masculine gender.

## **4. MEMBERSHIP AND APPLICATION OF THIS SCHEME**

**4.1** In this Article, "option" means an option whereby the person by whom it is exercised elects not to join this Scheme.

**4.2** The following persons shall be members of this Scheme:

- (a) all male members of the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969 who became members of either Scheme on or after 12th November 1969;
- (b) all male members of An Chomhairle Oiliúna Superannuation Scheme 1969 who were serving as pensionable employees on 8th August 1969 who either elected in writing to join this scheme or did not exercise an option by the 12th November 1969;
- (c) all female members of An Chomhairle Oiliúna Superannuation Scheme 1969 who were serving as pensionable employees on 1st January 1982, having been members of that Scheme prior to that date and who elected in writing to join this Scheme or did not exercise an option by that date; and
- (d) all female members of the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969, who became members of either Scheme on or after 1st January 1982.

## **5. POWER TO GRANT SPOUSES' AND CHILDREN'S PENSIONS**

Subject to the provisions of this Scheme, An Foras may, on the death of the contributing member or former member or a person whose spouse died while he was a contributing member, (in this Scheme referred to as “the deceased”) to or in respect of whom a pension or death gratuity or preserved pension or preserved death gratuity, has been or is, awarded, grant, in respect of his service

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

provided that any marriage of the deceased which takes place after he has ceased to be a contributing member shall not be taken into account for the purposes of this Scheme and accordingly any reference to a marriage, the spouse or the children of the deceased, shall be construed in accordance with the foregoing.”

## **6. SPOUSE’S PENSION**

**6.1** A spouse’s pension shall not be granted or paid under this Scheme—

- (a) if the spouse was at the time of the death of the member cohabiting with a person other than the deceased as man and wife, or



- (b) in respect of any time after the said death when the spouse is remarried or is so cohabiting with any person.

**6.2** Notwithstanding Paragraph (1) of this Article, where,

- (a) a pension under this Scheme is not granted or ceases under the said Paragraph (1), and
- (b) at a subsequent date to the date of the marriage or cohabitation by reason of which the pension was withheld or ceased,

An Foras is satisfied that the marriage or cohabitation has come to an end, or that there are compassionate grounds for the payment of pension it may, if it thinks fit, grant or regrant, as may be appropriate, the pension as from:

- (i) in case the marriage or cohabitation has come to an end, the date on which the marriage or cohabitation ended;
- (ii) in any other case, a date not earlier than the date on which the relevant application is received by An Foras,

provided that this paragraph in any case where the spouse is entitled to benefit under this or any other public sector spouse's and children's pension scheme by virtue of the fact that the spouse of the second or later marriage was a member of this or any other such scheme, a spouse's pension shall not be payable under this scheme unless the spouse's pension payable by virtue of the second or later marriage is less than the spouse's pension payable under this scheme.

**6.3** Subject to Paragraph (1) of this Article, a spouse's pension may be paid for the whole of the period beginning on the death of the deceased and ending with the death of the spouse.

**6.4** The rate of a spouse's pensions shall be one-half of the rate of the deceased's pensions.

**6.5** Notwithstanding Article 6.4, where on the death of a contributing or former member, other than a former member who qualifies for preserved pension, a spouse's pension becomes payable to his spouse, the rate of that pension may, in respect of the first month after his death, be increased to,

- (a) in case he dies while a contributing member, one-twelfth of the rate of his pensionable remuneration,
- (b) in case he dies after being granted a pension, where the rate of pension payable to him on the date of his death is greater than the rate of spouse's pension otherwise payable under this Scheme, one twelfth.

provided that the rate as so increased shall be reduced by the rate of any children's pensions payable under this Scheme, and provided also that the amount payable to the spouse under this Scheme in respect of the period of one month commencing on the date immediately following that of the deceased's death may be paid at any time on or after the first day of the said period.

## **7. CHILDREN'S PENSION: BENEFICIARIES, RATE AND MODE OF PAYMENT**

**7.1** Any pension may not be granted under this Scheme for a child—

- (a) if the deceased remained unmarried during the period commencing on the date of commencement or, if later, the date on which this Scheme first applied to him, and ending on the date on which he ceased to be a contributing member, or
- (b) if the child was conceived after the deceased ceased to be a contributing member, or
- (c) because he is the adopted child of the deceased, if—
  - (i) the deceased was unmarried throughout the time this Scheme applied to him, or
  - (ii) he was adopted by the deceased after,
    - (A) the date of termination of the deceased's last marriage, or
    - (B) the date on which the deceased ceased to be a contributing member,whichever was the earlier, or
- (d) because he is the step-child of the deceased, if the deceased's marriage to the child's parent took place after the deceased ceased to be a contributing member.

**7.2** A child shall not be eligible for a children's pension in respect of more than one member. Where there would, apart from this paragraph, be an eligibility for children's pension in respect of two or more members, the child will count as eligible in respect of them in the way which, in the opinion of An Foras, gives the most favourable overall result for the child in question.

**7.3** A children's pension under this Scheme will be paid to the relevant member's spouse if the eligible children are in that spouse's care, and in case any child in respect of whom a pension is payable is not in such care, the pension will be paid either to the child or to such other person as An Foras may determine. If the children are in the care of more than one

person, different parts of the children's pension will be paid to those persons in such proportions as the An Foras may determine. In all cases, the pensions is to be applied for the benefit of the child or children to whom it is granted.

**7.4** A children's pension may only be paid in relation to a period subsequent to the death of the deceased.

The rate of children's pension under this Scheme shall be—

(a) where the deceased leaves no spouse or, if he leaves a spouse and the spouse dies, after the spouse's death:

(i) where there is only one child—

i. in respect of the period prior to 1st June 1973 two-twelfths of the deceased's pension.

ii. in respect of the period commencing on the 1st June 1973, four-twelfths of the deceased's pension;

(ii) where there are two or more children—

i. in respect off the period prior to 1st June 1973 two-twelfths of the deceased's pension for the first child plus one-twelfth of the deceased's pension for every additional child up to a fourth additional child

ii. in respect of the period commencing on the 1st June 1973, a rate in respect of each child equivalent to one half of the deceased's pension divided by the number of children.

(b) Subject to Paragraph 7.5 of this Article, where the deceased leaves a spouse,

(i) where there is only one child—

i. in respect of the period prior to 1st June 1973 one-twelfth of the deceased's pension.

ii. in respect of the period commencing on the 1st June 1973, two-twelfths of the deceased's pension;

(ii) where there are two or more children—

i. in respect off the period prior to 1st June 1973 one-twelfth of the deceased's pension for the first child plus one-twelfth of the deceased's pension for every additional child up to a fifth additional child

- ii. in respect of the period commencing on the 1st June 1973, a rate in respect of each child equivalent to one half of the deceased's pension divided by the number of children.

**7.5 (a)** Where the children of the deceased are at the time of, or at any time after, his death in the care of some person other than his spouse, An Foras may, if it thinks fit, direct that for so long as they are in such care Paragraph 7.4 shall apply notwithstanding that the spouse is still alive and, in case An Foras so directs, this Article shall be construed and shall have effect in accordance with the direction.

**(b)** Where some but not all of the children of the deceased are at the time of, or at any time after, his death in the care of a person other than his spouse, the rate of that portion of the children's pension which is payable in respect of the children who are in the care of that person may be calculated by reference to the rates specified in Paragraph 7.4, provided that the amount of children's pension payable in respect of the deceased shall not exceed one-half of the deceased's pension.

**7.6** Notwithstanding the foregoing provisions of this Article, where the deceased leaves a spouse and no spouse's pension is granted to the spouse under the Scheme, or, if one is so granted to the spouse and it ceases to be paid before the spouse's death, no children's pension shall be payable, under this Scheme in respect of any period comprised within the lifetime of the spouse or within the time in respect of which no spouse's pension is payable, as may be appropriate, unless An Foras in its absolute discretion directs that such a pension shall be so payable and in case An Foras gives a direction under this paragraph it may, if it thinks fit, further direct that Paragraph 7.5 shall apply as respects any such period.

## **8. PAYMENT OF PENSION**

Pensions payable under this Scheme shall be paid weekly, fortnightly or monthly in arrears as determined by An Foras, except that, where Paragraph (5) of Article 6 applies in respect of the deceased member, An Foras may decide that the amount of pension in respect of the month in question may be paid before the expiry of that month.

## **9. PERIODIC CONTRIBUTIONS**

**9.1 (a)** The rate of the contribution payable by a member shall be one and one-half per cent of the amount of remuneration as defined in Paragraph 5.3 of the Main Scheme (or where he is in receipt of reduced remuneration because of absence from employment, of the amount of net remuneration that would be payable to him if he were not so absent).

**(b)** The contribution shall be paid during the period commencing on the 8th August 1969, or the date on which he becomes a member, whichever is the later, and ending when he ceases to be a contributing

member, and at such times and in such manner as An Foras may determine.

**9.2** No contributions shall be payable under this Scheme by a member for any period which does not constitute pensionable service.

**9.3** Contributions payable under this Article are in this Scheme referred to as “periodic contributions”.

## **10. REFUND OF CONTRIBUTIONS**

**10.1** If a member,

(a) ceases to be a contributing member and was unmarried at all times during his membership of this Scheme, or,

(b) ceases to be a contributing member otherwise than on death, having been married at any time during the period during which this Scheme applied to him and on so ceasing is not eligible for the grant of a pension and lump sum, or preserved pension and preserved lump sum,

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

**10.2** In any case other than a case mentioned in Paragraph 1 of this Article, a member, on ceasing to be a contributing member, may have returned to him, or if his membership ceases due to death, to his legal personal representative, such of those contributions, if any, beginning with his initial contribution and working forward or, in the case of a member covered by sub-paragraph (b) of this paragraph, his final contribution and working back, as is necessary to secure that the period in respect of which such contributions are paid by him without being returned—

(c) does not exceed forty years and

(d) if he is unmarried when he ceases to be a contributing member, does not exceed a period equal to the length of service on the date of his spouse's death.

**10.3** Where a married member retires on a medical certificate and his spouse subsequently dies before he attains the age of sixty-five years of age, contributions paid in respect of the period subsequent to the date of his spouse's death will be returned to him.

Where any contributions are returned under this Article they shall be returned without interest and less an amount equal to any income tax liability of the member in respect of such contributions.

**10.4** Where periodic contributions are returned in accordance with this Article to a person who subsequently becomes a member of this Scheme he shall refund to An Foras the amount of the periodic contributions so returned to him, together with compound interest on that amount at such rate as may be specified by An Foras with the approval of the Minister and the concurrence of the Minister for Finance with half-yearly rests from the date of payment to him.

## **11. FORMER MEMBERS BECOMING CONTRIBUTING MEMBERS**

**11.1** Subject to Paragraph (2) of this Article, where a former member becomes a contributing member of this Scheme any entitlement to spouse's pension or children's pension under this Scheme in respect of his previous membership shall cease.

**11.2** Where a person on becoming a contributing member of this Scheme, had at any time previously been a member of this Scheme and had paid periodic contributions during such period of membership, the period in respect of which he paid such periodic contributions shall be excluded in determining the number of relevant years under Article 12(8) provided

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

(b) Article 10.4 applies.

**11.3** Where a person to whom Paragraph (1) of this Article applies, becomes a former member by retiring on pension, whether on medical grounds or otherwise, then the contribution payable under Article 12 at the termination of his final period of contributing membership shall be reduced by the amount of the contribution paid under that Article when he became a former member, provided there was no refund of that contribution.

## **12. NON-PERIODIC CONTRIBUTIONS**

**12.1** Where a member was married throughout the period, or for a portion of the period, during which this Scheme applies to him and he ceases to be a contributing member and such cesser is due to—

(a) death, or

(b) retirement on pension or resignation with entitlement to a preserved pension

then, unless the number of relevant years is nil, the contributions under this Article will be payable by way of reduction in the amount of his lump sum or death gratuity, or preserved lump sum or preserved death gratuity, or in such other manner as An Foras may require.

**12.2** A contribution under this Article shall be one per cent of the member's pensionable remuneration multiplied by the number of relevant years.

**12.3** Where the contribution is being deducted from a preserved lump sum or preserved death gratuity, the contribution will be calculated by reference to the member's pensionable remuneration at date of resignation as increased by pension increases granted under Paragraph 10 of the Main Scheme during the period between the date of resignation and the date—

(a) on which he attains the age at which the pension under the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969 becomes payable, in the case of a preserved lump sum, or

(b) of his death, in the case of a preserved death gratuity.

**12.4** Where, subsequent to the date on which a member ceases to be a contributing member, the pension payable to him or to his spouse (but not the lump sum or death gratuity or preserved lump sum or preserved death gratuity) falls to be increased otherwise than in accordance with Paragraph 10 of the Main Scheme, An Foras may adjust the amount of the contributions under this Article to take account of the increase.

**12.5** At the discretion of An Foras and subject to conditions specified by it, a member may elect to pay, over a period of twelve months beginning on the date specified by An Foras, being a date not earlier than the date of the election, additional contributions equal in each case to the amount of the periodic contributions payable in respect of that period and in case one or more such additional contributions are made, this Article shall apply to the person by whom the contribution or contributions is or are made subject to the modification that, in calculating the number of relevant years, that number shall be reduced by one for every contribution made by the person under this paragraph.

**12.6** Pensionable service in excess of forty years of reckonable service shall be left out of account for the purposes of this Article.

**12.7** Any reduction effected under this Article in the amount of any lump sum shall be left out of account for the purposes of sub-paragraph 7.2(c)(ii) of the Main Scheme (which provides for a supplemental death gratuity in case persons die shortly after becoming eligible for a pension) and, accordingly, the question whether any and, if so, what gratuity may be granted under that paragraph shall be determined as if no such reduction as aforesaid has been or had to be made.

**12.8** (a) In this Article “the number of relevant years” means—

(i) in the case of a member who, being then married, ceases to be a contributing member,

(A) if such cesser is caused otherwise than by death, or retirement on medical grounds, the number of years of pensionable service which he then had,

(B) if such cesser is due to death or retirement on medical grounds, the number of years of pensionable service which he would have had if he had served to age sixty-five,

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

(ii) In the case of a member who, being then unmarried, ceases to be a contributing member, the number of years pensionable service which he had on the date of termination of his last marriage before such cesser, reduced by the number of years, if any, for which periodic contributions have been paid by him and are not returnable.

(b) Where a member to whom this Article applies gave service with an organisation other than An Foras which is reckonable under Paragraph 6 of the Main Scheme, any portion of that service during which he paid periodic contributions under a scheme similar to the Scheme may, provided those contributions were not refunded to him, or, having been so refunded, have been repaid by him with appropriate compound interest applied, be excluded in determining the number of relevant years under this Article.

**12.9** Where a member is liable for non-periodic contributions and his pensionable remuneration includes pensionable allowances, he will be liable for a deduction of one per cent of the pensionable allowances in respect of each year during which he paid periodic contributions up to the date of termination of his last marriage before he ceased to be a contributing member.

### **13. MARRIAGE OF MEMBERS WHOSE EARLY DEATH IS TO BE FORESEEN**

Where a member marries and—

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

for the purpose of this Scheme the marriage may be regarded by An Foras as not having taken place and, in case the marriage is so regarded, all the necessary adjustments (including, if need be, repayment to An Foras of such sums in respect of pensions already granted under this Scheme and refunds of contributions made under this Scheme), shall be made accordingly.



## **14. DUTY TO GIVE INFORMATION AND MAKE DECLARATIONS**

- 14.1** A member of this Scheme shall give to An Foras such information as is necessary for proper operation of this Scheme in relation to the member.
- 14.2** The spouse of a deceased member shall give to An Foras such information as is necessary for the proper operation of this Scheme in relation to the spouse or any children of that member.
- 14.3** The legal personal representative of a deceased member shall give to An Foras such information as is necessary for the proper operation of this Scheme in relation to that spouse or any children of that member.
- 14.4** A person having the care of a child of a deceased member shall give to An Foras such information as is necessary for the proper operation of this Scheme in relation to that child.
- 14.5** Payment of a spouse's pension under this Scheme shall be subject to the making by the spouse of a declaration. Payment of a children's pension under this Scheme shall be subject to the making by the spouse or, where children's pensions is not payable to the spouse, the person or persons having the care of the child or children in question, of a declaration. The declaration, in either case, shall be in such form and at such time as An Foras may determine.

## **15. REPAYMENT OF PENSION OVERPAID**

If at any time a person receives payments on foot of a pension under this Scheme and such person is not entitled to such payments, or if a person received payments on foot of a pension which exceeded those which are appropriate under this Scheme, such person or, in case such person is dead, the legal personal representative of such person, shall pay to An Foras on demand such payments or excess payments, as may be appropriate, and such payments of excess payments shall, in default of payment, be recoverable by An Foras as a simple contract debt in any court or competent jurisdiction.

## **16. PENSIONS TO BE INALIENABLE**

Every assignment of, or charge on, and every agreement to assign or charge, a pension under this Scheme shall be void and on the bankruptcy of any person entitled to a pension that pension shall not pass to any trustee or other person acting on behalf of the creditors. If the pensioner becomes incapable of giving a receipt for payments due, An Foras shall have discretion to make such payments in whole or part to such persons, including the authorities of any institution having care of the pensioner, as An Foras thinks fit, and An Foras shall be discharged from all liability in respect of any sum so paid.

## **17. ABATEMENT BY REFERENCE TO OTHER BENEFITS**

**17.1** Where, either directly or indirectly, An Foras provides, or helps to provide, or contributes towards, a financial benefit other than under—

- (a) this Scheme, or
- (b) the provisions of the Main Scheme or An Chomhairle Oiliúna Superannuation Scheme 1969 or
- (c) the Social Welfare Acts or
- (d) the Social Welfare (Occupational Injuries) Act, 1966.

An Foras shall not make an award under this Scheme unless it is authorised to do so by the Minister with the consent of the Minister for Finance. In authorising an award in such a case, the Minister with the consent of the Minister for Finance may direct An Foras to adjust the amount of an award to take such account as he considers appropriate of the financial benefits in question.

**17.2** Where, arising from Paragraph (1) of this Article, an award is not made under this Scheme, the whole of the Periodic Contributions made by the Member shall be returned to his legal personal representatives and Article 12 of the Scheme will not apply in his case.

**17.3** Where, arising from Paragraph (1) of this Article, the amount of an award is adjusted, An Foras may return to the Member's legal personal representative such proportion of the periodic contributions paid by the Member as is authorised by the Minister with the consent of the Minister for Finance and may make adjustments in any contribution which would otherwise be due under Article 12 of this Scheme as is authorised by the Minister with the consent of the Minister for Finance.

## **18. PENSIONS INCREASES**

An Foras may grant such increases in such pensions under this Scheme as may be authorised from time to time by the Minister with the consent of the Minister for Finance.

## **19. CESSER OR REDUCTION OF PENSION**

Where a member is dismissed or resigns or otherwise ceases to hold employment and has been guilty of misconduct involving a financial loss to An Foras or the State, An Foras may, at its discretion, refuse or reduce any award which might otherwise be payable under this Scheme (including a refund of contributions) in order to make good such a loss. An Foras may, at its discretion, reduce or cease paying a pension awarded under this Scheme if the pensioner has been guilty of misconduct involving a financial loss to An Foras or the State, in order to make good such a loss.

## 20. TERMINATION OR AMENDMENT OF SCHEME

An Foras reserves the right to amend or terminate this Scheme at any time subject to the approval of the Minister with the consent of the Minister for Finance.

## 21. APPEALS

**21.1** If a member or former member is aggrieved by the failure or refusal of An Foras to make an award under this Scheme or by the amount of any award made, he may appeal to the Minister, who shall refer the dispute to the Minister for Finance who shall, within three months of the dispute being referred, issue a determination in accordance with article 5.1 of the Pension Ombudsman Regulations 2003 (S.I. No. 397 of 2003).



GIVEN under the Seal of An Foras Áiseanna Saothair,  
29 September 2009.

PETER McCLOONE,  
Chairman.

The Seal of An Foras Áiseanna Saothair was affixed in the presence of—

PAUL O'TOOLE,  
Director General.

A member of An Foras Áiseanna Saothair authorised by An Foras Áiseanna Saothair to act in that behalf and

An officer of An Foras Áiseanna Saothair authorised by An Foras Áiseanna Saothair to act in that behalf

The Minister for Enterprise, Trade and Employment hereby consents to the making of this Scheme



GIVEN under the official Seal of the Minister for Enterprise, Trade  
and Employment,  
14 October 2009.

MARY COUGHLAN T.D.,  
Minister for Enterprise, Trade and Employment.

I consent to the making of the foregoing Scheme.



GIVEN under the Official Seal of the Minister for Finance,  
14 October 2009.

BRIAN LENIHAN T.D.,  
Minister for Finance.



BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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