



STATUTORY INSTRUMENTS

S.I. No. 156 of 2009

THE PERSONAL INJURIES ASSESSMENT BOARD SPOUSES' AND
CHILDREN'S CONTRIBUTORY PENSION SCHEME, 2009

(Prn. A9/0600)

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The Personal Injuries Assessment Board, in exercise of the powers conferred on it by section 68 of the Personal Injuries Assessment Board Act, 2003 (No. 46 of 2003) and with the approval of the Minister for Enterprise, Trade and Employment given with the consent of the Minister for Finance, hereby makes this scheme for the granting of pension benefits in respect of deceased persons who were members of this Scheme.

Citation

1. This Scheme may be cited as the Personal Injuries Assessment Board Spouses' and Children's Contributory Pension Scheme, 2009.

Commencement

2. This Scheme shall be deemed to have come into force on the 13th day of April, 2004.

Interpretation

3. In this Scheme—

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

“the Board” means the Personal Injuries Assessment Board, as established under section 53 of the Personal Injuries Assessment Board Act, 2003 (No. 46 of 2003);

“child”, subject to paragraph (1) of Article 7, means a child or step-child of the deceased or a child lawfully adopted by the deceased, who is

- (a) a person under sixteen years of age, or
- (b) a person under twenty-two years of age and is receiving full-time instruction at any university, college, school or other educational establishment, or
- (c) a person under twenty-two years of age and is 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 the Board for the purposes of this Scheme,

or

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 1st May, 2009.*

- (d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and who when his or her permanent incapacity first occurred was a person described in any of the foregoing paragraphs of this definition;

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

“contributing member” means a member who is serving as a pensionable employee of the Board;

“Contributory Survivor’s Pension” means contributory survivor’s pension payable under the Social Welfare Acts;

“death gratuity”, except in the expression “preserved death gratuity”, means a gratuity payable on death by virtue of Clause (f)(i) of subparagraph 7.2 of the Main Scheme;

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

“deceased’s pension” means—

- (a) in case, otherwise than on retirement on medical grounds, he or she is awarded a pension,
- (i) in relation to a member who is not fully insured, the amount of such pension, and
 - (ii) in relation to a member who is fully insured, the pension which would have been granted to him or her if it had been calculated by reference to net pensionable remuneration (Spouses’ and Children’s Scheme) instead of net pensionable remuneration (Main Scheme) at the date of retirement as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between retirement and death;
- (b) in case, on retirement on medical grounds, he or she is awarded a pension, the pension which would have been granted to him or her if it fell to be calculated by reference to:
- (i) in relation to a member who is not fully insured,
 - (I) his or her 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 retirement and death, and
 - (II) the pensionable service which he or she would have had if he or she had served to the age of sixty-five years, and
 - (ii) in relation to a member who is fully insured,

- (I) his or her net pensionable remuneration (Spouses' and Children's Scheme) at the date of retirement as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between retirement and death, and
 - (II) the pensionable service which he or she would have had if he or she had served to the age of sixty-five years;
- (c) in case a preserved pension was in payment to the deceased,
- (i) in relation to a member who is not fully insured, the amount of such pension, and
 - (ii) in relation to a member who is fully insured, the preserved pension which would have been granted to him or her if it had been calculated by reference to net pensionable remuneration (Spouses and Children's Scheme) instead of net pensionable remuneration (Main Scheme) at the date of resignation as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between resignation and death;
- (d) in case, having resigned with entitlement to a preserved pension, the deceased dies before the age at which the preserved pension became payable or before making application for the preserved pension, an amount equal to—

$$\frac{D \times E}{80}$$

where D is the number of years of pensionable service at the date of resignation, subject to a maximum of 40 years, and E is

- (i) in relation to a member who is not fully insured, his or her pensionable remuneration at the date of resignation as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between resignation and death, and
 - (ii) in relation to a member who is fully insured, his or her net pensionable remuneration (Spouses' and Children's Scheme) at the date of resignation as increased by reference to pension increases granted under paragraph 10 of the Main Scheme during the period between resignation and death;
- (e) in case he or she dies while serving as a member of the Main Scheme, the pension for which he or she would be eligible if clause (b) of this subparagraph applied to him or her;

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

“former member” means a person who retired from his or her position as a pensionable employee and was awarded a pension and lump sum or preserved pension and lump sum;

“fully insured member” has the meaning assigned to it in subparagraph 3.4 of the Main Scheme;

“lump sum”, except in the expression “preserved lump sum”, means a gratuity under Clause (c) or Clause (d), or Clause (e) of subparagraph 7.2 of the Main Scheme;

“the Main Scheme” means the Personal Injuries Assessment Board Employee Superannuation Scheme, 2008;

“member” means a person who, pursuant to Article 4, is a member of this Scheme;

“the Minister” means the Minister for Enterprise, Trade and Employment;

“net pensionable remuneration (Spouses’ and Children’s Scheme)” means the amount by which pensionable remuneration exceeds the maximum annual rate of Old Age Contributory Pension payable on the last day of pensionable service to a person under age 80 who has no adult dependant or qualified children;

“Old Age Contributory Pension” has the meaning assigned to it by subparagraph 3.11 of the Main Scheme;

“pension”, except in the expression “preserved pension”, means a pension under subparagraph 7.1 of the Main Scheme;

“pensionable remuneration” has the meaning assigned to it by subparagraph 5.7 of the Main Scheme;

“Pensions Ombudsman Regulations” means the Pensions Ombudsman Regulations, 2003 (S.I. No. 397 of 2003);

“periodic contributions” has the meaning assigned to it by Article 11;

“Personal Injuries Assessment Board Spouses’ and Children’s Scheme, 2008“, as referred to in subparagraph 7.2 of the Main Scheme, means this Scheme;

“preserved death gratuity” means a gratuity payable on death by virtue of Clause (d) of subparagraph 7.3 of the Main Scheme;

“preserved lump sum” and “preserved pension” mean respectively a lump sum and a pension payable by virtue of Clause (a) of subparagraph 7.3 of the Main Scheme;

“pensionable service” means service which is reckonable under paragraph 6 of the Main Scheme;

“remuneration” has the meaning assigned to it by subparagraph 5.3 of the Main Scheme;

“retiring age” means the age of 65 years;

“retiring salary” has the meaning assigned to it by subparagraph 5.5 of the Main Scheme;

“retirement on medical grounds” means retirement in accordance with the provisions of paragraph 8.1 of the Main Scheme on completion of five or more years’ actual pensionable service;

“salary” has the meaning assigned to it by subparagraph 5.1 of the Main Scheme;

“Social Welfare Acts” has the meaning assigned to it by 3.17 of the Main Scheme;

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

“spouse’s pension” has the meaning assigned to it by Article 5;

“years” has the meaning assigned to it by subparagraph 3.21 of the Main Scheme;

Membership

4. Every member of the Main Scheme shall be a member of this Scheme.

Power to Grant Spouses’ and Children’s Pensions

5. Subject to the provisions of this Scheme, the Board shall, on the death of a contributing member or former 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 or her service—

- (a) where he or she leaves a spouse, a pension to that spouse (hereafter in this Scheme referred to as a “spouse’s pension”), and
- (b) where he or she leaves a child or children (whether or not a spouse’s pension is, or may be, granted) a pension for such child or children (in this Scheme referred to as a “children’s pension”).

Spouses’ Pensions

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

(2) Notwithstanding paragraph (1) of this Article, where a pension under this Scheme is not granted or ceases under the said paragraph (1), and at a subsequent date to the date of the marriage or cohabitation by reason of which the pension was withheld or ceased the Board is satisfied that the marriage or cohabitation has come to an end, or that there are compassionate grounds for the payment of pension, the Board may, if it thinks fit, grant or regrant, as may be appropriate, the pension as from,

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

provided that this paragraph shall not apply in any case where the spouse is entitled to benefit under this or any other public sector spouses' and children's pension scheme by virtue of the fact that his or her spouse of the second marriage was a member of this or any other such Scheme.

(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.

(4) The rate of a spouse's pension shall be one-half of the rate of the deceased's pension.

(5) Notwithstanding paragraph (4) of this Article, where on the death of a contributing or former member, other than a former member who qualifies for a preserved pension, a spouse's pension becomes payable to his or her spouse, the rate of that pension may, in respect of the first month after his or her death, be increased to,

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

Children's Pensions: Beneficiaries

7. (1) The following shall not be regarded as a child within the meaning of this Scheme, namely:

- (a) a person who was not wholly or mainly dependent on a member immediately prior to the member's death,
 - (b) a person who is married or is cohabiting with another person as man and wife, or
 - (c) a person referred to in 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, the Board may, as regards a person who apart from this subparagraph 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 the Board makes a direction under this subparagraph, 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.
- (2) Where, in relation to a person referred to in sub-paragraph (b) or (c) of the definition of "child" in Article 3, a break occurs in his or her full-time education, instruction or training, then unless the Board otherwise directs, he or she shall, for the duration of such break, be regarded as having ceased to be a child for the purposes of this Scheme.
- (3) (a) Any reference in this Scheme to an adopted child of a member shall be construed as a reference to a child adopted by the member (whether alone or jointly with any other person) either in pursuance of an adoption order or in accordance with the law of a country or territory other than the State and recognised by the law of the State as valid, and references to lawfully adopted or to a person by whom another person has been adopted shall be construed accordingly.
- (b) Where a married member applies 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 or her, be deemed, for the purposes of this Scheme, to be the member's duly adopted child.
- (4) A child shall not be eligible for a children's pension in respect of more than one member.
- (5) Where there would, apart from paragraph (3) of this Article, be an eligibility for children's pension in respect of two or more members, the child will count as eligible in respect of one of them in the way which in the opinion of the Board gives the most favourable overall result for the child in question.

Children's Pensions: Rate and Mode of Payment

8. (1) A children's pension under this Scheme will be paid to the relevant member's spouse if the eligible children are in the spouse's care, and in case any

child in respect of whom the pension is payable is not in such care, the pension will be paid either to the child or to such other person as the Board 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 Board may determine. In all cases, the pension is to be applied for the benefit of the child or children for whom it is granted.

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

(3) The rate of children's pension under this Scheme shall be

(a) where the deceased leaves no spouse or, if he or she leaves a spouse and the spouse dies, after his or her death,

(i) where there is only one child, one-third of the deceased's pension,

(ii) where there are two or more children, a rate in respect of each child equivalent to F/G , where F is one-half of the deceased's pension and G is the number of children;

(b) subject to paragraph (4) of this Article, where the deceased leaves a spouse,

(i) where there are not more than three children, one-sixth of the deceased's pension for each child,

(ii) where there are more than three children, a rate in respect of each child equivalent to X/Y , where X is one-half of the deceased's pension and Y is the number of children.

(4) (a) Where the children of the deceased are at the time of, or at any time after, his or her death in the care of some person other than his or her spouse, the Board may, if it thinks fit, direct that for so long as they are in such care subparagraph (3)(a) of this Article shall apply notwithstanding that the spouse is still alive, and in case the Board 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 or her death in the care of a person other than his or her 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 sub-paragraph (3)(a) of this Article; provided that the amount of children's pension payable in respect of the deceased shall not exceed one-half of the deceased's pension.

(5) Notwithstanding the foregoing provisions of this Article, where the deceased leaves a spouse and no spouse's pension is granted to him or her under this Scheme, or, if a spouse's pension is so granted and it ceases to be paid

before the spouse's death, no children's pension shall be payable under this Scheme as respects 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 the Board in its absolute discretion directs that such a pension shall be so payable, and in case the Board gives a direction under this paragraph it may, if it thinks fit, further direct that paragraph (4) of this Article shall apply as respects any such period.

Supplementary Pension

9. (1) On the death of a contributing or former member who is or was a fully insured member, the Board may, at its discretion, pay a supplementary pension to the spouse and children, the amount of which shall not exceed the difference between—

- (a) the pension payable to such spouse and children under Articles 6 and 7 of this Scheme, together with the rate of Contributory Survivor's Pension, if any, payable to such spouse and children, and
- (b) the pension which would have been payable to the spouse and children under Articles 6 and 7 of this Scheme if the member had not been a fully insured member.

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

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

Payment of Pensions

10. Pensions payable under this Scheme shall be paid monthly in arrears except that, where paragraph (5) of Article 6 applies in respect of a deceased member, the Board may decide that the amount of pension in respect of the month in question may be paid before the expiry of that month.

Periodic Contributions

11. (1) Contributions shall be payable as follows—

- (a) in the case of a member who is fully insured, at the rate of one and one-half per cent of the amount of the remuneration from time to time payable to him or her, provided that where a member is in receipt of reduced remuneration because of absence from employment, the contribution shall be based on the amount of remuneration which would have been payable to the member if he or she were not so absent;
- (b) in the case of a member who is not fully insured, the rate of one and one-half of the amount of the salary from time to time payable to him or her, provided that where a member is in receipt of reduced salary

because of absence from employment, the contribution shall be based on the amount of remuneration which would have been payable to the member if he or she were not so absent.

(2) The contribution shall be paid in respect of his or her pay during the period commencing on the 13th day of April, 2004, or the date on which he or she becomes a member, whichever is the later, and ending when he or she ceases to be a contributing member, and at such times and in such manner as the Board may determine.

(3) No contributions shall be payable under this Scheme by a member for any period which does not constitute reckonable service.

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

Refund of Contributions

12. (1) If a member ceases to be a contributory member other than on death 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 or her reckonable service is not transferred for pension purposes to another organisation or service, the whole of his or her periodic contributions shall be returned to him or her.

(2) A member who, on ceasing to be a contributing member, has paid periodic contributions for a period in excess of 40 years may have returned to him or her, or if his or her membership ceases due to death, to his or her legal personal representative, such of those contributions, beginning with the initial contributions and working forward, as is necessary to secure that the period in respect of which such contributions are paid without being returned does not exceed 40 years.

(3) 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.

(4) Where periodic contributions are returned in accordance with this Article to a person who subsequently becomes a member of this Scheme, he or she shall refund to the Board the amount of the periodic contributions so returned to him or her, together with compound interest on that amount at the rate of four per cent per annum, with half-yearly rests from the date of payment.

Former Members Becoming Contributing Members

13. (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 or her previous membership shall cease.

(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 or she paid such contributions shall be excluded in determining the number of relevant years under Article 14(8) provided

- (a) no refund of those contributions is or was paid, or
- (b) Article 12(4) applies.

(3) Where a person to whom paragraph (1) of this Article applies becomes a former member by retiring on pension, whether on a medical certificate or otherwise, then the contribution payable under Article 14 at the termination of his or her final period of contributing membership shall be reduced by the amount of the contribution paid under that Article when he or she became a former member, provided there was no refund of that contribution.

Non-periodic Contributions

14. (1) Where a member was married throughout the period, or for a portion of the period, during which this Scheme applied to him or her and he or she ceases to be a contributing member and such cesser is due to death, or retirement on pension, or resignation with entitlement to a preserved pension, then unless the number of relevant years is nil, a contribution under this Article will be payable by way of reduction in the amount of the member's lump sum or death gratuity or preserved lump sum or preserved death gratuity, or in such other manner as the Board may require.

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

(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 the member attains the age at which the pension would become payable, in the case of a preserved lump sum, or
- (b) of the member's death, in the case of a preserved death gratuity.

(4) Where, subsequent to the date on which a member ceases to be a contributing member, the pension payable to his or her or to his or her spouse (but not the retirement gratuity, death gratuity, preserved lump sum or preserved death gratuity) falls to be increased because of an increase in the pensionable service of the member, the Board may adjust the amount of the contribution under this paragraph to take account of the increase.

(5) At the discretion of the Board and subject to conditions specified by it, a member may elect to pay, over a period of twelve months beginning on a date specified by the Board, 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 following modification, namely, in calculating the number of relevant years, that number shall be reduced by one for every contribution made by the person under this paragraph.

(6) Service in excess of 40 years of reckonable service shall be left out of account for the purposes of this Article.

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

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

(i) if such cesser is caused otherwise than by death or by retirement on a medical certificate, the number of years of reckonable service which he then had,

(ii) if such cesser is due to death or to retirement on a medical certificate, the number of years of reckonable service which he would have had if he or she had served to age 65 or, in the case of a member on a fixed-term contract, until the end of the contract, reduced in each case by the number of years, if any, for which periodic contributions have been paid by him or her and are not returnable.

(b) in the case of a member who, being then unmarried, ceases to be a contributing member, the number of years of pensionable service which he or she had on the date of termination of his or her last marriage before such cesser, reduced in each case by the number of years, if any, in respect of which periodic contributions under this Scheme were paid by the member and were not returned.

(8) Where a member who is not fully insured is liable for non-periodic contributions and his or her pensionable remuneration includes pensionable allowances, he or she will be liable for a deduction of one per cent of the pensionable allowances in respect of each year during which he or she paid periodic contributions up to the date of termination of his or her last marriage before he or she ceased to be a contributing member.

(9) Where a member to whom this Article applies gave service otherwise than as a member of the Board which is pensionable service under paragraph 6 of the Main Scheme, any portion of that service during which he or she paid periodic contributions under a scheme similar to this Scheme may, provided those contributions were not refunded to him or her, or having been so refunded have been repaid by him or her with appropriate compound interest applied, be excluded in determining the number of relevant years under this paragraph.

Marriages of Members Whose Early Death is to be Foreseen

15. Where a member or a former member marries and—

(a) the member dies within the year beginning on the date of the marriage, and

- (b) there are no children born of the marriage, and
- (c) the Board is of the opinion that the member's death within the year beginning with the date of the marriage was, at that date, to be foreseen by the member or the member's spouse, for the purposes of this Scheme, the marriage may be regarded by the Board as not having taken place, and in case the marriage is so regarded, all necessary adjustments (including, if need be, repayment to the Board of sums paid in respect of pensions already granted under this Scheme), shall be made accordingly.

Duty to Give Information and Make Declarations

16. (1) A member of this Scheme shall give to the Board such information as is necessary for the proper operation of this Scheme in relation to the member.

(2) The spouse of a deceased member shall give to the Board such information as is necessary for the proper operation of this Scheme in relation to the spouse or any children of that member.

(3) The legal personal representative of a deceased member shall give to the Board such information as is necessary for the proper operation of this Scheme in relation to the spouse or any children of that member.

(4) A person having the care of a child of a deceased member shall give to the Board such information as is necessary for the proper operation of this Scheme in relation to that child.

(5) Payment of pension under this Scheme shall be subject to the making by the spouse or, where children's pension is not payable to the spouse, the person having the care of the children in question, of a declaration in such form and at such times as the Board may determine.

Repayment of Pensions Overpaid

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

Pensions to be Inalienable

18. Every assignment of or charge on, and every agreement to assign or charge, a pension shall be void and on the bankruptcy of any person entitled to a pension under this Scheme 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, the Board shall have discretion to make such payments in whole or in part to such persons, including the authorities of any institution having care of the person, as the Board thinks fit, and the Board shall be discharged from all liability in respect of any sum so paid.

Abatement by Reference to Other Benefits

19. (1) Where, either directly or indirectly, the Board provides, or helps to provide or contributes towards, a financial benefit other than under this Scheme, or the Main Scheme, or the Social Welfare Acts, or the Social Welfare (Occupational Injuries) Act, 1966, the Board 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 the Board to adjust the amount of an award to take such account as he or she considers appropriate of the financial benefit in question.

(2) Where, arising from paragraph (1) of this Article, an award is not made under this Scheme, the whole of the periodic contributions paid by the member shall be returned to the member's legal personal representative and Article 14 of this Scheme will not apply in his or her case.

(3) Where, arising from paragraph (1) of this Article, the amount of an award is adjusted, the Board 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 such adjustments in any contribution which would otherwise be due under Article 14 of this Scheme as is authorised by the Minister with the consent of the Minister for Finance.

Increases in Pensions

20. The Board may grant such increase 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.

Cesser or Reduction in Benefit

21. (1) Where a member of this Scheme is dismissed, or resigns, or otherwise ceases to hold his or her employment, and has been guilty of misconduct involving a financial loss to the Board or the State, the Board may, at its discretion, refuse or reduce any award which might otherwise be payable under this Scheme (including a refund of contributions under Article 12 of this Scheme) in order to make good such a loss.

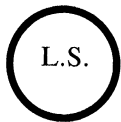
(2) The Board may, at its discretion, cease to pay or reduce the amount of a pension awarded under this Scheme if the recipient has been guilty of misconduct involving a financial loss to the Board or the State, in order to make good such a loss.

Appeals

22. If the spouse or child of a deceased member, or a person having the care of a child of a deceased member, is aggrieved by the failure or refusal of the Board to make an award under this Scheme or by the amount of any award (including the award of pension increases) made, he or she 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 to him or her, issue a determination in accordance with Article 5.1 of the Pensions Ombudsman Regulations.

Termination or Amendment of Scheme

23. The Board reserves the right to terminate this Scheme at any time subject to the approval of the Minister with the consent of the Minister for Finance. Benefits secured for or in respect of a member or former member prior to the date of amendment or termination will not be affected.



GIVEN under the Official Seal of the Personal Injuries Assessment Board,
23 April 2009

DOROTHEA DOWLING.
Chairperson.

The Minister for Enterprise, Trade and Employment consents to the making of the foregoing Scheme.



GIVEN under the Official Seal of the Minister for Enterprise, Trade and Employment,
23 April 2009

MARY COUGHLAN TD.
Minister for Enterprise, Trade and Employment.

The Minister for Finance consents to the giving of the above approval.



GIVEN under the Official Seal of the Minister for Finance,
23 April 2009

BRIAN LENIHAN TD.
Minister for Finance.

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