

SCHEDULES

SCHEDULE 12

Section 79(2).

WIDOWERS' PENSIONS: TRANSITIONAL PROVISIONS

The following are the provisions which are inserted in the 1981 Act as Part IV of Schedule 2—

“PART IV

WIDOWERS' PENSIONS

General

24 In this Part of this Schedule—

“the commencement date” means the date on which Schedule 12 to the Courts and Legal Services Act 1990 came into force;

“the publication date” means the date of publication, by order of the House of Lords, of the Bill for the Courts and Legal Services Act 1990, that is to say 7th December 1989; and

“member” means a female person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the Sheriffs' Pensions (Scotland) Act 1961, on her retirement.

Service wholly before the commencement date

25 Subject to paragraph 26, no widower's pension shall be payable in respect of a member who retires on or before the commencement date.

Members retiring between publication and commencement date

26 (1) A member who retires—

(a) on or after the publication date; but

(b) before the commencement date,

may, before the end of the period of six months beginning with the commencement date, opt for her husband to be entitled to a widower's pension on her death.

(2) Regulations may make provision as to—

(a) the manner and form in which an option under this paragraph is to be exercised;

(b) the payment, by any member exercising such an option, of a contribution towards the cost of liability for the widower's pension; and

(c) the annual value of a widower's pension granted as a result of the exercise of the option given by this paragraph.

Status: This is the original version (as it was originally enacted).

Service partly before and partly after the commencement date

- 27 (1) No widower's pension shall be payable in respect of a member who—
- (a) holds judicial office on or before the commencement date; and
 - (b) continues to do so after that date,
- unless, before the end of the period of six months beginning with that date, she opts for her husband to be entitled to a widower's pension on her death.
- (2) A member exercising such an option shall specify whether the annual value of the widower's pension is to be calculated—
- (a) under sub-paragraph (3); or
 - (b) on the assumption that all her relevant service fell after the commencement date.

- (3) Where the annual value of a widower's pension falls to be calculated under this sub-paragraph its value shall be determined by applying the formula—

$$\mathbf{WP1} = \frac{\mathbf{WP2} \times \mathbf{RS1}}{\mathbf{RS2}}$$

where—

WP1 is the annual value of the widower's pension,
 WP2 is the annual value of the widower's pension that would be payable on the assumption mentioned in sub-paragraph (2)(b),
 RS1 is the length of the member's relevant service after the commencement date, and
 RS2 is the whole of her relevant service.

- (4) No period of service during which an election under section 14A is in force in respect of the member concerned shall be taken into account for the purposes of any calculation under sub-paragraph (3).
- (5) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service before the commencement date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service before that date adds to the amount of the personal pension.

Pension not wholly attributable to service after 17 April 1973

- 28 (1) This paragraph applies to a member who, apart from this paragraph, would be a person to whom paragraph 15 or 16 of Part II of this Schedule applies.
- (2) Where such a member has exercised an option under paragraph 26 or 27, this paragraph shall apply in respect of her, and paragraph 15 or, as the case may be, paragraph 16 shall cease to apply.
- (3) For the purposes of calculating the annual value of—
- (a) the widower's pension payable in respect of such a member; and
 - (b) any children's pension so payable,
- the member shall be treated as if none of her relevant service fell before 18 April 1973."