



2000 CHAPTER 4

PART II

PENSIONS

CHAPTER I

STATE PENSIONS

State second pension

Earnings from which pension derived

29.—(1) In section 22 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (in this Act referred to as the “Contributions and Benefits Act”) (earnings factors), after subsection (2) there shall be inserted—

“(2A) For the purpose specified in subsection (2)(b) above, in the case of the first appointed year or any subsequent tax year a person’s earnings factor shall be treated as derived only from those of his earnings on which primary Class 1 contributions have been paid or treated as paid.”.

(2) In section 44 of that Act (Category A retirement pension), in subsection (6)

—
(a) before paragraph (a) there shall be inserted—

“(za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from those of his earnings upon which primary Class 1 contributions have been paid or treated as paid in respect of that year;”;

and

- (b) in paragraph (a), after “subsequent tax year” there shall be inserted “before the first appointed year”.
- (3) After that section there shall be inserted—

“44A Deemed earnings factors

(1) For the purposes of section 44(6)(za) above, if any of the conditions in subsection (2) below is satisfied for a relevant year, a pensioner is deemed to have an earnings factor for that year which—

- (a) is derived from earnings on which primary Class 1 contributions were paid; and
- (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

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

- (a) the pensioner would, apart from this section, have an earnings factor for the year—
 - (i) equal to or greater than the qualifying earnings factor for the year; but
 - (ii) less than the low earnings threshold for the year;
- (b) invalid care allowance—
 - (i) was payable to the pensioner throughout the year; or
 - (ii) would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) for the purposes of paragraph 5(7)(b) of Schedule 3, the pensioner is taken to be precluded from regular employment by responsibilities at home throughout the year by virtue of—
 - (i) the fact that child benefit was payable to him in respect of a child under the age of six; or
 - (ii) his satisfying such other condition as may be prescribed; or
- (d) the pensioner is a person satisfying the requirement in subsection (3) below to whom long-term incapacity benefit was payable throughout the year, or would have been so payable but for the fact that—
 - (i) he did not satisfy the contribution conditions specified in paragraph 2 of Schedule 3; or
 - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme.

- (3) The requirement referred to in subsection (2)(d) above is that—
- (a) for one or more relevant years the pensioner has paid, or (apart from this section) is treated as having paid, primary Class 1 contributions on earnings equal to or greater than the qualifying earnings factor; and
 - (b) the years for which he has such a factor constitute at least one tenth of his working life.
- (4) For the purposes of subsection (3)(b) above—
- (a) a pensioner’s working life shall not include—
 - (i) any tax year before 1978-79; or
 - (ii) any year in which he is deemed under subsection (1) above to have an earnings factor by virtue of fulfilling the condition in subsection (2)(b) or (c) above; and
 - (b) the figure calculated by dividing his working life by ten shall be rounded to the nearest whole year (and any half year shall be rounded down).
- (5) The low earnings threshold for the first appointed year and subsequent tax years shall be £9,500 (but subject to section 130A of the Administration Act).
- (6) In subsection (2)(d)(ii) above, “occupational pension scheme” and “personal pension scheme” have the same meanings as in subsection (6) of section 30DD above for the purposes of subsection (5) of that section.”.
- (4) For the purposes of subsection (1) of section 44A of the Contributions and Benefits Act, a pensioner is deemed to have an earnings factor in relation to any relevant year as specified in that subsection if—
- (a) severe disablement allowance was payable to him throughout the year; and
 - (b) he satisfies the requirement in subsection (3) of that section.

Calculation

- 30.—**(1) In section 45 of the Contributions and Benefits Act (the additional pension in a Category A retirement pension), in subsection (2)—
- (a) after “shall be” there shall be inserted “the sum of the following”;
 - (b) in paragraph (b), after “after 1987-88” there shall be inserted “but before the first appointed year”; and
 - (c) after that paragraph there shall be added “; and
 - (c) in relation to any tax years falling within subsection (3A) below, the weekly equivalent of the amount calculated in accordance with Schedule 4A to this Act.”.

- (2) In that section after subsection (3) there shall be inserted—
- “(3A) The following tax years fall within this subsection—
- (a) the first appointed year;
- (b) subsequent tax years.”.

(3) After Schedule 4 to that Act there shall be inserted the Schedule set out in Schedule 4.

Calculation of Category B retirement pension

31.—(1) In section 46 of the Contributions and Benefits Act (modifications of section 45 for calculating the additional pension in certain benefits), after subsection (2) there shall be added—

“(3) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 48BB below in a case where the deceased spouse died under pensionable age, the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

““N” =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse dies, or
- (b) the number of tax years in the period—
- (i) beginning with the tax year in which the deceased spouse (“S”) attained the age of 16 or, if later, 1978-79, and
- (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,

whichever is the smaller number.””

(2) In section 48BB of that Act (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsection (5) for “section 46(2)” there shall be substituted “section 46(3)”.

(3) In paragraph 4 of Schedule 8 to the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(NI 11\)](#) (in this Act referred to as “the 1999 Order”) (welfare benefits: minor and consequential amendments), subparagraph (b), and the word “and” immediately preceding it, shall cease to have effect.

Revaluation

32. After section 130 of the Social Security Administration (Northern Ireland) Act 1992 ([c. 8](#)) (in this Act referred to as “the Administration Act”) there shall be inserted—

“130A Revaluation of low earnings threshold

130A. Whenever the Secretary of State makes an order under section 148A of the Great Britain Administration Act (revaluation of low earnings threshold), the Department may make a corresponding order for Northern Ireland.”.

Supplementary

- 33.**—(1) The Contributions and Benefits Act shall be amended as follows.
- (2) In section 21(5A)(b) (contribution conditions)—
- (a) after “22(1)(a)” there shall be inserted “, (2A)”;
 - (b) for “44(6)(a)” there shall be substituted “44(6)(za) and (a)”.
- (3) In section 39 (rate of widowed mother’s allowance and widow’s pension), in subsections (1), (2) and (3), after “sections 44 to 45B below” there shall be inserted “and Schedule 4A to this Act”.
- (4) In section 39C (rate of widowed parent’s allowance and bereavement allowance)—
- (a) in subsections (1) and (4), after “sections 44 to 45A below” there shall be inserted “and Schedule 4A to this Act”; and
 - (b) in subsection (3), after “45A” there shall be inserted “below and Schedule 4A to this Act”.
- (5) In section 44 (Category A retirement pension), in subsection (5A), after “section 45 below” there shall be inserted “and Schedule 4A to this Act”.
- (6) In that subsection, for the words from “that year,” to “surplus” there shall be substituted “that year,
- (b) the amount of the surplus is the amount of that excess, and
 - (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus”.
- (7) In subsection (6) of that section, after “section 45 below” there shall be inserted “or Schedule 4A to this Act”.
- (8) In section 45 (the additional pension in a Category A retirement pension)
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- (a) in subsections (1) and (2)(a) and (b), before “amount” there shall be inserted “adjusted”; and
 - (b) in subsection (6), for “the amount of any surpluses” there shall be substituted “any amount”.
- (9) In section 48A(4) (Category B retirement pension for married person), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A to this Act”.

(10) In section 48B (Category B retirement pension for widows and widowers), in subsections (2) and (3), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A to this Act”.

(11) In section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsections (5) and (6), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A to this Act”.

(12) In section 48C(4) (Category B retirement pension: general), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A to this Act”.

(13) In section 51 (Category B retirement pension for widowers), in subsections (2) and (3), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A to this Act”.

(14) In section 121(1) (interpretation of Parts I to VI and supplementary provisions), after the definition of “entitled” there shall be inserted—

““first appointed year” means such tax year, no earlier than 2002-03, as may be appointed by order, and “second appointed year” means such subsequent tax year as may be so appointed;”.

(15) In section 172 (Assembly, etc. control of regulations and orders)—

(a) in subsection (4), for “subsection (7)” there shall be substituted “subsections (4A) and (7)”; and

(b) after subsection (4) there shall be inserted—

“(4A) Subsection (4) above does not apply to a statutory rule which contains an order appointing the first or second appointed year (within the meaning of section 121(1) above).”.

Earnings factors

Modification of earnings factors

34.—(1) In section 44A(5) of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (in this Act referred to as “the Pension Schemes Act”) (additional pension and other benefits), after “44(5)” there shall be inserted “or (5A)”.

(2) Subsection (1) shall have effect—

(a) in relation to the application of section 44(5A) of the Contributions and Benefits Act by virtue of sections 39C(1) and 48BB(5) of that Act;

(b) in relation to the application of section 44(5A) of the Contributions and Benefits Act in the circumstances described in Article 125(4) to (6) of the [Pensions \(Northern Ireland\) Order 1995 \(NI 22\)](#) (in this Act referred to as “the Pensions Order”).

(3) In relation to the period—

(a) beginning with and including 6th April 2000; and

(b) ending with the day before the first regulations under section 44A(5) of the Pension Schemes Act (as amended by subsection (1)) come into operation, the Department shall be taken to have, and to have had, power to calculate and pay relevant pensions by reference to section 44(5) of the Contributions and Benefits Act as modified by regulations under section 44A(5) of the Pension Schemes Act.

(4) For the purposes of applying subsection (3)—

- (a) the substitution made by Article 125(1) of the Pensions Order shall be ignored; and
- (b) references in statutory provisions to section 44(5A) of the Contributions and Benefits Act shall (so far as necessary) be treated as references to section 44(5) of that Act.

(5) The first regulations under section 44A(5) of the Pension Schemes Act (as amended by subsection (1)) may include provision in relation to—

- (a) revising the calculation of a relevant pension;
- (b) paying a relevant pension in accordance with a revised calculation.

(6) For the purposes of this section, relevant pensions are pensions which fall to be calculated—

- (a) in the circumstances described in Article 125(4) to (6) of the Pensions Order; and
- (b) in relation to persons where, by virtue of section 44A(1) of the Pension Schemes Act, section 44(6) of the Contributions and Benefits Act has effect in any tax year as mentioned in section 44A(1) of the Pension Schemes Act in relation to some but not all of a person's earnings.

Preservation of rights in respect of additional pensions

Preservation of rights in respect of additional pensions

35.—(1) In the provisions of the Contributions and Benefits Act set out in subsection (2) (provisions relating to additional pensions for surviving spouses)

- (a) references to 5th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 5th October 2002; and
- (b) references to 6th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 6th October 2002.

(2) Those provisions are—

- (a) sections 39(3) and 39C(4) (widowed mother's allowance and widowed parent's allowance);
- (b) sections 48BB(7), 48C(3) and 51(3) (Category B retirement pensions); and

(c) paragraphs 4(3), 5A(2) and (3) and 6(3) and (4) of Schedule 5 (deferred pensions).

(3) For Article 49(3) of the 1999 Order (power to substitute a later year for references to year 2000 in prescribed provisions of the Contributions and Benefits Act) there shall be substituted—

“(3) The regulations may amend (or further amend) any prescribed provision set out in section 35(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (which sets out provisions falling within paragraph (2)) so as to substitute a reference to a later date for—

(a) any reference in that provision to 5th October 2002 or 6th October 2002; or

(b) any reference to a date inserted in that provision by a substitution made by virtue of this paragraph.”

(4) In Article 49 of the 1999 Order —

(a) in paragraph (1), for “(4)” there shall be substituted “(4A)”; and

(b) after paragraph (4) there shall be inserted—

“(4A) The regulations may provide, for the purposes of any provision made by virtue of paragraph (4), for a case in which a person who, as a consequence of receiving incorrect or incomplete information, did not give any consideration to—

(a) the taking of a step which is a step he might have taken had he considered the matter on the basis of correct and complete information, or

(b) refraining from taking a step which is a step he did take but might have refrained from taking had he considered the matter on that basis,

to be treated as a case in which his failure to take the step, or his taking of the step he did take, was in reliance on the incorrect or incomplete information and as a case in which that step is one which he would have taken, or (as the case may be) would not have taken, had the information been correct and complete.”

(5) In Article 49(6) of the 1999 Order (supplemental provisions of regulations relating to the scheme), after sub-paragraph (e) there shall be inserted—

“(ea) prescribing the matters that may be relied on, and the presumptions that may be made, in the determination of whether or not the prescribed conditions have been satisfied;”

Other provisions

Home responsibilities protection

36. In paragraph 5 of Schedule 3 to the Contributions and Benefits Act (widowed mother's allowance and widow's pension; retirement pensions (Categories A and B)), after sub-paragraph (7) there shall be inserted—

“(7A) Regulations may provide that a person is not to be taken for the purposes of sub-paragraph (7)(b) above as precluded from regular employment by responsibilities at home unless he meets the prescribed requirements as to the provision of information to the Department.”.

Sharing of state scheme rights

37.—(1) In Article 46 of the 1999 Order (creation of state scheme pension debits and credits), for paragraph (4) there shall be substituted—

“(4) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this Article.

(4A) The power conferred by paragraph (4) includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”.

(2) In section 45B of the Contributions and Benefits Act (reduction of additional pension in Category A retirement pension: pension sharing), for subsection (7) there shall be substituted—

“(7) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this section.

(7A) The power conferred by subsection (7) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”.

(3) In section 55A of that Act (shared additional pension), for subsection (6) there shall be substituted—

“(6) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this section.

(6A) The power conferred by subsection (6) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”.

(4) In section 55B of that Act (reduction of shared additional pension: pension sharing), for subsection (7) there shall be substituted—

“(7) The Department may by regulations make provision for the calculation and verification of cash equivalents for the purposes of this section.

(7A) The power conferred by subsection (7) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”.

Disclosure of state pension information

38.—(1) This section applies to any state pension information which is held in relation to any individual—

- (a) by the Department; or
- (b) in connection with the provision of any services provided to the Department for purposes connected with its functions relating to social security, by the person providing those services.

(2) Regulations may confer a power on the Department to disclose, or to authorise the disclosure of, any information to which this section applies in any case in which—

- (a) the person to whom the disclosure is made is a person falling within subsection (3) who has, in the prescribed manner, applied to the Department for the disclosure of the information; and
- (b) it appears to the Department that the prescribed conditions for the making of a disclosure of the information in question to that person have been satisfied.

- (3) A person falls within this subsection if—
- (a) he is the trustee or manager of an occupational pension scheme of which the individual to whom the information relates is a member;
 - (b) he is the trustee or manager of a personal pension scheme of which that individual is a member;
 - (c) he is the employer in relation to an occupational pension scheme of which that individual is a member;
 - (d) he is the employer in relation to any employed earner's employment of that individual which is not contracted-out employment; or
 - (e) he is proposing to provide services to that individual in circumstances in which the provision of the services, or the proposal to do so, may involve the giving of advice or forecasts to which the information to which this section applies may be relevant.
- (4) The Department shall secure that its powers under this section are exercised so that at least the following is prescribed for the purposes of subsection (2)(b), namely—
- (a) in the case of an application for information made by a person falling within paragraph (e) of subsection (3), a condition that the individual to whom the information relates has consented to the making of the application and to the disclosure; and
 - (b) in any other case, either that condition or the alternative condition set out in subsection (5).
- (5) The alternative condition is—
- (a) that such steps as may be prescribed have been taken for the purpose of ascertaining whether the individual to whom the information relates objects to the making of the application for the disclosure of information relating to him; and
 - (b) that the prescribed time has elapsed without any objection by that individual.
- (6) A person applying to the Department, in accordance with regulations under this section, for the disclosure of any information relating to an individual shall be entitled, for the purpose of making the application, to make such disclosures of information relating to that individual as may be authorised by the regulations.
- (7) In this section the reference, in relation to an individual, to state pension information is a reference to the following information about that individual—
- (a) his date of birth, and the age at which and date on which he attains pensionable age—
 - (i) for the purposes of the Pension Schemes Act, in relation to any guaranteed minimum pension to which he is entitled; and

- (ii) in accordance with the rules in paragraph 1 of Schedule 2 to the Pensions Order;
 - (b) the amount of any basic retirement pension a present or future entitlement to which has already accrued to that individual, and the amount of any additional retirement pension such an entitlement to which has already accrued to that individual;
 - (c) a projection of the amount of the basic retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances; and
 - (d) a projection of the amount of the additional retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances.
- (8) Regulations under this section shall be subject to negative resolution.
- (9) Article 74(3) to (6) of the 1998 Order (regulations and orders) shall apply to any power to make regulations under this section as it applies to the powers to make regulations under that Order.
- (10) For the purposes of section 115D of the Administration Act (supply of contributions, etc. information held by Inland Revenue), the Department's functions relating to social security shall be taken to include any power conferred on it by regulations under this section.
- (11) In this section—
- “basic retirement pension” and “additional retirement pension” mean any basic or, as the case may be, additional pension under the Contributions and Benefits Act;
 - “contracted-out employment” has the same meaning as in the Pension Schemes Act;
 - “employed earner” has the same meaning as in Parts I to V of the Contributions and Benefits Act (by virtue of section 2(1) of that Act);
 - “employer”—
 - (a) in relation to any occupational pension scheme, has the same meaning as in Part II of the Pensions Order; and
 - (b) in relation to employed earner's employment, has the same meaning as in the Pension Schemes Act;
 - “member”, in relation to an occupational pension scheme, has the same meaning as in Part II of the Pensions Order;
 - “occupational pension scheme” and “personal pension scheme” have the same meanings as in the Pension Schemes Act;
 - “prescribed” means prescribed by or determined in accordance with regulations;

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

“regulations” means regulations made by the Department;

“trustee” and “manager”, in relation to an occupational pension scheme, have the same meanings as in Part II of the Pensions Order.