



## 2012 CHAPTER 3

### Part 3

#### Occupational Pension Schemes

##### *Indexation and revaluation*

##### **Indexation and revaluation**

**20.—**(1) Section 80 of the Pension Schemes (Northern Ireland) Act 1993 (basis of revaluation of accrued benefits) is amended as follows.

(2) In subsection (5)(b) for the words “the retail prices index” substitute “the general level of prices”.

(3) Omit subsection (6).

(4) Schedule 2 to the Pension Schemes (Northern Ireland) Act 1993 (which sets out methods for revaluing accrued benefits for the purposes of section 80 of that Act) is amended as follows.

(5) After paragraph 1(4) add—

“(5) The sub-paragraphs above are subject to sub-paragraph (6).

(6) If paragraph 2A applies to the pension or other benefit, the final salary method is to apply the requirement of the rules of the scheme mentioned in paragraph 2A(1).”.

(6) After paragraph 2 insert—

(1) This paragraph applies to the pension or other benefit if the rules of the scheme under which it is payable contain a requirement that the accrued benefit be revalued by adding to the accrued benefit an amount of at least the relevant amount.

(2) “The accrued benefit” has the same meaning as in paragraph 1.

(3) “The relevant amount” means the amount which, ignoring paragraph 1(5) and (6), would be the additional amount specified in paragraph 1(1A), (1B), (1C) or (1D) (as the case may be) were the appropriate higher revaluation percentage and the appropriate lower revaluation percentage to be determined on the following basis.

(4) The higher revaluation percentage and the lower revaluation percentage for the revaluation period mentioned in paragraph 2(3) are to be taken to be the percentages which would have been specified in the Secretary of State’s order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 had the modifications set out in paragraph 2A(4) of that Schedule applied to paragraph 2 of that Schedule.”.

(7) Article 51 of the Pensions (Northern Ireland) Order 1995 (annual increase in rate of certain pensions) is amended as follows.

(8) For paragraphs (3) and (4) substitute—

“(3) Paragraph (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being increased at intervals of not more than 12 months by at least the relevant percentage.

(4) For the purposes of paragraph (3) the relevant percentage is—

- (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
- (b) if lower, the default percentage for that period.

(4ZA) Paragraph (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if paragraph (4ZB) applies to the rate or part.

(4ZB) Subject to paragraph (4ZD), this paragraph applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being increased, and since the relevant time has always been increased, at intervals of not more than 12 months by at least—

- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
- (b) if lower, the default percentage for that period.

(4ZC) In paragraph (4ZB) “the relevant time” means—

- (a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
- (b) if the pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.

(4ZD) If the pension was transferred to the scheme as mentioned in paragraph (4ZC)(b), paragraph (4ZB) does not apply to the rate or part unless, immediately before the transfer, paragraph (4ZB) (read with this paragraph if relevant) applied to the rate or part by reference to the scheme from which the pension was transferred (or would have applied had paragraph (4ZB) been in operation immediately before the transfer).

(4ZE) If only part of the pension is attributable to pensionable service or, as the case may be, to payments in respect of employment carried on on or after the appointed day, in paragraphs (3) to (4ZD) references to the annual rate of the pension are references to so much of that rate as is attributable to that part.

(4ZF) For the purposes of paragraphs (4) and (4ZB) the default percentage for a period is the percentage for that period which corresponds to—

- (a) in the case of a category X pension, 5% per annum, and
- (b) in the case of a category Y pension, 2.5% per annum.

(4ZG) In paragraphs (4) and (4ZB)—

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.”.

(9) Article 37 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (indexation of certain pensions giving effect to pension credit rights) is amended as follows.

(10) In paragraph (1) for “increases in the retail prices index” substitute “relevant percentage increases”.

(11) After paragraph (2A) insert—

“(2AA) In paragraph (1) “relevant percentage increases” means percentage increases estimated by the Secretary of State from time to time for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.”.

**Indexation requirements for cash balance benefits**

**21.—**(1) Article 51 of the Pensions (Northern Ireland) Order 1995 (annual increase in rate of certain pensions) is amended as follows.

(2) In paragraph (1) for “paragraph (6)” substitute “paragraphs (6) and (7)”.

(3) After paragraph (6) add—

“**(7)** This Article does not apply to any pension (or part of a pension) under a relevant occupational pension scheme which—

(a) is a cash balance benefit (see Article 51ZB), and

(b) first comes into payment on or after the day on which section 21 of the Pensions Act (Northern Ireland) 2012 comes into operation.

**(8)** An occupational pension scheme is a “relevant occupational pension scheme” if—

(a) it has not, on or after the appointed day, been contracted-out by virtue of satisfying section 5(2) of the Pension Schemes Act, or

(b) it has, on or after the appointed day, been so contracted-out, but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to the period on or after that day when it was so contracted-out.”.

(4) After Article 51ZA of the Pensions (Northern Ireland) Order 1995 insert—

**“Meaning of “cash balance benefit”**

**51ZB.—**(1) For the purposes of Article 51(7)(a), a pension provided to or in respect of a member of an occupational pension scheme is a “cash balance benefit” if conditions 1 and 2 are met.

(2) Condition 1 is that the rate of the pension is calculated by reference to a sum of money (“the available sum”) which is available under the scheme for the provision of benefits to or in respect of the member.

(3) Condition 2 is that under the scheme—

(a) there is a promise about the amount of the available sum, but

(b) there is no promise about the rate or amount of the benefits to be provided.

(4) The promise mentioned in paragraph (3)(a) includes in particular a promise about the change in the value of, or the return from, payments made under the scheme by the member or by any other person in respect of the member.

(5) The promise mentioned in paragraph (3)(b) includes a promise that—

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

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- (a) the amount of the available sum will be sufficient to provide benefits of a particular rate or amount;
  - (b) the rate or amount of a benefit will represent a particular proportion of the available sum.
- (6) But a pension is not prevented from being a cash balance benefit merely because under the scheme there is a promise that—
- (a) the rate or amount of a benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of a benefit which was (or would have been) payable to the member;
  - (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.”.