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STATUTORY INSTRUMENTS

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**1995 No. 3213**

**The Pensions (Northern Ireland) Order 1995**

**PART III**

**STATE PENSIONS**

**Additional pension: calculation of surpluses**

**125.**—(1) In section 44 of the Contributions and Benefits Act (Category A retirement pension), for subsection (5) (surplus on which additional pension is calculated) substitute—

“(5A) For the purpose of this section and section 45 below—

- (a) there is a surplus in the pensioner’s earnings factor for a relevant year if that factor exceeds the qualifying earnings factor for that year, and
- (b) the amount of the surplus is the amount of that excess, as increased by the last order under section 130 of the Administration Act to come into operation before the end of the final relevant year.”.

(2) In subsection (6) of that section (calculation of earnings factors), for paragraphs (a)(ii) and (b) substitute—

“(ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid in respect of that year, or, if less, the qualifying earnings factor for that year; and

(b) where the relevant year is an earlier tax year, to the aggregate of—

- (i) his earnings factors derived from Class 1 contributions actually paid by him in respect of that year; and
- (ii) his earnings factors derived from Class 2 and Class 3 contributions actually paid by him in respect of that year, or, if less, the qualifying earnings factor for that year.”.

(3) In section 130 of the Administration Act (revaluation of earnings factors in Northern Ireland) for from “directing” to the end substitute “(revaluation of earnings factors), the Department may make a corresponding order for Northern Ireland”.

(4) Subject to paragraphs (5) and (6), this Article has effect in relation to a person (“the pensioner”) who attains pensionable age after 5th April 2000.

(5) Where the pensioner is a woman, this Article has effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Contributions and Benefits Act by virtue of section 39 of that Act (widowed mother’s allowance and widow’s pension), including Category B retirement pension payable under section 48B(4), if her husband—

- (a) dies after 5th April 2000, and
- (b) has not attained pensionable age on or before that date.

(6) This Article has effect where additional pension falls to be calculated under sections 44 and 45 of the Contributions and Benefits Act as applied by section 48A or 48B(2) of that Act (other Category B retirement pension) if—

- (a) the pensioner attains pensionable age after 5th April 2000, and

(b) the pensioner's spouse has not attained pensionable age on or before that date.