



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART V

#### ANNUAL INCREASES OF PENSIONS IN PAYMENT

#### I

#### PENSIONS UNDER FINAL SALARY SCHEMES, ETC.

#### 98 Scope of Chapter I: annual increase of certain occupational pensions

- (1) This Chapter shall have effect for the purpose of requiring the provision by schemes to which it applies of annual increases in the annual rates of pensions under those schemes.
- (2) This Chapter applies to any occupational pension scheme—
  - (a) which is neither a public service pension scheme nor a money purchase scheme; and
  - (b) the rules of which do not require the annual rate of every pension to be increased each year by at least the appropriate percentage of that rate;and in this Chapter such a scheme is referred to as a “qualifying scheme”.
- (3) In this Chapter—

“annual rate”, in relation to a pension or a part of a pension, means the annual rate of the pension or that part of it, as previously increased under the rules of the scheme or under this Chapter;

“the appointed day” means the day on which this Chapter comes into operation;

“appropriate percentage”, in relation to an increase in the annual rate of a pension or a part of a pension, means the percentage specified in the last

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revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of 12 months;

“pension”, in relation to a scheme, means any pension which commences or has commenced under the scheme, but does not include—

(a) a guaranteed minimum pension or any increase in such a pension under section 105; or

(b) any money purchase benefit;

“revaluation order” means an order under paragraph 2(1) of Schedule 2;

“revaluation percentage” means a percentage specified for a revaluation period by a revaluation order;

“revaluation period” has the meaning given by paragraph 2(2) of Schedule 2.

## **99 Annual increase of later service component**

- (1) If, apart from this Chapter, the annual rate of a pension under a qualifying scheme would not be increased as mentioned in section 98(2)(b), the annual rate of its later service component shall be increased annually by at least the appropriate percentage of the annual rate of that component.
- (2) In this section “later service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service on or after the appointed day.
- (3) The first increase by virtue of this section in the rate of a pension shall take effect not later than the first anniversary of the commencement of the pension and subsequent increases shall take effect at intervals of not more than 12 months.
- (4) This section is subject to sections 101 to 104 and 149.

## **100 Annual increase of earlier service component where scheme is in surplus**

- (1) If on any valuation day the value of a qualifying scheme’s assets exceeds the value of its liabilities, the amount of the excess (the “valuation surplus”) shall, in accordance with this section but subject to subsection (7), be applied in providing for annual increases in the annual rate of the earlier service component of each pension under the scheme that would not, apart from this Chapter, be increased as mentioned in section 98(2)(b).
- (2) In this section “earlier service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service before the appointed day.
- (3) Each annual increase to be provided in pursuance of this section shall be equal to the appropriate percentage of the annual rate of the earlier service component of the pension in question.
- (4) Except in a case where regulations otherwise provide, the days which are “valuation days” for the purposes of this section are—
  - (a) the appointed day; and
  - (b) each subsequent day as at which the assets and liabilities of the scheme in question are actuarially valued for any purpose.
- (5) Where, in consequence of a valuation surplus, this section requires provision to be made for annual increases in the annual rate of the earlier service component of a

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pension, the first of those increases shall take effect not later than the first anniversary of the later of—

- (a) the valuation day as at which the valuation was made which disclosed the valuation surplus; or
- (b) the commencement of the pension;

and subsequent increases shall take effect at intervals of not more than 12 months.

(6) In any case where—

- (a) a valuation of the assets and liabilities of a qualifying scheme discloses a valuation surplus, but
- (b) the amount of the surplus is insufficient to provide in full for the annual increases otherwise required by this section in pensions under the scheme,

the valuation surplus shall be applied in providing for those increases, but only at the percentage rate that would apply year by year in relation to those increases if, for the percentage of 5 per cent. specified in subsection (10), there were substituted such lower percentage as represents the greatest percentage by reference to which the valuation surplus is sufficient to provide for annual increases in the earlier service component of the pensions in question.

(7) If a valuation surplus is disclosed on a valuation at any time when either—

- (a) provision has already been made by the scheme for the annual rate of the earlier service component of every such pension as is mentioned in subsection (1) to be increased annually in the aggregate by at least the appropriate percentage of that rate, or
- (b) the application of part only of the valuation surplus would be sufficient to secure that result,

this section does not require that surplus or, as the case may be, the remaining part of it to be applied in the provision of increases under this section.

(8) The value of a qualifying scheme's assets and liabilities for the purposes of subsection (1) and the percentage to be substituted under subsection (6) shall be determined in accordance with regulations.

(9) This section is subject to sections 101 to 104 and 149.

(10) The maximum percentage of 5 per cent. referred to in subsection (5) is the maximum percentage which may be specified as the revaluation percentage in the case of a revaluation period of 12 months by a revaluation order.

## **101 Proportional increase where first period is less than 12 months**

- (1) Where the first increase of a pension required under section 99 is to take effect on a date when the pension has been in payment for a period of less than 12 months, that increase shall be of an amount equal to one twelfth of the amount of the increase so required (apart from this subsection) for each complete month in that period.
- (2) This section shall apply in relation to the first increase of a pension by virtue of section 100 in consequence of each successive valuation surplus as it applies in relation to the first increase of a pension under section 99.

**102 Restriction on increase where member is under 55**

- (1) Subject to subsection (2), no increase under section 99 or 100 is required to be paid to or for a member of a scheme whose pension has commenced but who has not attained the age of 55 at the time when the increase takes effect.
- (2) Subsection (1) does not apply if the member—
- (a) is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or
  - (b) has retired on account of mental or physical infirmity from the employment in respect of which, or on retirement from which, the pension is payable.
- (3) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of subsection (2), the member—
- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but
  - (b) continues to be entitled to the pension,
- any increases subsequently taking effect under section 99 or 100 in the annual rate of the pension shall not be paid or shall not be paid in full.
- (4) In any case where—
- (a) by virtue only of subsection (1) or (3), increases are not paid to or for a member or are not paid in full, but
  - (b) the member attains the age of 55 or, in a case falling within subsection (3), again satisfies the condition set out in subsection (2)(a) or (b),
- his pension shall then become payable at the annual rate at which it would have been payable apart from subsection (1) or (3).

**103 Application of Chapter I to pensions not attributable to pensionable service**

Regulations may provide that the provisions of this Chapter shall apply in relation to any pension under a qualifying scheme as if so much of the annual rate of the pension as would not otherwise be attributable to pensionable service were attributable—

- (a) to pensionable service before the appointed day;
- (b) to pensionable service on or after that day; or
- (c) partly to pensionable service before and partly to pensionable service on or after that day.

**104 No payments to employers from non-complying schemes**

- (1) No payment shall be made out of the resources of a qualifying scheme which is constituted by trust deed to or for a person who is or has been the employer of persons in the description or category of employment to which the scheme relates until such time as provision has been made by the scheme for every pension which commences or has commenced under it to be increased as mentioned in section 98(2)(b).
- (2) Nothing in subsection (1) applies in relation to payments made to or for a person by virtue of his or any other person's membership of the scheme in question.

## CHAPTER II

### GUARANTEED MINIMUM PENSIONS

#### **105 Annual increase of guaranteed minimum pensions**

- (1) Whenever the Secretary of State makes an order under section 109 of the Pension Schemes Act 1993 specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years for—
  - (a) earners who have attained pensionable age; and
  - (b) widows and widowers,the Department may make a corresponding order for Northern Ireland.
- (2) Where the benefits mentioned in section 42(1) to (7) are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of that section as not taking effect until the day on which those benefits are next increased.

#### **106 Requirement as to resources for annual increase of guaranteed minimum pensions**

- (1) Except as permitted by subsection (2) or (3), the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of section 105 out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—
  - (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the next tax year; or
  - (b) the payment is to a person as the widow or widower of an earner who died before attaining pensionable age and is in respect of the tax year in which the person became a widow or widower, and the increase is the one required to be made in the next tax year.
- (2) Where in any tax year the trustees or managers of an occupational pension scheme make an increase otherwise than in pursuance of section 105, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under that section in the next tax year.
- (3) Where in any tax year the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of section 105, they may deduct the part of the increase so made from any increase which, but for this subsection, they would be required to make under that section in the next year.
- (4) Where by virtue of subsection (2) or (3) guaranteed minimum pensions are not required to be increased in pursuance of section 105, or not by the full amount that they otherwise would be, their amount shall be calculated for any purpose as if they had been increased in pursuance of that section or, as the case may be, by that full amount.