



Pensions (Increase) Act (Northern Ireland) 1971

1971 CHAPTER 35

PART I ^{F1}

GENERAL PROVISIONS

F1 1975 NI 15

1 Present increases.

- (1) Subject to the provisions of this Act, the annual rate of an official pension may, if any qualifying condition is satisfied, [^{F2} or the pension is a widow's pension] be increased by the pension authority in respect of any period beginning on or after 1st September 1971, as follows:—
- (a) a pension beginning before the year 1969 may be increased by the amount necessary to bring the rate up to the 1969 standard, that is to say, to the rate arrived at by applying to the basic rate of pension the multiplier given in Schedule 1 for the year in which the pension began, and by a further 18 per cent. of the rate as so increased;
 - (b) a pension beginning on or before 1st April 1969 but not earlier than that year may be increased by 18 per cent. of the basic rate;
 - (c) a pension beginning in the six months following 1st April 1969 may be increased by 16 per cent. of the basic rate;
 - (d) a pension beginning in the six months following 1st October 1969 may be increased by 14 per cent. of the basic rate;
 - (e) a pension beginning in the six months following 1st April 1970 may be increased by 10 per cent. of the basic rate;
 - (f) a pension beginning in the six months following 1st October 1970 may be increased by 6 per cent. of the basic rate.

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- (2) The annual rate of any pension (whether beginning before or after the passing of this Act) payable under the Belfast Corporation Act (Northern Ireland) 1943 shall, in respect of any period beginning on or after 1st September 1971, be increased by the pension authority under subsection (1) as if it were a pension beginning in 1943 .
- (3) In the case of a pension beginning before the year 1969 or a pension payable under the Belfast Corporation Act (Northern Ireland) 1943 (whatever the date of its beginning) the increase authorised by subsection (1)(a) shall take the place of those authorised by the Pensions (Increase) Acts (Northern Ireland) 1920 to 1969, but in the cases provided for by section 6 shall be of the larger amount there specified by reference to increases that might have been made under those Acts.

F2 1974 NI 2

S. 2 rep. with saving for pension increases by orders made thereunder, by 1975 NI 15

3 Qualifying conditions.

- (1) A pension shall not be increased under this Part unless one of the conditions laid down by this section (in this Act referred to as “qualifying conditions”) is satisfied [^{F3} or the pension is a [^{F4} derivative or substituted pension or a relevant injury pension]].
- (2) A pension payable in respect of the pensioner's own services [^{F4}, other than a relevant injury pension,] shall not be increased unless the pensioner—
 - (a) has attained the age of [^{F5} fifty-five years]; or
 - (b) has retired on account of physical or mental infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable; or
 - (c) [^{F4}subject to subsections (9) to (11),] [^{F6} . . . has at least one dependant;
 or the pension authority are satisfied that the pensioner is disabled by physical or mental infirmity.
- [^{F7}(2A) A pension attributable to the pensioner having become entitled to a pension credit shall not be increased unless the pensioner has attained the age of fifty-five years.]

Subs. (3) rep. by 1990 NI 13

Subs.(4) rep. by 1974 NI 2
- (5) For the purposes of this section, a pensioner shall be deemed to be disabled by physical or mental infirmity if he is permanently incapacitated by such infirmity from engaging in any regular full-time employment.
- (6) Subject to subsection (7), “dependant” in this section means, in relation to a pensioner, a person who the pension authority are satisfied is wholly or mainly supported by the pensioner and who either has not attained the age of [^{F8} seventeen] years or is receiving full-time instruction at an educational establishment or is undergoing training [^{F9} for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years].
- (7) Where a pension payable to a woman at 31st August 1971 was then payable at a rate increased under the Pensions (Increase) Acts (Northern Ireland) 1920 to 1969 by reason only that she was, and had since 1st April 1956 been, wholly or mainly supporting another person, being either—

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- (a) her, or her deceased husband's, father, mother, brother, sister, child, uncle or aunt; or
- (b) the child of any such person as is mentioned in paragraph (a); or
- (c) her step-father or step-mother; or
- (d) a person undergoing training for any trade, profession or vocation;

then so long as the pension authority are satisfied that she continued and continues wholly or mainly to support that person and, if this subsection applies only by virtue of paragraph (d), that person continued and continues to undergo training for a trade, profession or vocation, that person shall be deemed for purposes of this section to be the woman's dependant.

In this subsection “child” includes a step-child and an illegitimate child,^{F10} . . .

Subs. (8) spent

[^{F11}(9) On and after 1st January 1993 paragraph (c) of subsection (2) shall have effect only to the extent provided by subsections (10) and (11).

(10) Where, immediately before 1st January 1993, a person is in receipt of a pension the whole or any part of] which has been increased under this Part by virtue of paragraph (c) of subsection (2), that paragraph shall continue to have effect in relation to that]^{F12} person and that pension or part] until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection.

(11) In any case where—

- (a) a]^{F13} person's] pension commences on or after 1st January 1993, and
- (b) on the day on which the pension commences]^{F14} he] has not attained the age of 55,

paragraph (c) of subsection (2) shall have effect in relation to that]^{F15} person] and so much of the pension as is referable to service rendered before 1st January 1993 until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection.

F3	1974 NI 2
F4	1990 NI 13
F5	SRO (NI) 1972/264
F6	1995 NI 22
F7	1999 NI 11
F8	1974 NI 2
F9	1990 NI 13
F10	1987 NI 22
F11	1990 NI 13
F12	1995 NI 22
F13	1995 NI 22
F14	1995 NI 22
F15	1995 NI 22

4 Effect of re-employment.

- (1) Where a person has been in receipt of an official pension in respect of any service, and in consequence of any further service rendered by him the pension falls to be recalculated as to its basic rate and to be treated for purposes of this Act as beginning at a later date, then the rate of the pension as recalculated, with any increase under this

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Part apart from this section, may be further increased up to the rate, if it is higher, at which the pension would have been payable with any such increase if—

- (a) the further service had not been rendered; and
- (b) where the pension is one of those specified in subsection (4) and the recalculation is on the basis there mentioned, the length of the previous service had been increased by the length of the further service.

- (2) Where a person has terminated his service in circumstances such that he is or may^[F16] (without rendering further reckonable service)] become eligible for an official pension, but has not been in receipt of that pension before rendering further service in consequence of which the pension falls to be recalculated or to be calculated on a different basis, subsection (1) shall apply as it would apply if he had been in receipt of the pension before rendering the further service.

^[F16](2A) In subsection (2) “reckonable service”, in relation to a person and his official pension, means service which falls to be taken into account in calculating the basic rate of the pension.]

- (3) Where the basic rate of a derivative pension, not being a substituted pension, falls to be calculated

^[F16](a) by reference to that of a principal pension which is authorised to be increased under subsection (1) or (2) (or which would have been, if the further service had been terminated by retirement)^[F16] or]

^[F16](b) by reference to a rate of emoluments (whether actual emoluments or not and whether final or average emoluments) and a period of service of the person who was or, had he survived, would have been the pensioner in relation to such a principal pension,]

, the derivative pension may be increased in the way in which subsection (1) authorises (or would have authorised) the principal pension to be increased; and for this purpose the reference in subsection (1)(b) to the pension is to be taken as a reference to the principal pension, not the derivative pension.

- (4) Subsection (1)(b) shall apply to pensions specified in paragraphs 2, 3, ^[F17] 3A, 5(b) and (c) and 7A] of Schedule 2, but shall apply only in a case where the recalculation falls to be made by reference—

- (a) to the aggregate of the further service and the previous service; and
- (b) to emoluments attributed to a period immediately preceding the termination of the further service not lower than the emoluments by reference to which the pension was to be calculated before the further service.

F16 1990 NI 13

F17 1972 NI 10

5 Scope of Act, and general powers to extend and adapt increases.

- (1) For purposes of this Act “official pension” means, subject to subsection (2), any of the pensions specified in Schedule 2; and in the case of a pension specified in Part II of the Schedule it shall be the duty of a pension authority to increase the pension in accordance with this Act.
- (2) The Ministry may by regulations provide that this Act shall have effect in relation to any pensions not specified in Schedule 2 as if they were specified in such Part

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of that Schedule as may be directed by the regulations; and regulations under this subsection—

- (a) may include such incidental, consequential and supplemental provisions as appear to the Ministry to be expedient; and
 - (b) may in particular make provision for securing that the cost of increasing any pension is borne by the appropriate authority.
- (3) The Ministry, if satisfied in the case of any official pension that it is proper so to do, may by regulations direct (either generally or [^{F18} for any particular purpose]) that the provisions of this Act shall apply in relation to that pension subject to such modifications, adaptations and exceptions as may be specified in the regulations.

The power conferred by this subsection on the Ministry may be exercised also, with its consent, by any other department of the Government of Northern Ireland.

- (4) Any regulations under this section may provide for increases to take effect from a date before the making of the regulations or the passing of this Act, but not before 1st September 1971.

F18 1975 NI 15

6 Preservation for certain purposes of benefit of previous Acts.

- (1) If in the case of an official pension beginning before the year 1969 the 1969 standard is less than the 1971 rate of the pension with the addition, if any, to be made to that rate under subsection (6), then the increase that may be made in the pension under section 1(1)(a) shall be of the amount necessary to bring the annual rate up to 118 per cent. of the 1971 rate or, if subsection (6) applies, to 118 per cent. of the 1971 rate with the addition under that subsection.
- (2) For any pension that qualified for an increase under the Pensions (Increase) Act 1920, the 1971 rate shall be taken to be the annual rate at which it was being paid on 31st August 1971 (or, if payment was then suspended, was last paid before that date).
- (3) In the case of a pension payable under the Belfast Corporation Act (Northern Ireland) 1943, the 1971 rate shall, if the pension was payable on 31st August 1971, be taken to be the annual rate at which it was payable on that date and, if it became or becomes payable after 31st August 1971, shall be taken to be the annual rate at which it would have been payable on 31st August 1971, if the conditions for payment of the pension had been satisfied before 31st August 1971 and the service in respect of which the pension became or becomes payable had been rendered over a period immediately preceding 31st August 1971.
- (4) Where an official pension not falling within subsection (2) or (3) was being paid on 31st August 1971 at a rate which included any relevant increases, then the annual rate at which it was then being paid shall be taken as the 1971 rate, unless it is shown that the rate should have been revised or there is a change of circumstances that would affect the 1971 rate if ascertained under subsection (5).
- (5) Subject to the provisions of this section, the Ministry shall by order prescribe tables and rules for ascertaining, for any pension to which subsection (1) may apply (other than a pension falling within subsection (2) or (3)), the annual rate at which it would have been payable if paid with any relevant increases; and the rate so ascertained shall be taken to be the 1971 rate, unless subsection (4) applies.

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- (6) Where a pension beginning on or before 1st April 1961 is one that (but for this Act) might have been increased under section 1 of the Pensions (Increase) Act (Northern Ireland) 1963 , and any of the qualifying conditions other than those specified in section 3(3)(b), (c) and (d) is satisfied [^{F19} or the pension is a widow's pension], then there shall for purposes of this section be made to the 1971 rate as ascertained under subsection (5) an addition of the amount prescribed by order of the Ministry as corresponding to that of the increase provided for by section 2 of that Act (additional increase for pensioners over 70); and where subsection (3) or (4) applies, the like addition shall be made to the 1971 rate given by that subsection, unless the pensioner had attained the age of 70 on or before 31st August 1971.
- (7) Orders made for the purposes of this section shall include such provision as may be necessary to enable the pensions to which subsections (1) and (6) relate to be identified without reference to the Pensions (Increase) Acts (Northern Ireland) 1920 to 1969, except that pensions which qualified for an increase under the Pensions (Increase) Act 1920 need not be otherwise identified.
- (8) This section shall have effect subject to any provision made in the exercise of the powers conferred by section 5(3); and accordingly an order under this section may disregard any provision made in the exercise of corresponding powers conferred by the Pensions (Increase) Acts (Northern Ireland) 1920 to 1969.
- (9) An order under this section shall take no account of any provision of the Pensions (Increase) Acts (Northern Ireland) 1920 to 1969 whereby a fraction of a pound was to be treated as a whole pound and may make such other departures from the effect of those Acts as in the opinion of the Ministry will, without materially reducing the rate of any pension, simplify the tables or rules or make for ease of calculation.
- (10) For purposes of this section, “relevant increase” means, in relation to any pension, any increase that might (but for this Act) have been made in the annual rate of the pension under section 1 of any of the following Acts, that is to say the Pensions (Increase) Act (Northern Ireland) 1944 , the Pensions (Increase) Act (Northern Ireland) 1952 , the Pensions (Increase) Act (Northern Ireland) 1956 , the Pensions (Increase) Act (Northern Ireland) 1959 , the Pensions (Increase) Act (Northern Ireland) 1963 , the Pensions (Increase) Act (Northern Ireland) 1966 and the Pensions (Increase) Act (Northern Ireland) 1969 ; but an order under this section may for purposes of subsection (5) treat as a relevant increase any increase authorised by or under any enactment by reference to a relevant increase, and may repeal or amend the provision authorising it accordingly.
- (11) An order made (or purporting to be made) under this section shall have effect notwithstanding any error or omission in reproducing the effect of any Act or instrument, but may be amended by a further order for the purpose of correcting any such error or omission; and any such amendment may be made so as to have effect from such date as may be specified in the further order (including a date before the making of that order), and with such savings and transitional provisions as the Ministry thinks proper.
- (12) If an order made by virtue of subsection (11) has the effect of reducing the rate of any pension, the order shall be subject to negative resolution.

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7 Administrative provisions.

- (1) In this Act “pension authority” means the authority by whom the pension is payable; but the Ministry or, with its approval, any other department of the Government of Northern Ireland may by regulations provide that, in relation to any class of pensions specified in the regulations, all or any of the functions of the pension authority under this Act shall be performed on behalf of the pension authority by such other authority as may be so specified.
- (2) ^{F20} Where a pension specified in Part II of Schedule 2 is increased under this Act the cost of the increase shall be defrayed by the pension authority out of the rate or fund chargeable with the payment of the pension.
- (3) ^{F20} Subject to the provisions of this Act, any provision made by or under any enactment shall, in so far as it relates to the apportionment of the cost of a pension between two or more authorities or funds, or to the manner in which a pension is to be paid or borne, or to the proof of title to sums payable on account of a pension, or in so far as it prohibits or restricts the assignment or charging of a pension or its application towards the payment of debts, have effect in relation to any increase of the pension under this Act as it has effect in relation to the pension; so however that this subsection, in so far as it relates to the apportionment of the cost of an increase under this Act, shall have effect subject to any agreement between the authorities concerned.
- (4) Except as provided by subsection (3), an increase of a pension under this Act shall not be treated as part of the pension for the purposes of any provision made by or under any enactment; and in calculating the rate of a derivative pension, any increase under this Act of the principal pension shall be disregarded.

F20 1974 NI 2

8 Meaning of “pension”, and other supplementary provisions.

- (1) For purposes of this Act “pension” includes (subject to section 9)—
 - (a) any allowance or other benefit payable^{F21} . . . by virtue of any superannuation scheme, whether contained in an enactment or otherwise, including a superannuation scheme providing benefits in the case of injury or death; and
 - (b) any compensation payable in respect of retirement from an office or employment in pursuance of the provisions of an enactment, any compensation payable in respect of the loss, abolition or relinquishment of an office or employment occasioned by an alteration in the organisation of a department or service or by a transfer or other reorganisation of the functions of local authorities, and any compensation payable in respect of a diminution in the emoluments of an office or employment which has been occasioned as aforesaid [^{F22}; and
 - (c) without prejudice to the generality of paragraph (b), any compensation payable in pursuance of the provisions of a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 made by virtue of Article 4(2) of that Order or of regulations made under Article 19 thereof][^{F23} but does not include any money purchase benefits].
- (2) A pension[^{F21} which is not attributable to a pension credit] shall be deemed for purposes of this Act to begin on the day following the last day of the service in respect

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of which the pension is payable (whenever the pension accrues or becomes payable), except that—

- (a) ^{F24} an earnings-related pension based, directly or indirectly, on emoluments received for a period not ending with the last day of that service, other than a substituted pension, is to be deemed to begin on the day following the last day of that period; and
- (b) a substituted pension is to be deemed to begin on the same day as the original pension, or, if earlier, on the day from which the surrender of the original pension takes effect; and
- [^{F23}(bb) a relevant injury pension payable by virtue of the acceptance of less favourable terms and conditions of employment is to be deemed to begin on the day on which the employment on less favourable terms and conditions begins; and]
- (c) a pension payable under section 1 of the Ministerial Offices Act (Northern Ireland) 1952 is to be deemed to have begun on 1st April 1965.

[^{F21}(2A) A pension which is attributable to a pension credit shall be deemed for purposes of this Act to begin on the day on which the order or provision on which the credit depends takes effect.]

- (3) Where an earnings-related pension beginning before the year 1969 may be payable either at a rate fixed, directly or indirectly, by reference to emoluments or at a flat rate, the 1969 standard and, if relevant, the 1971 rate of the pension according to either of its rates shall be determined without regard to the other.

F21 1999 NI 11
F22 1972 NI 10
F23 1990 NI 13
F24 SR 1977/260

9 Gratuities and lump sums.

- (1) References in this Act to a pension shall not apply to any payment made by way only of a return of contributions, with or without interest [^{F25} (or any money purchase benefits)]; but, subject to that, this Act shall apply in relation to any allowance, benefit or compensation whether it takes the form of periodical payments or of a gratuity or other lump sum.

(2) In relation to a lump sum—

- (a) references to the time when a pension begins shall apply in accordance with section 8(2) as in the case of a pension taking the form of periodical payments; and
- (b) references to increasing a pension in respect of a period beginning at any time shall have effect as references to increasing any sum becoming payable at or after that time on account of the lump sum or any instalment of it; and
- (c) references to the rate of a pension shall have effect as references to the amount of the lump sum or an instalment of it, as the case may require.

Subs. (3)(4)(4A) rep. by 1975 NI 15

- (5) For purposes of section 4 any addition to a lump sum which would have resulted from treating the length of the previous service as being increased by the length of the further

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service in accordance with section 4(1)(b) shall be supposed not to have become payable until the day following that on which the further service in fact terminated.

(6) Nothing in section 6 shall apply to any lump sum.

[^{F25}(7) In any case where—

- (a) a lump sum beginning after the coming into force of this subsection, or an instalment of such a lump sum, is paid, but
- (b) the amount of that lump sum or instalment is subsequently recalculated, and
- (c) in consequence of the recalculation, and additional amount becomes payable by way of lump sum,

the additional amount shall not be increased under this Part in respect of the whole or any part of the period beginning with the day on which the lump sum or instalment became payable and ending with the day on which the additional amount is paid.]

F25 1990 NI 13

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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