

*Status: Point in time view as at 07/06/2012.*

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## 2008 CHAPTER 1

### PART 1

#### STATE PENSION

##### *Entitlement to Category A and B retirement pensions*

##### **Category A and B retirement pensions: single contribution condition**

1.—(1) Schedule 3 to the Contributions and Benefits Act (contribution conditions) is amended as follows.

(2) In paragraph 5 (contribution conditions for, among other things, Category A or B retirement pension) in sub-paragraph (1) after “retirement pension” insert “(other than one in relation to which paragraph 5A applies) ”.

(3) After paragraph 5 insert—

“5A.—(1) This paragraph applies to—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010;
- (b) a Category B retirement pension payable by virtue of section 48A above in a case where the contributor concerned attains pensionable age on or after that date;
- (c) a Category B retirement pension payable by virtue of section 48B above in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date.

(2) The contribution condition for a Category A or Category B retirement pension in relation to which this paragraph applies is that—

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- (a) the contributor concerned must, in respect of each of not less than 30 years of his working life, have paid or been credited with contributions of a relevant class or been credited (in the case of 1987–88 or any subsequent year) with earnings; and
  - (b) in the case of each of those years, the earnings factor derived as mentioned in sub-paragraph (3) below must be not less than the qualifying earnings factor for that year.
- (3) For the purposes of paragraph (b) of sub-paragraph (2) above, the earnings factor—
- (a) in the case of 1987–88 or any subsequent year, is that which is derived from—
    - (i) so much of the contributor's earnings as did not exceed the upper earnings limit and upon which such of the contributions mentioned in paragraph (a) of that sub-paragraph as are primary Class 1 contributions were paid or treated as paid or earnings credited; and
    - (ii) any Class 2 or Class 3 contributions for the year; or
  - (b) in the case of any earlier year, is that which is derived from the contributions mentioned in paragraph (a) of that sub-paragraph.
- (4) Regulations may modify sub-paragraphs (2) and (3) above for the purposes of their application in a case where—
- (a) the contributor concerned has paid, or been credited with, contributions, or
  - (b) contributions have been deemed to be, or treated as, paid by or credited to him,
- under the National Insurance Act (Northern Ireland) 1946 or the National Insurance Act (Northern Ireland) 1966.”.
- (4) Part 1 of Schedule 1 contains consequential amendments.

### **Category B retirement pension: removal of restriction on entitlement**

2.—(1) Section 48A of the Contributions and Benefits Act (Category B retirement pension for married person or civil partner) is amended as follows.

(2) In each of subsections (2)(a) and (2B)(a) (whose effect is to require the other spouse or other civil partner to have claimed a Category A retirement pension) omit “and become entitled to a Category A retirement pension”.

(3) Omit subsection (5) (restriction on when Category B retirement pension for married person or civil partner is payable).

(4) Part 2 of Schedule 1 contains consequential amendments.

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(5) The amendments made by this section and that Part of that Schedule have effect as from 6th April 2010.

(6) Section 48A(2) and (2B), as amended by this section, applies whether the person mentioned in section 48A(1) or (2A) attained pensionable age before 6th April 2010 or on or after that date.

*Credits for basic state pension, etc.*

### **Contributions credits for relevant parents and carers**

3.—(1) After section 23 of the Contributions and Benefits Act insert—

#### **“23A Contributions credits for relevant parents and carers**

(1) This section applies to the following benefits—

- (a) a Category A retirement pension in a case where the contributor concerned attains pensionable age on or after 6th April 2010,
- (b) a Category B retirement pension payable by virtue of section 48A below in a case where the contributor concerned attains pensionable age on or after that date,
- (c) a Category B retirement pension payable by virtue of section 48B below in a case where the contributor concerned dies on or after that date without having attained pensionable age before that date,
- (d) a widowed parent's allowance payable in a case where the contributor concerned dies on or after that date,
- (e) a bereavement allowance payable in a case where the contributor concerned dies on or after that date.

(2) The contributor concerned in the case of a benefit to which this section applies shall be credited with a Class 3 contribution for each week falling after 6th April 2010 in respect of which the contributor was a relevant carer.

(3) A person is a relevant carer in respect of a week if the person—

- (a) is awarded child benefit for any part of that week in respect of a child under the age of 12,
- (b) is a foster parent for any part of that week, or
- (c) is engaged in caring, within the meaning given by regulations, in that week.

(4) Regulations may make provision for a person's entitlement to be credited with Class 3 contributions by virtue of falling within subsection (3) (b) or (c) above to be conditional on the person—

- (a) applying to be so credited in accordance with the prescribed requirements, and

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(b) complying with the prescribed requirements as to the provision of information to the Department.

(5) The contributor concerned in the case of a benefit to which this section applies shall be credited with 52 Class 3 contributions for each tax year ending before 6th April 2010 in which the contributor was precluded from regular employment by responsibilities at home within the meaning of regulations under paragraph 5(7) of Schedule 3 to this Act.

(6) But the maximum number of tax years for which a person can be credited with contributions under subsection (5) above is—

(a) in the case of a benefit mentioned in subsection (1)(a) to (c) above, 22;

(b) in the case of a benefit mentioned in subsection (1)(d) or (e) above, half the requisite number of years of the person's working life.

(7) The table in paragraph 5(5) of Schedule 3 to this Act (requisite number of years of a working life of given duration) applies for the purposes of subsection (6)(b) above as it applies for the purposes of the second condition set out in paragraph 5(3) of that Schedule.

(8) For the purpose of determining entitlement to a benefit to which this section applies, a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.

(9) In this section—

“the contributor concerned” has the meaning given in section 21(5)(a) above;

“foster parent” has the meaning given by regulations.”.

(2) In paragraph 5 of Part 1 of Schedule 3 to that Act (contribution conditions for entitlement to, among other things, widowed parent's allowance, bereavement allowance and Category A or B retirement pension) at the end of sub-paragraph (7) (home responsibilities protection) insert— “ But nothing in this sub-paragraph applies in relation to any benefit to which section 23A above applies. ”.

(3) Part 3 of Schedule 1 contains consequential amendments.

#### *Abolition of adult dependency increases*

#### **Category A and C retirement pensions: abolition of adult dependency increases**

4.—(1) The following provisions of the Contributions and Benefits Act are to cease to have effect on 6th April 2010—

(a) section 83 (pension increase: wife),

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- (b) section 84 (pension increase: husband), and
- (c) section 85 (pension increase: person with care of children or qualifying young persons).

(2) Paragraph 2 of Part 2 of Schedule 2 to the Pensions Order (which replaces sections 83 and 84 of the Contributions and Benefits Act with a new section 83A equalising pension increases for dependent spouses and civil partners with effect from 6th April 2010) is omitted.

(3) Part 4 of Schedule 1 contains consequential amendments.

(4) The amendments made by that Part of that Schedule have effect as from 6th April 2010.

(5) Nothing in—

- (a) the repeals in subsection (1),
- (b) the amendments in Part 4 of Schedule 1, or
- (c) the repeals in Part 2 of Schedule 6,

applies in relation to a qualifying person at any time falling on or after 6th April 2010 but before the appropriate date.

(6) In subsection (5) a “qualifying person” means a person who—

- (a) has, before 6th April 2010, made a claim for a relevant increase in accordance with section 1 of the Administration Act; and
- (b) immediately before that date is either—
  - (i) entitled to the increase claimed, or
  - (ii) a beneficiary to whom section 92 of the Contributions and Benefits Act (continuation of awards where fluctuating earnings) applies in respect of that increase.

(7) In subsection (5) “the appropriate date” means the earlier (or earliest) of—

- (a) 6th April 2020;
- (b) the date when the qualifying person ceases to be either entitled to the relevant increase or a beneficiary to whom section 92 of the Contributions and Benefits Act applies in respect of it;
- (c) where the relevant increase is payable to the qualifying person under section 83 of that Act, the date on which his wife attains pensionable age.

(8) In this section “relevant increase” means an increase in a Category A or Category C retirement pension under section 83, 84 or 85 of the Contributions and Benefits Act.

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### *Up-rating of basic state pension and other benefits*

#### **Up-rating of basic pension etc. and standard minimum guarantee by reference to earnings**

5.—(1) After section 132 of the Administration Act insert—

##### **“132A Annual up-rating of basic pension etc. and standard minimum guarantee**

**132A** Whenever the Secretary of State makes an order under section 150A of the Great Britain Administration Act, the Department may make a corresponding order for Northern Ireland.”.

(2) Part 5 of Schedule 1 contains consequential and related amendments.

(3) The new section 132A and the amendments made by Part 5 of Schedule 1, so far as relating to the equivalent in Northern Ireland of the amounts referred to in section 150A(1)(a) to (c) of the Social Security Administration Act 1992 (c. 5), have effect in relation to the tax year designated by the Secretary of State by an order under section 5(4) of the Pensions Act 2007 (c. 22) and subsequent tax years.

(4) The new section 132A and the amendments made by Part 5 of Schedule 1, so far as relating to the equivalent in Northern Ireland of the amounts referred to in section 150A(1)(d) of the Social Security Administration Act 1992, have effect in relation to the tax year in which this Act is passed and subsequent tax years.

(5) In this section and in section 6, “the new section 132A” means the section 132A inserted by subsection (1).

#### **Preservation of link with prices in case of other benefits**

6.—(1) In section 39 of the Contributions and Benefits Act (rate of widowed mother's allowance and widow's pension) after subsection (2) insert—

“(2A) In its application by virtue of subsection (1) above, section 44(4) below is to be read as if for the first amount specified in that provision there were substituted a reference to the amount prescribed for the purposes of this subsection.”.

(2) In section 39C of the Contributions and Benefits Act (rate of widowed parent's allowance and bereavement allowance)—

(a) for subsection (2) substitute—

“(1A) In its application by virtue of subsection (1) above, section 44(4) below is to be read as if for the first amount specified in that provision there were substituted a reference to the amount prescribed for the purposes of this subsection.

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(2) The weekly amount of a bereavement allowance is an amount equal to the amount prescribed for the purposes of subsection (1A) above.”; and

(b) in subsection (3) for the words “or (as the case may be) section 44 below by virtue of subsection (1) or (2) above” substitute “ by virtue of subsection (1) above ”.

(3) Subsections (1) and (2) have effect in relation to the tax year designated by the Secretary of State by an order under section 5(4) of the Pensions Act 2007 (c. 22) and subsequent tax years.

(4) The Department must exercise its power to prescribe amounts for the purposes of the new sections 39(2A) and 39C(1A) (inserted by subsections (1) and (2)) in such a way as to secure that, at any time before the coming into force of the first provision made under the new section 132A that alters the amount of the basic pension, the amounts prescribed are equal to the amount of the basic pension for the time being.

(5) In subsection (4) “the amount of the basic pension” means the first amount specified in section 44(4) of the Contributions and Benefits Act (weekly rate of Category A retirement pension).

*Additional pension: deemed earnings factors*

**Deemed earnings factors for purposes of additional pension**

7.—(1) After section 44A of the Contributions and Benefits Act insert—

**“44B Deemed earnings factors: 2010–11 onwards**

(1) This section applies to 2010–11 and subsequent tax years.

(2) For the purposes of section 44(6)(za) above, if any of Conditions A to C in subsections (3) to (5) below is satisfied for a relevant year to which this section applies, a pensioner is deemed to have an earnings factor for that year which—

(a) is derived from so much of his earnings as did not exceed the applicable limit and 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.

(3) Condition A is that the pensioner would, apart from this section, have an earnings factor for the year—

(a) equal to or greater than the qualifying earnings factor (“the QEF”) for the year, but

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- (b) less than the low earnings threshold for the year.
- (4) Condition B is that the pensioner—
  - (a) would, apart from this section and section 44C below, have an earnings factor for the year less than the QEF for the year, but
  - (b) is entitled to an aggregate amount of earnings factor credits for that year under section 44C below equal to the difference between the QEF for the year and the earnings factor mentioned in paragraph (a) above.
- (5) Condition C is that the pensioner is entitled to 52 earnings factor credits for that year under section 44C below.
- (6) This section has effect in relation to the flat rate introduction year and any subsequent tax year as if—
  - (a) subsection (2)(b) above referred to an aggregate of earnings factors greater than the QEF, but less than the low earnings threshold, for the year (rather than to one equal to that threshold); and
  - (b) Condition A in subsection (3) above (and the reference to it in subsection (2) above) were omitted.
- (7) In this section—
  - (a) “the applicable limit” has the same meaning as in section 44 above;
  - (b) “the low earnings threshold” means the low earnings threshold for the year concerned as specified in section 44A above; and
  - (c) in subsections (3) and (4) above, any reference to the pensioner’s earnings factor for a relevant year is to be construed in accordance with section 44(6)(za) above.

#### **44C Earnings factor credits**

(1) This section applies, for the purposes of Conditions B and C in section 44B(4) and (5) above, to 2010–11 and subsequent tax years.

(2) In respect of each week—

- (a) which falls in a relevant year to which this section applies, and
- (b) in respect of which a pensioner is eligible for earnings factor enhancement,

the pensioner is entitled to an earnings factor credit equal to 1/52 of the QEF for that year.

This is subject to subsection (5) below.

(3) A pensioner is eligible for earnings factor enhancement in respect of a week if one or more of the following apply—



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- (a) he was a relevant carer in respect of that week for the purposes of section 23A above (see section 23A(3));
  - (b) carer's allowance was payable to him for any part of that week, or 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) severe disablement allowance was payable to him for any part of that week;
  - (d) long-term incapacity benefit was payable to him for any part of that week or would have been so payable but for the fact that—
    - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3 to this Act, 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;
  - (e) he satisfies such other conditions as may be prescribed.
- (4) In subsection (3)(d)(ii) above “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.
- (5) For the purposes of Condition B in section 44B(4) above a person is not entitled to an aggregate amount of earnings factor credits in respect of a year that is greater than the difference referred to in that Condition.
- (6) For the purposes of this section a week that falls partly in one tax year and partly in another is to be treated as falling in the year in which it begins and not in the following year.
- (7) In section 44B above and this section—
- (a) “the QEF” means the qualifying earnings factor, and
  - (b) any reference to a person being entitled to an earnings factor credit of a particular amount (or to an aggregate amount of earnings factor credits) for a year is a reference to the person being treated as having for that year an earnings factor (within the meaning of section 44(6)(za) above) of the amount in question by virtue of subsection (2) above.”.
- (2) Part 6 of Schedule 1 contains consequential and related amendments.

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*Additional pension: simplification of accrual rates*

**Additional pension: removal of accrual band from 2010–11**

8.—(1) Schedule 4A to the Contributions and Benefits Act (additional pension) is amended as follows.

(2) In Part 2 (surplus earnings factor) in paragraph 2 (calculation of amount where there is a surplus in pensioner's earnings factor)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;
- (b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 2A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”;

(c) <sup>F1</sup>.....

(3) In Part 3 (contracted-out employment) in paragraph 5 (calculation of amount A)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;
- (b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 4A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”.

(4) In paragraph 7 (calculation of amount B second case)—

- (a) in sub-paragraph (4) after “2009” insert “ where the tax year concerned falls before 2010–11 ”;

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(b) after sub-paragraph (4) insert—

“(4A) The appropriate table for persons attaining pensionable age on or after 6th April 2009 where the tax year concerned is 2010–11 or a subsequent tax year is as follows—

**TABLE 6A**

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding AUEL	10”.

(5) <sup>F2</sup> .....

(6) For the heading for that Schedule substitute “ ADDITIONAL PENSION: ACCRUAL RATES FOR PURPOSES OF SECTION 45(2)(c) ”.

**Textual Amendments**

- F1** S. 8(2)(c) repealed (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 116, 118(2)(c), [Sch. 10 Pt. 6](#)
- F2** S. 8(5) repealed (15.12.2008) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 116, 118(2)(c), [Sch. 10 Pt. 6](#)

**Additional pension: simplified accrual rates as from flat rate introduction year**

**9.—**(1) Section 45 of the Contributions and Benefits Act (the additional pension in a Category A retirement pension) is amended as follows.

(2) In subsection (2) (calculation of the weekly rate of additional pension) after paragraph (c) add “; and

(d) in relation to the flat rate introduction year and subsequent tax years, the weekly equivalent of the amount calculated in accordance with Schedule 4B to this Act.”.

(3) In subsection (3A) (tax years for which weekly rate is calculated by reference to Schedule 4A) at the end of paragraph (b) add “ before the flat rate introduction year ”.

(4) In section 121 of the Contributions and Benefits Act (interpretation of Parts 1 to 6) in subsection (1) at the appropriate place insert—

““the flat rate introduction year” means such tax year as may be designated as such by order;”.

(5) In Schedule 2—

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- (a) Part 1 inserts a new Schedule 4B into the Contributions and Benefits Act;
- (b) Part 2 makes provision for up-rating the flat rate accrual amount introduced by the new Schedule 4B; and
- (c) Part 3 contains consequential and related amendments.

### **Additional pension: upper accrual point**

**10.—**(1) In section 22 of the Contributions and Benefits Act (earnings factors)—

- (a) in subsection (2A) (person's earnings factors to be treated as derived only from so much of his earnings as did not exceed the upper earnings limit etc.) for “the upper earnings limit” substitute “ the applicable limit ”; and
- (b) after that subsection insert—

“(2B) “The applicable limit” means—

- (a) in relation to a tax year before the flat rate introduction year, the upper earnings limit;
- (b) in relation to the flat rate introduction year or any subsequent tax year, the upper accrual point.”.

(2) In section 44 of the Contributions and Benefits Act (Category A retirement pension)—

- (a) in subsection (6) (meaning of references to earnings factors) in paragraph (za) for “the upper earnings limit” substitute “ the applicable limit ”;
- (b) in subsection (7) at the end add—

“(c) “the applicable limit” means—

- (i) in relation to a tax year before the flat rate introduction year, the upper earnings limit;
- (ii) in relation to the flat rate introduction year or any subsequent tax year, the upper accrual point.”.

(3) <sup>F3</sup> .....

(4) Part 7 of Schedule 1 contains consequential amendments.

(5) Whenever the Secretary of State makes an order under section 12 of the Pensions Act 2007 (c. 22), the Department may make a corresponding order for Northern Ireland.

(6) An order under subsection (5) is subject to negative resolution.

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#### Textual Amendments

- F3** S. 10(3) repealed (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(2)(c), **Sch. 10 Pt. 6**

### *Increase in state pension age*

#### **Increase in pensionable age for men and women**

**11.**—(1) Schedule 3 amends Article 123 of, and Part 1 of Schedule 2 to, the Pensions Order for the purpose of increasing the pensionable age for men and women<sup>F4</sup> ....

(2) Part 8 of Schedule 1 contains consequential amendments.

(3) The amendments made by that Part of that Schedule have effect as from [<sup>F5</sup>6th December 2018].

#### Textual Amendments

- F4** Words in s. 11(1) omitted (2.6.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(2), **Sch. 1 para. 5(a)**
- F5** Words in s. 11(3) substituted (2.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), s. 34(2), **Sch. 1 para. 5(b)**

## **PART 2**

### **OCCUPATIONAL AND PERSONAL PENSION SCHEMES**

#### *Contracting-out*

#### **Conversion of guaranteed minimum pensions**

**12.**—(1) After section 9(1) of the Pension Schemes Act (contracted-out scheme: requirement for guaranteed minimum pension) insert—

“(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1)(a) and (b) if the conditions specified in section 20B are satisfied.”.

(2) After section 13(1) of that Act (minimum pension for survivors) insert—

“(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 20B are satisfied.”.

(3) Before section 21 of that Act (before the italic cross-heading) insert—

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## **“Conversion of guaranteed minimum pension into other benefits: introduction**

**20A** In this section and sections 20B to 20H—

- (a) the rules specified in sections 9(1)(a) and (b) and 13(1) are referred to as the “guaranteed minimum pension rules”,
- (b) “GMP conversion” means amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules,
- (c) a “GMP-converted scheme” is a scheme which has been subject to GMP conversion,
- (d) “the conversion date” means the date on which that amendment takes effect,
- (e) “the pre-conversion benefits” means the benefits provided under the scheme immediately before the conversion date (disregarding money purchase benefits),
- (f) “the post-conversion benefits” means the benefits which are provided under the converted scheme (disregarding money purchase benefits),
- (g) “the converted scheme” means the scheme as it has effect immediately after conversion, and
- (h) “the trustees” in relation to a scheme means the trustees, managers or other persons responsible under the scheme for effecting amendments of it.

### **The conversion conditions**

**20B.**—(1) This section specifies the conditions referred to in sections 9(1A) and 13(1A) (for exemption from the requirement to guarantee a minimum pension).

(2) Condition 1 is that the post-conversion benefits must be actuarially at least equivalent to the pre-conversion benefits.

(3) Condition 2 is that if the earner was entitled immediately before the conversion date to the payment of a pension under the scheme, the converted scheme does not provide for a reduction of, or have the effect of reducing, the amount of that pension immediately after conversion.

(4) Condition 3 is that the post-conversion benefits must not include money purchase benefits, apart from any money purchase benefits provided under the scheme immediately before the conversion date.

(5) Condition 4 is that the converted scheme provides survivors' benefits in accordance with section 20D in such circumstances, and during such periods, as are prescribed by regulations.

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*Status: Point in time view as at 07/06/2012.*

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(6) Condition 5 is that the procedural requirements of section 20E have been complied with.

(7) In applying these conditions to a scheme in respect of an earner—

- (a) it is immaterial whether or not on the conversion date the scheme was also converted in respect of other earners, and
- (b) it is immaterial (except for Condition 2) whether or not on the conversion date the earner was entitled to the payment of a pension under the scheme.

### **Actuarial equivalence**

**20C** Regulations may make provision for determining actuarial equivalence for the purpose of Condition 1 of section 20B.

### **Survivors' benefits**

**20D.**—(1) This section specifies the benefits mentioned in Condition 4 of section 20B.

(2) The first benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widow, she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—

- (a) beginning with 6th April 1978, and
- (b) ending with 5th April 1997.

(3) The second benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widower or surviving civil partner, he or she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—

- (a) beginning with 6th April 1988, and
- (b) ending with 5th April 1997.

### **Procedural requirements**

**20E.**—(1) This section specifies the procedural requirements that must be complied with in order to satisfy Condition 5 of section 20B.

(2) The employer in relation to the scheme must consent to the GMP conversion in advance.

- (3) The trustees must take all reasonable steps to—
- (a) consult the earner in advance, and

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(b) notify all members, and survivors, affected by the GMP conversion before, or as soon as is reasonably practicable after, the conversion date.

(4) The Commissioners for Her Majesty's Revenue and Customs must be notified on or before the conversion date—

- (a) that the GMP conversion will occur or has occurred, and
- (b) that it affects the earner.

### **Transfer out**

**20F.**—(1) Regulations may prescribe—

- (a) restrictions on the transfer of the earner's accrued rights under a GMP-converted scheme;
- (b) conditions which must be complied with on the transfer of the earner's accrued rights under a GMP-converted scheme.

(2) Section 16(2) and (5) shall apply to regulations under this section.

(3) Where a member of a non-GMP-converted scheme makes an application under section 91(1), the trustees may with his consent adjust any guaranteed cash equivalent so as to reflect rights that would have accrued if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 20B.

### **Powers to amend schemes**

**20G.**—(1) The trustees of an occupational pension scheme may by resolution modify it so as to effect GMP conversion (whether in relation to present earners, pensioners or survivors) in accordance with the conditions of section 20B.

(2) The subsisting rights provisions within the meaning of Article 67 of the Pensions (Northern Ireland) Order 1995 shall not apply to a power conferred by an occupational pension scheme to modify the scheme in so far as the power enables GMP conversion in accordance with the conditions of section 20B.

(3) Where a scheme is amended to effect GMP conversion the trustees may include other amendments which they think are necessary or desirable as a consequence of, or to facilitate, the GMP conversion.

(4) Where an occupational pension scheme is being wound up, the trustees may, before the winding up is completed, adjust rights under the scheme so as to reflect what would have happened if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 20B.

(5) In the application of section 20E by virtue of subsection (1) above, a reference to the earner includes a reference to a pensioner or survivor whose pension is subjected to GMP conversion.



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### **Enforcement of GMP conversion conditions**

**20H.**—(1) If the Regulatory Authority thinks that the conditions of section 20B have not been satisfied in relation to an amendment, modification or adjustment effected in accordance with any of sections 9(1A), 13(1A), 20F and 20G, the Regulatory Authority may make an order declaring the amendment, modification or adjustment void—

- (a) in respect of a specified person or class of person,
- (b) to a specified extent, and
- (c) as from a specified time.

(2) Where the Regulatory Authority makes an order under subsection (1) it may—

- (a) require the trustees of the scheme concerned to take specified steps;
- (b) declare that specified action of the trustees shall not be treated as a contravention of the scheme if it would not have been a contravention if the order under subsection (1) had not been made.

(3) An order may be made under subsection (1) before or after the amendment, modification or adjustment takes effect.

(4) If the Regulatory Authority thinks that the process of effecting a GMP conversion of a scheme has been commenced and that a relevant condition of section 20B is not being complied with, or may not be complied with, the Regulatory Authority may by order—

- (a) prohibit the taking of further steps in the GMP conversion (whether generally or in relation to specified steps), and
- (b) require the trustees of the scheme to take specified steps before resuming the process of GMP conversion.

(5) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) shall apply to a trustee who has failed to take all reasonable steps to secure compliance with the conditions of section 20B in relation to an amendment, modification or adjustment effected in accordance with any of sections 9(1A), 13(1A), 20F and 20G.”.

(4) In section 5(2A) of that Act (requirements for certification) for “sections 9 to 19” substitute “sections 9 to 20E”.

(5) At the end of section 43 of that Act (deductions from social security payments) add—

“(9) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, he would have been entitled but for the amendment of a scheme so that it no longer contains the guaranteed minimum pension rules.

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(10) Where the earner's accrued rights have been transferred after the amendment of the scheme, in making the calculation under subsection (9) the Commissioners shall assume the application of section 12(1) after the transfer.

(11) In making the calculation under subsection (9) the Commissioners shall ignore any effect of the scheme being wound up.”.

(6) In Article 92(5) of the Pensions (Northern Ireland) Order 2005 (NI 1) (Pensions Regulator: special procedure) after sub-paragraph (t) insert—

“(ta) a power under section 20H of the Pension Schemes Act;”.

(7) At the end of Part 1 of Schedule 2 to that Order (reserved regulatory functions: Pension Schemes Act) add—

“**3A** A power under section 20H (compliance with conditions of conversion of guaranteed minimum pension).”.

(8) Subsection (9) applies where—

- (a) a person has been in receipt of a guaranteed minimum pension and a Category A or Category B retirement pension,
- (b) the guaranteed minimum pension has been increased in accordance with section 11(1) of the Pension Schemes Act or the Category A or Category B retirement pension has been increased in accordance with paragraph 5 of Schedule 5 to the Contributions and Benefits Act (increase of pension where commencement of guaranteed minimum pension postponed),
- (c) the pension scheme under which the guaranteed minimum pension is paid is subject to GMP conversion, and
- (d) an order under section 132 of the Administration Act would have applied to the person in respect of the increase mentioned in paragraph (b) but for the scheme having been subject to GMP conversion.

(9) The person's Category A or Category B retirement pension shall be increased by the amount by which it would have increased as a result of the order.

(10) If paragraph 5 of Schedule 5 to the Contributions and Benefits Act (increase of pension for survivor of “S”) would apply to a person but for the fact that the scheme of which S was a member was subject to GMP conversion before S's death, the paragraph shall apply to the person (with any necessary modifications) despite that fact.

(11) In subsections (8)(c) and (d) and (10) “GMP conversion” has the meaning given by section 20A of the Pension Schemes Act inserted by subsection (3).

(12) In section 181 of the Pension Schemes Act (Assembly, etc. control of regulations and orders) in subsection (2) after “the Department under section” insert “ 20B(5) ”.

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#### Commencement Information

- II** S. 12 wholly in operation at 6.4.2009; s. 12 not in operation at Royal Assent see s. 21(1)(a); s. 12 in operation for certain purposes at 3.3.2009 and in operation at 6.4.2009 for all other purposes by S.R. 2009/75, art. 2

### Abolition of contracting-out for defined contribution pension schemes

**13.—(1)** Any certificate which is either—

- (a) a contracting-out certificate in relation to a money purchase contracted-out scheme, or
- (b) an appropriate scheme certificate,

and is in force immediately before the abolition date, ceases to have effect on that date.

(2) In this section—

“the abolition date” means the day appointed under section 21 for the coming into operation of subsection (1);

“contracting-out certificate”, “money purchase contracted-out scheme” and “appropriate scheme certificate” have the meanings given by section 176(1) of the Pension Schemes Act (as in force immediately before that day).

(3) In Schedule 4—

- (a) Parts 1 and 2 contain amendments which are consequential on, or related to, the provision made by subsection (1), and
- (b) Part 3 contains savings relating to amendments made by Part 1.

(4) The amendments made by Part 1 of that Schedule have effect as from the abolition date (but any power to make regulations conferred by those amendments may be exercised at any time so as to make regulations having effect as from the abolition date).

(5) The Department may by regulations make—

- (a) such consequential, incidental or supplemental provision, and
- (b) such transitional, transitory or saving provision,

as it thinks necessary or expedient in connection with, or in consequence of, the provisions of subsection (1) and Schedule 4.

(6) Regulations under subsection (5) may in particular amend, repeal or revoke any statutory provision (whenever passed or made).

(7) Subject to subsections (8) to (10), regulations under this section are subject to negative resolution.

(8) Regulations under this section which amend or repeal any relevant statutory provision—

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- (a) must be laid before the Assembly after being made; and
  - (b) take effect on such date as may be specified in the regulations, but (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of 6 months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.
- (9) This subsection applies to regulations made under this section which—
- (a) but for subsection (10), would be subject to negative resolution, and
  - (b) are contained in a statutory rule which includes any regulations subject to the confirmatory procedure.
- (10) Any regulations to which subsection (9) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (11) Before the Department makes any regulations by virtue of subsection (5), it must consult such persons as it considers appropriate.
- (12) Subsection (11) does not apply—
- (a) to regulations made for the purpose only of consolidating other regulations revoked by them,
  - (b) in a case where it appears to the Department that by reason of urgency consultation is inexpedient,
  - (c) to regulations made before the end of the period of 6 months beginning with the coming into operation of subsection (5),
  - (d) to regulations which—
    - (i) state that they are consequential upon a specified statutory provision, and
    - (ii) are made before the end of the period of 6 months beginning with the coming into operation of that provision, or
  - (e) to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.
- (13) In this section—
- “the confirmatory procedure” means the procedure described in subsection (8);
  - “relevant statutory provision” means a statutory provision contained in—
    - (a) an Act of the Parliament of Northern Ireland;
    - (b) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 (c. 28);
    - (c) an Act of the Assembly; or
    - (d) an Act of the Parliament of the United Kingdom.

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#### **Modifications etc. (not altering text)**

- C1** S. 13(4) excluded (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), ss. 85\(2\)\(b\), 118\(1\); S.R. 2012/119, art. 2\(a\)](#)

#### **Commencement Information**

- I2** S. 13 partly in force; s. 13 except (1) in force at Royal Assent, 11.2.2008, see s. 21(1)(b)  
**I3** S. 13(1) in operation at 6.4.2012 by [S.R. 2012/115, art. 2\(1\)\(a\)](#)

### *Dispute resolution*

#### **Dispute resolution arrangements**

**14.—(1)** Article 250 of the Pensions (Northern Ireland) Order 2005 (NI 1), which substitutes new Articles 50 to 50B for Article 50 of the Pensions Order, is amended as follows.

(2) In paragraph (1) of the new Article 50 (requirement for dispute resolution arrangements) after “arrangements” insert “ complying with the requirements of this Article ”.

(3) In paragraph (2) of that Article, for “such arrangements as are required by this Article” substitute “ arrangements ”.

(4) After paragraph (4) of that Article insert—

“(4A) The dispute resolution arrangements may make provision for securing that an application for the resolution of a pension dispute may not be made to the trustees or managers unless—

(a) the matters in dispute have been previously referred to a person of a description specified in the arrangements (“the specified person”) in order for him to consider those matters, and

(b) the specified person has given his decision on those matters,

and for enabling the specified person's decision to be confirmed or replaced by the decision taken by the trustees or managers on the application, after reconsidering those matters.”.

(5) After paragraph (5) of that Article insert—

“(5A) In a case where a reference is made to the specified person in accordance with provision made under paragraph (4A), paragraph (5) applies in relation to the specified person as it applies in relation to the trustees or managers in a case where an application for the resolution of a pension dispute is made to them.”.

(6) In paragraph (6) of that Article, after “arrangements” insert “ in pursuance of paragraph (4) ”.

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(7) In paragraph (1) of the new Article 50B (dispute resolution procedure) for “under Article 50 must” substitute “ in pursuance of Article 50(4) must (in accordance with Article 50(6)) ”.

(8) For paragraph (3) of that Article substitute—

“(3) The procedure—

- (a) must include provision requiring an application to which paragraph (3A) applies to be made by the end of such reasonable period as is specified;
- (b) may include provision about the time limits for making such other applications for the resolution of pension disputes as are specified.

(3A) This paragraph applies to—

- (a) any application by a person with an interest in a scheme as mentioned in Article 50A(1)(e), and
- (b) any application by a person with an interest in a scheme as mentioned in Article 50A(1)(f) who is claiming to be such a person as is mentioned in Article 50A(1)(e).”.

(9) In paragraph (4) of that Article, in sub-paragraph (c), after “required” insert “ in relation to such an application ”.

(10) After paragraph (4) of that Article insert—

“(4A) The provision made under paragraph (4)(c) may include provision for decisions of the trustees or managers to be taken on their behalf by one or more of their number.”.

*Actuarial guidance*

**Removal of Department's role in approving actuarial guidance**

**15** Schedule 5 contains amendments removing requirements for, or powers to require, certain forms of actuarial guidance to be approved by the Department.

**PART 3**

**PERSONAL ACCOUNTS DELIVERY AUTHORITY**

**Initial function of the Personal Accounts Delivery Authority**

**16** <sup>F6</sup> .....

*Status: Point in time view as at 07/06/2012.*

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**Textual Amendments**

**F6** S. 16 repealed (15.12.2008) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 65(1), 116, 118(1)(2)(a)(g), **Sch. 10 Pt. 1** (with s. 73)

**Management of the Authority**

**17** <sup>F7</sup> .....

**Textual Amendments**

**F7** S. 17 repealed (5.7.2010) by Personal Accounts Delivery Authority Winding Up (Consequential Provisions) Order (Northern Ireland) 2010 (S.R. 2010/212), **art. 2(a)**

**PART 4**  
**GENERAL**

**Review of operation of Act**

**18.—**(1) The Department must, before the end of 2014, prepare a report on the operation of the provisions of this Act.

(2) The Department may prepare subsequent reports on the operation of the provisions of this Act.

(3) The Department must lay a copy of any report prepared under this section before the Assembly.

**Consequential etc. provision, repeals and revocations**

**19.—**(1) The Department may by order make—

- (a) such supplementary, incidental or consequential provision, or
- (b) such transitory, transitional or saving provision,

as it considers appropriate for the general purposes, or any particular purposes, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(2) Schedule 6 contains repeals and revocations.

(3) The following repeals have effect on the date on which this section comes into operation—

- (a) the repeals in Part 2 of Schedule 6 of the provisions of the Pensions Order other than paragraphs 15 and 17 of Schedule 2 to that Order;

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- (b) the repeal in Part 2 of Schedule 6 of paragraph 90 of Schedule 24 to the Civil Partnership Act 2004 (c. 33);
- (c) the repeals in Parts 3 and 4 of Schedule 6.
- (4) The following repeals and revocations have effect on 6th April 2010—
  - (a) the repeals and revocations in Part 1 of Schedule 6;
  - (b) the repeals in Part 2 of that Schedule other than those falling within subsection (3).
- (5) The repeals and revocations in Part 6 of that Schedule have effect on the abolition date (within the meaning of section 13).
- (6) The other repeals contained in that Schedule have effect on the date on which they come into operation by virtue of an order made under section 21.
- (7) An order made under subsection (1) is subject to negative resolution.
- (8) In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) (social security: amendments following certain orders), at the end of paragraph (2) add “ the Pensions Act 2007 ”.

### **Interpretation**

**20.**—(1) In this Act—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992 (c. 8);

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“the Department” means the Department for Social Development;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

“the Pensions Order” means the Pensions (Northern Ireland) Order 1995 (NI 22);

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“tax year” has the same meaning as in Parts 1 to 6 of the Contributions and Benefits Act (see section 121(1) of that Act).

(2) In the application, for the purposes of this Act, of section 39(2) of the Interpretation Act (Northern Ireland) 1954 (time beginning on a particular day), omit the word “not”.

### **Commencement**

**21.**—(1) The following provisions of this Act shall come into operation on such day or days as the Department may by order appoint—



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- (a) section 12;
- (b) section 13(1), Part 2 of Schedule 4 and Part 7 of Schedule 6;
- (c) section 15, Schedule 5 and Part 8 of Schedule 6;
- (d) Part 5 of Schedule 6.

(2) An order under subsection (1) may make such provision as the Department considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into operation of any provision falling within subsection (1).

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**Subordinate Legislation Made**

- P1** [S. 21\(1\)](#) power partly exercised: 29.2.2008 appointed for specified provisions by [S.R. 2008/65, art. 2](#);  
3.3.2009 and 6.4.2009 appointed for specified provision by [S.R. 2009/75, art. 2](#)

**Short title**

**22** This Act may be cited as the Pensions Act (Northern Ireland) 2008.

**Status:**

Point in time view as at 07/06/2012.

**Changes to legislation:**

Pensions Act (Northern Ireland) 2008 is up to date with all changes known to be in force on or before 28 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.