



2012 CHAPTER 3

Part 3

Occupational Pension Schemes

Indexation and revaluation

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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—

“**2A.**—(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 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 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

Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Part 3. (See end of Document for details)

(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

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for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.”.

Commencement Information

II S. 20 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(e)

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.

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(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—

- (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.”.

Commencement Information

I2 S. 21 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(f)

Pension Protection Fund

Pension Protection Fund

22. Schedule 4 (which makes provision relating to the Pension Protection Fund) has effect.

Commencement Information

I3 S. 22 in operation at 7.6.2012 for specified purposes by S.R. 2012/233, art. 2(2)(k)

I4 S. 22 in operation at 2.7.2012 for specified purposes and 23.7.2012 for further specified purposes by S.R. 2012/265, art. 002(03)(b)(04)(b)

I5 S. 22 in operation at 27.3.2013 in so far as not already in operation by S.R. 2013/83, art. 2

Miscellaneous

Payment of surplus to employer: transitional power to amend scheme

23.—(1) Article 228 of the Pensions (Northern Ireland) Order 2005 (payment of surplus to employer: transitional power to amend scheme) is amended as follows.

(2) In paragraph (1) after “scheme” insert—

- “(a) which is one to which Article 37 of the 1995 Order applies, and
(b)”.

(3) After paragraph (2) insert—

“(2A) But paragraph (2) does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”.

(4) In paragraph (3) for “then applied” substitute “ applied immediately before the coming into operation of Article 227 ”.

(5) In paragraph (6)—

(a) after sub-paragraph (a) insert—

“(aa) may be exercised even if the payments to which it relates are, to any extent, payments to which paragraph (2) does not apply,”;

(b) in sub-paragraph (b) for “only be exercised once” substitute “ be exercised, after the coming into operation of section 23 of the Pensions Act (Northern Ireland) 2012, only once (whether or not also exercised before 6 April 2011) ”;

(c) in sub-paragraph (c) for “five years after the coming into operation of this Article” substitute “ on 6 April 2016 ”.

(6) After paragraph (6) insert—

“(6A) A resolution passed under this Article after the coming into operation of section 23 of the Pensions Act (Northern Ireland) 2012 may amend or revoke a resolution passed under this Article before 6 April 2011.”.

(7) The amendments made by this section do not affect the continued operation of any resolution passed under Article 228(3) or (4) of the Pensions (Northern Ireland) Order 2005 before 6 April 2011.

Contribution notices and financial support directions

24.—(1) Article 34 of the Pensions (Northern Ireland) Order 2005 (contribution notices where avoidance of employer debt) is amended as follows.

Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Part 3. (See end of Document for details)

(2) In paragraphs (5)(c)(i) and (6)(b)(ii) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.

(3) After paragraph (13) add—

“(14) In this Article “a warning notice” means a notice given as mentioned in Article 91(2)(a).”.

(4) Article 39 of the Pensions (Northern Ireland) Order 2005 (financial support directions) is amended as follows.

(5) In paragraph (9) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.

(6) After paragraph (11) add—

“(12) In this Article “a warning notice” means a notice given as mentioned in Article 91(2)(a).”.

(7) In Article 91 of the Pensions (Northern Ireland) Order 2005 (exercise of regulatory functions: standard procedure) after paragraph (6) insert—

“(6A) Paragraph (6B) applies in relation to a warning notice given to a person—

- (a) in respect of a contribution notice under Article 34, or
- (b) in respect of a financial support direction under Article 39.

(6B) Regulations may provide that no determination notice in respect of the contribution notice or the financial support direction may be given after the end of the prescribed period beginning with the day on which the warning notice is given.”.

Commencement Information

I6 S. 24 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(g)

Technical amendment to Schedule 4 to the Pensions Act (Northern Ireland) 2008

25. In Schedule 4 to the Pensions Act (Northern Ireland) 2008 (abolition of contracting-out for defined contribution pension schemes) in paragraph 59(4) for paragraphs (b) and (c) substitute—

- “(b) in the definition of “the percentage for contributing earners”—
 - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
 - (ii) omit paragraph (b) and the preceding “and”;
- (c) in the definition of “the percentage for non-contributing earners”—

Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Part 3. (See end of Document for details)

- (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
- (ii) omit paragraph (b) and the preceding “and”.

Technical amendment to section 38(2) of the Pension Schemes (Northern Ireland) Act 1993

26.—(1) In section 38 of the Pension Schemes (Northern Ireland) Act 1993 (alteration of rates of contributions applicable under section 37) in subsection (2) for “paragraph 2(3)” substitute “the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)”.

(2) After that subsection insert—

“(3) Until paragraph 59(4) of Schedule 4 to the Pensions Act (Northern Ireland) 2008 comes into operation, subsection (2) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.”.

Changes to legislation:

There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2012, Part 3.