
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART III

STATE PENSIONS

Equalisation of pensionable age and of entitlement to certain benefits [^{F1}and increase in pensionable age]

123. Schedule 2, of which—

- (a) Part I has effect to equalise pensionable age for men and women progressively [^{F2}and then to increase it] ,
- (b) Part II makes provision for bringing equality for men and women to certain pension and other benefits, and
- (c) Part III makes consequential amendments of enactments,

has effect.

F1 Words in art. 123 heading added (11.2.2008) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\), s. 11\(1\), Sch. 3 para. 1](#)

F2 Words in art. 123(a) substituted (2.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), s. 34\(2\), Sch. 1 para. 4](#)

Art. 124 rep. by 2002 c. 21

Additional pension: calculation of surpluses

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

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

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

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

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

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

- (i) his earnings factors derived from Class 1 contributions actually paid by him in respect of that year; and

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

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

(4) Subject to paragraphs (5)^[F3], (5A)] and (6), this Article has effect in relation to a person (“the pensioner”) who attains pensionable age after 5th April 2000.

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

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

^[F3](5A) This Article has effect in the case of additional pension falling to be calculated under sections 44 and 45 of the Contributions and Benefits Act by virtue of section 39C(1) of that Act (widowed parent's allowance), including Category B retirement pension payable under section 48BB(2), if the pensioner's spouse—

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

(6) This Article has effect where additional pension falls to be calculated under sections 44 and 45 of the Contributions and Benefits Act as applied by section ^{F4}...^[F5]48B(2) or 48BB(5)] of that Act (other Category B retirement pension) if—

- (a) the pensioner attains pensionable age after 5th April 2000, and
- (b) the pensioner's spouse has not attained pensionable age on or before that date.

F3 1999 NI 11

F4 Word in art. 125(6) omitted (6.4.2016) by virtue of [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), [Sch. 12 para. 62](#)

F5 1999 NI 11

Contribution conditions

126. In Schedule 3 to the Contributions and Benefits Act (contribution conditions), in paragraph 5(3)(a) (conditions for widowed mother's allowance, widow's pension and Category A and Category B retirement pension), after “class” insert “or been credited (in the case of 1987–88 or any subsequent year) with earnings”.

Up-rating of pensions increased under section 52 of Contributions and Benefits Act

127. For section 136 of the Administration Act substitute—

“Up-rating under section 132 of pensions increased under section 52(3) of Contributions and Benefits Act.

136.—(1) This section applies in any case where a person is entitled to a Category A retirement pension with an increase, under section 52(3) of the Contributions and Benefits Act, in the additional pension on account of the contributions of a spouse who has died.

(2) Where in the case of any up-rating order under section 132 above—

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- (a) the spouse's final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
 - (b) the person's final relevant year was an earlier tax year,
- then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the spouse's contributions.
- (3) Where in the case of any up-rating order under section 132 above—
- (a) the person's final relevant year is the tax year preceding the tax year in which the up-rating order comes into force, but
 - (b) the spouse's final relevant year was an earlier tax year,
- then the up-rating order shall not have effect in relation to that part of the additional pension which is attributable to the person's contributions.”.

Graduated retirement benefit

128. In section 62(1) of the Contributions and Benefits Act (graduated retirement benefit) after paragraph (a) insert—

- “(aa) for amending section 35(7) of that Act (persons to be treated as receiving nominal retirement pension) so that where a person has claimed a Category A or Category B retirement pension but—
- (i) because of an election under section 54(1) above, or
 - (ii) because he has withdrawn his claim for the pension,
- he is not entitled to such a pension, he is not to be treated for the purposes of the preceding provisions of that section as receiving such a pension at a nominal weekly rate;”.

Extension of Christmas bonus for pensioners

129.—(1) Section 146 of the Contributions and Benefits Act (Christmas bonus: interpretation) is amended as follows.

- (2) In subsection (1), after paragraph (k) insert—
- “(l) a mobility supplement”.
- (3) In subsection (2)—
- (a) after the definition of “attendance allowance” insert—
““mobility supplement” means a supplement awarded in respect of disablement which affects a person's ability to walk and for which the person is in receipt of war disablement pension;” ,
 - (b) in the definition of “retirement pension”, omit “, if paid periodically”,
 - (c) in paragraph (b) of the definition of “unemployability supplement or allowance”, after sub-paragraph (iv) insert
“or
(v) under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;” .

Contributions paid in error

130. After section 61 of the Contributions and Benefits Act insert—

“Contributions paid in error.

61A.—(1) This section applies in the case of any individual if—

- (a) the individual has paid amounts by way of primary Class 1 contributions which, because the individual was not an employed earner, were paid in error, and
- (b) prescribed conditions are satisfied.

(2) Regulations may, where—

- (a) this section applies in the case of any individual, and
- (b) the Department is of the opinion that it is appropriate for the regulations to apply to the individual,

provide for entitlement to, and the amount of, additional pension to be determined as if the individual had been an employed earner and, accordingly, those contributions had been properly paid.

(3) The reference in subsection (2) above to additional pension is to additional pension for the individual or the individual's spouse falling to be calculated under section 45 above for the purposes of—

- (a) Category A retirement pension,
- (b) Category B retirement pension for widows or widowers,
- (c) widowed mother's allowance and widow's pension, and
- (d) incapacity benefit (except in transitional cases).

(4) Regulations may, where—

- (a) this section applies in the case of any individual, and
- (b) the Department is of the opinion that it is appropriate for regulations made by virtue of Article 6(8) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (provision during transition from invalidity benefit to incapacity benefit for incapacity benefit to include the additional pension element of invalidity pension) to have the following effect in the case of the individual,

provide for the regulations made by virtue of that Article to have effect as if, in relation to the provisions in force before the commencement of that Article with respect to that additional pension element, the individual had been an employed earner and, accordingly, the contributions had been properly paid.

(5) Where such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual, regulations under paragraph 8(1)(m) of Schedule 1 to this Act may not require the amounts paid by way of primary Class 1 contributions to be repaid.

(6) Regulations may provide, where—

- (a) such provision made by regulations as is mentioned in subsection (2) or (4) above applies in respect of any individual,
- (b) prescribed conditions are satisfied, and
- (c) the amount calculated by reference to the contributions in question has been paid in respect of that individual by way of minimum contributions under section 39 of the Pensions Act (contributions to personal pension schemes),

for that individual to be treated for the purposes of that Act as if that individual had been an employed earner and, accordingly, the amount had been properly paid.”.

Minor amendments

131.—(1) In section 23(1) of the Contributions and Benefits Act (contribution conditions: supplemental), for “22(1)(a)” substitute “22(1)”.

(2) Omit section 54(4) of that Act (effect on advance claims for retirement pension of deferral of entitlement).

^{F6}(3) For section 55 of that Act substitute—

“Increase of retirement pension where entitlement is deferred.

55.—(1) Where a person's entitlement to a Category A or Category B retirement pension is deferred, Schedule 5 to this Act shall have effect for increasing the rate of pension.

(2) For the purposes of this Act a person's entitlement to a Category A or Category B retirement pension is deferred if and so long as that person—

(a) does not become entitled to that pension by reason only—

(i) of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim), or

(ii) in the case of a Category B retirement pension payable by virtue of a spouse's contributions, of the spouse not satisfying those conditions with respect to his Category A retirement pension; or

(b) in consequence of an election under section 54(1) above, falls to be treated as not having become entitled to that pension;

and, in relation to any such pension, “period of deferment” shall be construed accordingly.”.

(4) In section 121(1) of that Act (interpretation of Parts I to VI), after the definition of “week” insert—

““working life” has the meaning given by paragraph 5(8) of Schedule 3 to this Act.” .

(5) In paragraph 5(8) of Schedule 3 to that Act (contribution conditions: meaning of “working life”) for “this paragraph” substitute “Parts I to VI of this Act”.

F6 prosp. rep. by 2005 NI 1
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Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)