



Pensions Act 2011

2011 CHAPTER 19

PART 3

OCCUPATIONAL PENSION SCHEMES

VALID FROM 01/01/2012

Indexation and revaluation

VALID FROM 03/01/2012

19 Indexation and revaluation

- (1) Section 84 of the Pension Schemes Act 1993 (basis of revaluation of accrued benefits) is amended as follows.
- (2) In subsection (5)(b) for the words from “maintains” to “index” substitute “, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain”.
- (3) Omit subsection (6).
- (4) Schedule 3 to the 1993 Act (which sets out methods for revaluing accrued benefits for the purposes of section 84 of the 1993 Act) is amended as follows.
- (5) After paragraph 1(4) insert—
 - “(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—

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“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(7) are to be taken to be the percentages which would have been specified in the Secretary of State's order—
 - (a) had the following been substituted for paragraph 2(3)(a)—
 - “(a) the percentage increase in the retail prices index for the reference period in relation to the revaluation period (“the inflation percentage”), and”,
 - (b) had, in paragraph 2(3A)(a), the words “the percentage which appears to the Secretary of State to be” been omitted,
 - (c) had paragraph 2(4) been omitted,
 - (d) had, in paragraph 2(5), the words “sub-paragraph (3)(a)” been substituted for “that sub-paragraph”,
 - (e) had, in paragraph (b) of the definitions of “the higher maximum rate” and “the lower maximum rate” in paragraph 2(6), the words “retail prices index” been substituted for “general level of prices”, and
 - (f) had the following been inserted after paragraph 2(6)—

“(6A) In this paragraph “retail prices index” means—

 - (a) the general index of retail prices (for all items) published by the Statistics Board (or any predecessor), or
 - (b) where that index is not published for a month, any substituted index or figures published by the Board (or any predecessor).”
- (7) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.
- (8) For subsections (3) and (4) substitute—
 - “(3) Subsection (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 twelve months by at least the relevant percentage.
 - (4) For the purposes of subsection (3) the relevant percentage is—

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- (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) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if subsection (4ZB) applies to the rate or part.
- (4ZB) Subject to subsection (4ZD), this subsection applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being increased, and since the relevant time has always been increased, at intervals of not more than twelve 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 subsection (4ZB) “the relevant time” means—
 - (a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
 - (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 subsection (4ZC)(b), subsection (4ZB) does not apply to the rate or part unless, immediately before the transfer, subsection (4ZB) (read with this subsection if relevant) applied to the rate or part by reference to the scheme from which the pension was transferred (or would have applied had subsection (4ZB) been in force 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 subsections (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 subsections (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 subsections (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

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(b) where that index is not published for a month, any substituted index or figures published by the Board.”

- (9) Section 40 of the Welfare Reform and Pensions Act 1999 (indexation of certain pensions giving effect to pension credit rights) is amended as follows.
- (10) In subsection (1) for “increases in the retail prices index” substitute “ relevant percentage increases ”.
- (11) After subsection (2A) insert—
- “(2AA) In subsection (1) “relevant percentage increases” means percentage increases estimated by the Secretary of State from time to time for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.”

20 Pension compensation: annual increases in periodic compensation

- (1) In Schedule 7 to the Pensions Act 2004 (pension compensation provisions) paragraph 28 (annual increase in periodic compensation) is amended as follows.
- (2) In sub-paragraph (3) in paragraph (a) of the definition of “appropriate percentage” for “retail prices index” substitute “ general level of prices in Great Britain ”.
- (3) After sub-paragraph (3) insert—
- “(3A) For the purposes of paragraph (a) of the definition of “appropriate percentage” in sub-paragraph (3), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.
- (3B) The Secretary of State must publish any decision made under sub-paragraph (3A).”
- (4) In paragraph 37(1) of that Schedule (definitions) omit the definition of “retail prices index”.
- (5) In Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) paragraph 17 (annual increase in periodic compensation) is amended as follows.
- (6) In sub-paragraph (4) in paragraph (a) of the definition of “the appropriate percentage” for “retail prices index” substitute “ general level of prices in Great Britain ”.
- (7) After sub-paragraph (4) insert—
- “(4A) For the purposes of paragraph (a) of the definition of “the appropriate percentage” in sub-paragraph (4), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.
- (4B) The Secretary of State must publish any decision made under sub-paragraph (4A).”

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21 Indexation requirements for cash balance benefits

- (1) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.
- (2) In subsection (1) for “subsection (6)” substitute “ subsections (6) and (7) ”.
- (3) After subsection (6) insert—
 - “(7) This section 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 section 51ZB), and
 - (b) first comes into payment on or after the day on which section 21 of the Pensions Act 2011 comes into force.
 - (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 9(2) of the Pension Schemes Act 1993, 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 section 51ZA of the Pensions Act 1995 insert—

“51ZB Meaning of “cash balance benefit”

- (1) For the purposes of section 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.
- (4) The promise mentioned in subsection (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 subsection (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;

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- (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.”

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