



Pensions Act (Northern Ireland) 2012

CHAPTER 3

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Pensions Act (Northern Ireland) 2012

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Pensions Act (Northern Ireland) 2012

2012 CHAPTER 3

An Act to make provision relating to pensions; and for connected purposes.

[1st June 2012]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

STATE PENSION

Equalisation of and increase in pensionable age for men and women

1.—(1) In Schedule 2 to the Pensions (Northern Ireland) Order 1995 (equalisation of and increase in pensionable age for men and women) paragraph 1 is amended as follows.

(2) In sub-paragraph (1) for “6th April 1959” substitute “6th December 1953”.

(3) Omit sub-paragraph (4).

(4) In table 1 for the entries (in both columns) relating to each of the periods from “6th April 1953 to 5th May 1953” to “6th March 1955 to 5th April 1955” substitute—

“6th April 1953 to 5th May 1953

6th May 1953 to 5th June 1953

6th June 1953 to 5th July 1953

6th July 1953 to 5th August 1953

6th August 1953 to 5th September 1953

6th September 1953 to 5th October 1953

6th October 1953 to 5th November 1953

6th November 1953 to 5th December 1953

6th July 2016

6th November 2016

6th March 2017

6th July 2017

6th November 2017

6th March 2018

6th July 2018

6th November 2018”.

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(5) For table 2 substitute—

“TABLE 2

(1)	(2)
<i>Period within which birthday falls</i>	<i>Day pensionable age attained</i>
6th December 1953 to 5th January 1954	6th March 2019
6th January 1954 to 5th February 1954	6th May 2019
6th February 1954 to 5th March 1954	6th July 2019
6th March 1954 to 5th April 1954	6th September 2019
6th April 1954 to 5th May 1954	6th November 2019
6th May 1954 to 5th June 1954	6th January 2020
6th June 1954 to 5th July 1954	6th March 2020
6th July 1954 to 5th August 1954	6th May 2020
6th August 1954 to 5th September 1954	6th July 2020
6th September 1954 to 5th October 1954	6th September 2020”.

(6) In sub-paragraph (7) for “5th April 1960” substitute “5th October 1954”.

(7) Schedule 1 (equalisation of and increase in pensionable age for men and women: consequential amendments) has effect.

Duty to report on the impact of socio-economic background (including health indicators) in relation to retirement pension

2. The Department for Social Development shall, within two years of the date on which this Act receives Royal Assent, lay a report before the Assembly on the impact of socio-economic background (including health indicators) in relation to retirement pension.

Abolition of certain additions to the state pension

3.—(1) In section 132 of the Social Security Administration (Northern Ireland) Act 1992 (annual up-rating of benefits)—

(a) in subsection (3)(a) for “person who is also entitled to a Category A or Category B retirement pension” substitute “relevant person”;

(b) after subsection (3) insert—

“(3ZA) In subsection (3)(a) “relevant person” means a person—

(a) who became entitled to a Category A or Category B retirement pension before the day on which section 3(1) of the Pensions Act (Northern Ireland) 2012 comes into operation, and

(b) to whom sums became payable by virtue of section 11(1) of the Pensions Act (including sums payable by virtue of section 13(2) of that Act) before that day.

(3ZB) In subsection (3ZA)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.”.

(2) In that section after subsection (3A) insert—

“(3B) Subsection (3A) does not have effect unless—

- (a) the member became entitled to a Category A or Category B retirement pension before the day on which section 3(2) of the Pensions Act (Northern Ireland) 2012 comes into operation, and
- (b) the member’s postponed pension under the scheme became payable before that day.

(3C) In subsection (3B)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.”.

(3) In that section omit subsection (5).

(4) The repeal made by subsection (3) does not affect the application of section 132(5) of that Act in relation to a person who became entitled to a Category A or Category B retirement pension before the day on which subsection (3) comes into operation.

(5) In Schedule 5 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (pension increase or lump sum where entitlement to retirement pension is deferred) omit paragraphs 5, 5A, 6, 6A and 7.

(6) Schedule 2 (repeals and amendments consequential on subsection (5)) has effect.

(7) The repeals made by subsection (5) do not affect the application of paragraphs 5 to 6A of Schedule 5 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in a case where—

- (a) W became entitled to a Category A or Category B retirement pension before the day on which subsection (5) comes into operation, and
- (b) S died before that day;

(and section 132 of the Social Security Administration (Northern Ireland) Act 1992 continues to apply accordingly).

(8) The statutory provisions amended by Schedule 2 have effect in relation to such a case as if the repeals and amendments made by that Schedule (apart from the amendments made by paragraph 3(7) and (8)) had not been made.

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(9) In subsection (7) “W” and “S” have the same meaning as in paragraph 5 of Schedule 5 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(10) In this section a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day.

Consolidation of additional pension

4. Schedule 3 (consolidation of additional pension) has effect.

PART 2

AUTOMATIC ENROLMENT

Automatic re-enrolment where scheme membership interrupted

5.—(1) In section 2 of the Pensions (No. 2) Act (Northern Ireland) 2008 (continuity of scheme membership) for subsection (3) substitute—

“(3) Subsection (1) is not contravened if by virtue of section 5 the jobholder becomes an active member of an automatic enrolment scheme with effect from—

- (a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or
- (b) a day within the prescribed period (if a period is prescribed).”.

(2) In section 5 of the Pensions (No. 2) Act (Northern Ireland) 2008 (automatic re-enrolment) after subsection (1) insert—

“(1A) This section also applies to a jobholder who—

- (a) is aged at least 22,
- (b) has not reached pensionable age, and
- (c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder’s automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).

(1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.”.

(3) For subsection (4) of that section substitute—

“(4) Regulations may provide for subsection (2) not to apply in relation to a jobholder who in prescribed circumstances—

- (a) has ceased to be an active member of a qualifying scheme because of any action or omission by the jobholder, or by the employer at the jobholder’s request, or
- (b) is treated as not being an active member of a qualifying scheme because the jobholder has given notice under section 8.”.

(4) In subsection (8) of that section omit “, after the automatic enrolment date,”.

(5) In section 6 of the Pensions (No. 2) Act (Northern Ireland) 2008 (timing of automatic re-enrolment) in subsection (4)—

- (a) in paragraph (a) omit “at any time after the jobholder’s automatic enrolment date.”;
- (b) in that paragraph omit “or a qualifying scheme of which the jobholder is an active member ceases to be such a scheme”;
- (c) in paragraph (b) omit “or the employer”;
- (d) in paragraph (c) for “time” substitute “event”.

(6) In section 54 of the Pensions (No. 2) Act (Northern Ireland) 2008 (inducements)—

- (a) in subsection (1)(a) for “within the period prescribed under section 2(3)” substitute “with effect from—
 - (i) the day after the membership is given up, or
 - (ii) a day within the prescribed period (if a period is prescribed)”;
- (b) in subsection (1)(b) for “within the period prescribed under section 2(3)” substitute “with effect from—
 - (i) the day on which the jobholder became an active member of the scheme to which the notice relates, or
 - (ii) a day within the prescribed period (if a period is prescribed)”.

Earnings trigger for automatic enrolment and re-enrolment

6.—(1) In section 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (automatic enrolment) for subsection (1) substitute—

- “(1) This section applies to a jobholder—
- (a) who is aged at least 22,
 - (b) who has not reached pensionable age, and
 - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”.

(2) After subsection (6) of that section insert—

“(6A) In this section “earnings” has the meaning given in section 13(3).

(6B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”.

(3) In section 5 of the Pensions (No. 2) Act (Northern Ireland) 2008 (automatic re-enrolment) for subsection (1) substitute—

- “(1) This section applies to a jobholder—
- (a) who is aged at least 22,
 - (b) who has not reached pensionable age, and
 - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”.

(4) After subsection (7) of that section insert—

“(7A) In this section “earnings” has the meaning given in section 13(3).

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(7B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”.

Postponement or disapplication of automatic enrolment

7.—(1) In section 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (automatic enrolment) at the end of subsection (7) add—

“This is subject to section 4.”.

(2) For section 4 of the Pensions (No. 2) Act (Northern Ireland) 2008 substitute—

“Postponement or disapplication of automatic enrolment

4.—(1) Where—

(a) an employer (E) gives to a person employed by E on E’s staging date (“the worker”) notice that E intends to defer automatic enrolment for the worker until a date specified in the notice (“the deferral date”), and

(b) any prescribed requirements in relation to the notice are met,
the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(2) Where—

(a) a person (“the worker”) begins to be employed by an employer (E) after E’s staging date,

(b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and

(c) any prescribed requirements in relation to the notice are met,
the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(3) Where—

(a) a person (“the worker”) employed by an employer (E) becomes, after E’s staging date, a jobholder to whom section 3 applies,

(b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and

(c) any prescribed requirements in relation to the notice are met,
the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(4) Where this subsection applies, section 3(2) does not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.

(5) A notice under this section may be given on or before the starting day or within a prescribed period after that day.

(6) The deferral date may be any date in the period of 3 months after the starting day.

(7) An employer who gives a worker a notice under subsection (1) or (2) may not give the worker a notice under subsection (3) in relation to any occasion on or before the deferral date specified in the notice on which the worker becomes a jobholder to whom section 3 applies.

(8) In this section—

“staging date”, in relation to an employer of a particular description, means the date prescribed under section 12 in relation to employers of that description;

“starting day” means—

- (a) E’s staging date, in the case of a notice under subsection (1);
- (b) the day on which the worker begins to be employed by E, in the case of a notice under subsection (2);
- (c) the day on which the worker becomes a jobholder to whom section 3 applies, in the case of a notice under subsection (3).”.

(3) In section 5 of the Pensions (No. 2) Act (Northern Ireland) 2008 (automatic re-enrolment) omit subsection (5).

(4) In section 6 of the Pensions (No. 2) Act (Northern Ireland) 2008 (timing of automatic re-enrolment)—

- (a) omit subsections (3) and (6);
- (b) in subsection (4) for “second case” substitute “first case”;
- (c) in subsection (5) for “third case” substitute “second case”.

(5) In section 7 of the Pensions (No. 2) Act (Northern Ireland) 2008 (jobholder’s right to opt in) omit paragraph (b) of subsection (2) and the “or” before it.

(6) In section 30 of the Pensions (No. 2) Act (Northern Ireland) 2008 (transitional period for defined benefits and hybrid schemes) in subsection (7)—

- (a) for “applies, section” substitute “applies—
 - (a) section”;
- (b) for “day on which” substitute “day with effect from which”;
- (c) at the end add—
 - “(b) section 4 applies as if—
 - (i) the reference in subsection (1) to the employer’s staging date were a reference to the employer’s first enrolment date;
 - (ii) in that subsection, for “the worker’s automatic enrolment date is the deferral date” there were substituted “the day with effect from which arrangements fall to be made by virtue of section 30 in respect of the jobholder is changed to the deferral date”;
 - (iii) in subsections (4) to (6), references to the starting day were references to the day with effect from which arrangements

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would by virtue of this section fall to be made in respect of the jobholder.”.

Timing of automatic re-enrolment

8. In section 6 of the Pensions (No. 2) Act (Northern Ireland) 2008 (timing of automatic re-enrolment) in subsection (1)(b) for “three years” substitute “2 years and 9 months”.

Review of earnings trigger and qualifying earnings band

9.—(1) In section 14 of the Pensions (No. 2) Act (Northern Ireland) 2008 (review of qualifying earnings band) and in the heading to that section after “review of” insert “earnings trigger and”.

(2) For the italic heading before section 13 of the Pensions (No. 2) Act (Northern Ireland) 2008 substitute—

“Qualifying earnings and earnings trigger”.

Rounded figures for earnings trigger and qualifying earnings band

10. After section 15 of the Pensions (No. 2) Act (Northern Ireland) 2008 insert—

“Power to specify rounded figures

15A.—(1) Whenever the Secretary of State makes an order under section 15A of the Pensions Act 2008 specifying rounded figures for the purposes of section 3(6B), 5(7B) or 13(2) of that Act, the Department may make an order specifying corresponding rounded figures for the purposes of section 3(6B), 5(7B) or 13(2) of this Act.

(2) A rounded figure so specified applies in place of the amount that would otherwise apply.”.

Qualifying schemes: administration charges

11.—(1) Section 16 of the Pensions (No. 2) Act (Northern Ireland) 2008 (qualifying schemes) is amended as follows.

(2) In subsection (3) for paragraph (a) substitute—

“(a) administration charges due from J while J is an active member exceed a prescribed amount,

(aa) administration charges due from former active members while J is an active member exceed a prescribed amount,

(ab) while J is an active member, the scheme contains provision under which administration charges that will be due from J when J is no longer an active member will exceed a prescribed amount, or will do so in particular circumstances,”.

(3) After that subsection insert—

“(4) For the purposes of subsection (3) administration charges are due from a person to the extent that—

- (a) any payments made to the scheme by, or on behalf or in respect of, the person,
 - (b) any income or capital gain arising from the investment of such payments, or
 - (c) the value of the person's rights under the scheme,
- may be used to defray the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members.

(5) In subsection (3)(aa) "former active member" means a person who at some time after the automatic enrolment date was both a jobholder and an active member but is no longer an active member."

Test scheme standard for schemes that produce sum of money for provision of benefits

12.—(1) In section 22 of the Pensions (No. 2) Act (Northern Ireland) 2008 (test scheme standard) after subsection (7) add—

"(8) In the case of a scheme under which a sum of money is made available for the provision of benefits to a relevant member, references in this section to pensions are to be read as references to such sums."

(2) For section 23 of the Pensions (No. 2) Act (Northern Ireland) 2008 (test scheme) substitute—

"Test scheme

23.—(1) A test scheme is an occupational pension scheme which satisfies—

- (a) the requirement in subsection (2),
- (b) the requirement in subsection (4) or requirements prescribed under subsection (6) (as appropriate), and
- (c) any further requirements that are prescribed.

(2) The scheme must either—

- (a) provide for a member to be entitled to a pension commencing at the appropriate age and continuing for life, or
- (b) provide for a sum of money to be made available for the provision of benefits to a member commencing at the appropriate age and continuing for life.

(3) The appropriate age is 65 or any higher age prescribed.

(4) In the case of a scheme that provides entitlement to a pension as mentioned in subsection (2)(a), the annual rate of the pension at the appropriate age must be—

- (a) $\frac{1}{120}$ th of average qualifying earnings in the last three tax years preceding the end of pensionable service,

multiplied by

- (b) the number of years of pensionable service, up to a maximum of 40.

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(5) Section 13(1) (qualifying earnings) applies for the purposes of subsection (4) as if the reference to a pay reference period were a reference to a tax year.

(6) In the case of a scheme that provides for a sum of money to be made available as mentioned in subsection (2)(b), regulations must prescribe requirements relating to that sum.”.

Certification that alternative to quality requirement is satisfied

13.—(1) Section 28 of the Pensions (No. 2) Act (Northern Ireland) 2008 (sections 20, 24 and 26: certification that quality requirement is satisfied) is amended as follows.

(2) For the heading substitute “**Certification that quality requirement or alternative requirement is satisfied**”.

(3) In subsection (1) for “any jobholder of an employer” substitute “each of an employer’s relevant jobholders”.

(4) After subsection (1) insert—

“(1A) In this section—

(a) “relevant jobholder” means a jobholder to whom the certificate in question applies;

(b) a reference to a scheme includes a reference to part of a scheme.”.

(5) In subsection (2)—

(a) for “state that” substitute “state—

(a) that”;

(b) for “the jobholders” substitute “relevant jobholders”;

(c) at the end add “, or

(b) that, in relation to those jobholders, the scheme is in that person’s opinion able to satisfy a prescribed alternative requirement throughout the certification period.”.

(6) In subsection (6)—

(a) in paragraph (e) for “any jobholder” substitute “any relevant jobholder”;

(b) in paragraph (f) for “jobholders” substitute “relevant jobholders”.

(7) In section 32 of the Pensions (No. 2) Act (Northern Ireland) 2008 (power to modify by resolution) in subsection (1)(b) for the words after “the scheme” substitute “to satisfy—

(i) the requirements contained in section 20(1),

(ii) those requirements as modified under section 24(1)(a), or

(iii) a requirement prescribed under section 28(2)(b).”.

Certification for non-UK schemes

14.—(1) Section 28 of the Pensions (No. 2) Act (Northern Ireland) 2008 (sections 20, 24 and 26: certification that quality requirement is satisfied) is amended as follows.

(2) After subsection (3) insert—

“(3A) This section also applies to—

- (a) a money purchase scheme that is an occupational pension scheme within section 18(b);
- (b) a personal pension scheme of a prescribed description for which provision is made under section 27;
- (c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.”.

(3) In subsection (4) at the end add—

“(d) for a scheme within subsection (3A), means a prescribed requirement.”.

(4) In paragraphs (e) and (f) of subsection (6) for “section 26 agreements” substitute “contribution agreements”.

(5) In subsection (8)—

(a) for ““section 26 agreements” means the agreement” substitute

““contribution agreements” means—

(a) the agreement”;

(b) at the end add “, or

(b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.”.

Transitional period for defined benefits and hybrid schemes to be optional

15.—(1) Section 30 of the Pensions (No. 2) Act (Northern Ireland) 2008 (transitional period for defined benefits and hybrid schemes) is amended as follows.

(2) In subsection (3) for “Where this subsection applies” substitute “If by the end of the prescribed period the employer has given the jobholder notice that the employer intends to defer automatic enrolment until the end of the transitional period for defined benefits and hybrid schemes”.

(3) In subsection (4) for “at any time” substitute “a notice is given under subsection (3) and at any later time”.

(4) After subsection (7) insert—

“(7A) The Department may by regulations make provision about the form and content of a notice under subsection (3).”.

Arrangements where transitional conditions cease to be satisfied

16.—(1) Section 30 of the Pensions (No. 2) Act (Northern Ireland) 2008 (transitional period for defined benefits and hybrid schemes) is amended as follows.

(2) In subsection (5) after “money purchase scheme” insert “or personal pension scheme”.

(3) In subsection (6)(b) omit “(in accordance with section 20(1))”.

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Power of managers to modify by resolution

17. In section 32 of the Pensions (No. 2) Act (Northern Ireland) 2008 (power of trustees to modify by resolution) in subsection (1) and in the heading after “trustees” insert “or managers”.

No indemnification for civil penalties

18. In Article 233 of the Pensions (Northern Ireland) Order 2005 (no indemnification for fines or civil penalties) in paragraph (1)(b)—

- (a) for “or section” substitute “, section”;
- (b) after “the Pension Schemes Act” insert “or section 40 or 41 of the Pensions (No. 2) Act (Northern Ireland) 2008”.

Power to exempt certain cross-border employment from enrolment duty

19. In Part 7 of the Pensions (Northern Ireland) Order 2005 (cross-border activities within European Union) after Article 268 insert—

“Exemption from enrolment duty under Part 1 of Pensions (No. 2) Act (Northern Ireland) 2008

268A. Regulations may provide for section 2(1), 3(2), 5(2), 7(3), 9(2) or 54 of the Pensions (No. 2) Act (Northern Ireland) 2008 (employer’s obligations regarding membership of a qualifying scheme) not to apply in relation to a person’s employment of—

- (a) an individual in relation to whom the person is a European employer, or
- (b) someone whom the person reasonably believes to be such an individual.”.

PART 3

OCCUPATIONAL PENSION SCHEMES

*Indexation and revaluation***Indexation and revaluation**

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 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 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—

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

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.

(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—

PART 3

- (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.”.

*Pension Protection Fund***Pension Protection Fund**

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

*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.

(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.”.

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”—

- (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;

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- (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.”.

PART 4

MONEY PURCHASE BENEFITS

Definition of money purchase benefits

27.—(1) In section 176 of the Pension Schemes (Northern Ireland) Act 1993 (interpretation), in the definition of “money purchase benefits” in subsection (1), for “which are not average salary benefits” substitute “which fall within section 176B”.

- (2) After section 176A of that Act insert—

“Money purchase benefits: supplementary

176B.—(1) This section applies for the purposes of the definition of “money purchase benefits” in section 176(1).

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purpose of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).”.

(3) In section 78 of the Pensions (No. 2) Act (Northern Ireland) 2008 (interpretation) in the definition of “money purchase benefits” for “which are not average salary benefits” substitute “which fall within section 78A”.

(4) After that section insert—

“Money purchase benefits: supplementary

78A.—(1) This section applies for the purposes of the definition of “money purchase benefits” in section 78.

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purpose of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).”.

(5) The amendments made by subsections (1) and (2) are to be regarded as having come into operation on 1 January 1997.

(6) The amendments made by subsections (3) and (4) are to be regarded as having come into operation at the same time as section 78 of the Pensions (No. 2) Act (Northern Ireland) 2008.

Transitional

28.—(1) The Department for Social Development may by regulations make transitional provision in relation to the coming into operation of the amendments in section 27.

(2) That provision includes in particular—

- (a) provision disapplying the amendments in section 27 in relation to an occupational or personal pension scheme which is wound up before the coming into operation of that section;
- (b) provision disapplying the amendments in section 27 to any extent, or as regards any period, in respect of an occupational or personal pension scheme in relation to which those amendments would otherwise have applied on the coming into operation of that section;
- (c) provision modifying the application of any statutory provision in respect of an occupational or personal pension scheme in relation to which the

PART 4

amendments in section 27 apply on the coming into operation of that section;

- (d) provision requiring trustees or managers of an occupational pension scheme in relation to which the amendments in section 27 apply on the coming into operation of that section to obtain an actuarial valuation of a description specified in the regulations.

(3) In subsection (2)—

- (a) “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;
- (b) “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Consequential and supplementary

29.—(1) The Department for Social Development may by regulations make consequential or supplementary provision in relation to the amendments made by section 27.

(2) In Article 280 of the Pensions (Northern Ireland) Order 2005 (modification of Order) in paragraph (2) after sub-paragraph (b) insert—

“(ba) Part 4 (scheme funding).”.

Power to make further provision

30.—(1) The Department for Social Development may by regulations amend for any purpose the definition of “money purchase benefit” in the Pension Schemes (Northern Ireland) Act 1993 or the Pensions (No. 2) Act (Northern Ireland) 2008.

(2) Regulations under this section may in particular amend the provisions inserted by section 27.

(3) Regulations under this section may include transitional, consequential or supplementary provision.

Regulations

31.—(1) Regulations under this Part may—

- (a) make different provision for different cases (including different provision for pension schemes of different descriptions);
- (b) provide for a person to exercise a discretion in dealing with any matter;
- (c) amend any statutory provision (within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954);
- (d) have retrospective effect.

(2) Regulations under this Part which amend an Act of Parliament or Northern Ireland legislation—

- (a) must be laid before the Assembly after being made;
- (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.

(3) Any other regulations under this Part are subject to negative resolution.

PART 5

MISCELLANEOUS AND GENERAL

Miscellaneous

Grants by the Department to advisory bodies etc.

32.—(1) Section 169 of the Pension Schemes (Northern Ireland) Act 1993 (grants by the Pensions Regulator to advisory bodies etc.) is amended as follows.

(2) After subsection (2) add—

“(3) The Department may make grants on such terms and conditions as the Department thinks fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.”.

(3) For the heading substitute “**Grants to advisory bodies etc.**”.

Service of documents and electronic working

33.—(1) After section 113 of the Pensions (No. 2) Act (Northern Ireland) 2008 insert—

“Service of documents and electronic working

113A. In Articles 2(7)(a), 277 and 278 of the 2005 Order (service of documents and electronic working) references to that Order are to be treated as including references to the following provisions of this Act—

Chapters 2 and 3 of Part 1;

section 59(1)(c);

Chapter 1 of Part 3.”.

(2) In section 59 of that Act (requirement to keep records) in subsection (1)(c) for “, on request, to the Regulator” substitute “to the Regulator on receiving a notification requesting them”.

General

Commencement

34.—(1) Any provision of Part 2 that amends another Act or Order so as—

(a) to modify a power to make an order or regulations, or

(b) to confer any such power,

comes into operation, for the purposes of the exercise of the power, on the day after this Act receives Royal Assent.

(2) The following provisions of this Act also come into operation on that day—

(a) section 1 and Schedule 1;

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- (b) section 23;
- (c) section 25;
- (d) section 26;
- (e) sections 28 to 31;
- (f) this section;
- (g) section 35.

(3) The other provisions of this Act come into operation on such day or days as the Department for Social Development may by order appoint.

(4) The Department for Social Development may by order make transitional, transitory or saving provision in connection with the coming into operation of any provision of this Act.

Short title

35. This Act may be cited as the Pensions Act (Northern Ireland) 2012.

SCHEDULES

SCHEDULE 1

Section 1.

EQUALISATION OF AND INCREASE IN PENSIONABLE AGE FOR MEN
AND WOMEN: CONSEQUENTIAL AMENDMENTS*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

1. In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview) in subsection (1A) for “6 April 1955” substitute “6 December 1953”.
2. In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) in subsection (1A) for “6 April 1955” substitute “6 December 1953”.
3. In section 2D (work-related activity) in subsection (9)(e) for “6 April 1955” substitute “6 December 1953”.

The Pensions (Northern Ireland) Order 1995 (NI 22)

4. In Article 123 (equalisation of and increase in pensionable age etc.) in paragraph (a) for the words from “progressively” (where it appears first) to the end of the paragraph substitute “and then to increase it”.

The Pensions Act (Northern Ireland) 2008 (c. 1)

5. In section 11 (increase in pensionable age for men and women)—
 - (a) in subsection (1) omit from “progressively” to the end;
 - (b) in subsection (3) for “6th April 2024” substitute “6th December 2018”.
6. In Schedule 3 (increase in pensionable age for men and women) omit paragraph 4(4).

SCHEDULE 2

Section 3.

ABOLITION OF CERTAIN ADDITIONS TO THE STATE PENSION:
CONSEQUENTIAL AMENDMENTS ETC.*The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

1. The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended as follows.
 2. In section 55 (pension increase or lump sum where entitlement to retirement pension is deferred) in subsection (2) for “paragraphs 4 to 7 make” substitute “paragraph 4 makes”.
 - 3.—(1) Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.
 - (2) Omit paragraph A1(4).

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(3) In paragraph 2(5)(a) omit “, 5, 5A, 6 or 6A”.

(4) Omit paragraph 2A.

(5) In paragraph 3B(5)(b)(i) omit “or paragraphs 5 to 6A of this Schedule”.

(6) Omit paragraph 3C(5).

(7) In paragraph 4(1A) after “6A” (in each place) insert “(as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)”.

(8) In paragraph 7B(5)(b)(i) after “Schedule” insert “(as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)”.

Repeals of spent enactments

4. The following provisions are repealed—

- (a) paragraph 40 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (b) paragraph 18(15) and (16) of Schedule 2 to the Pensions (Northern Ireland) Order 1995;
- (c) paragraph 6 of Schedule 9 to the Pensions (Northern Ireland) Order 2005;
- (d) paragraph 20 of Schedule 1 to the Pensions Act (Northern Ireland) 2008.

Section 4.

SCHEDULE 3

CONSOLIDATION OF ADDITIONAL PENSION

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

1.—(1) Section 45 (the additional pension in a Category A retirement pension) is amended as follows.

(2) In subsection (2) (as amended by section 81(3) of the Pensions (No. 2) Act (Northern Ireland) 2008) for “6th April 2020” substitute “a date specified for the purposes of this subsection by order (“the specified date”)”.

(3) In subsection (2A) (as inserted by section 81(4) of the Pensions (No. 2) Act (Northern Ireland) 2008)—

- (a) in the opening words for “a tax year after 5th April 2020” substitute “the tax year beginning with the specified date or a subsequent tax year”;
- (b) in paragraph (a) for “flat rate introduction” substitute “additional pension consolidation”;
- (c) for paragraph (b) substitute—

“(b) in relation to the additional pension consolidation year and subsequent years, the weekly equivalent of the amount calculated in accordance with Schedule 4B to this Act.”.

2. In section 46 (modifications of section 45 for calculating the additional pension in certain benefits) in subsection (5)(a) (as inserted by paragraph 6(3) of Schedule 3 to the Pensions (No. 2) Act (Northern Ireland) 2008) for “6th April 2020” substitute “date specified for the purposes of this subsection by order (“the specified date”)”.

3. In section 121(1) (interpretation of Parts 1 to 6) insert at the appropriate place—

““the additional pension consolidation year” means such tax year as may be designated as such by order;”.

4.—(1) Section 172 (Assembly etc. control of regulations and orders) is amended as follows.

(2) In subsection (4) after “(4A)” insert “, (4B)”.

(3) In subsection (4A) after “flat rate introduction year” insert “or the additional pension consolidation year”.

(4) After subsection (4A) insert—

“(4B) Subsection (4) above does not apply to a statutory rule by reason only that it contains an order under section 45(2).”.

5.—(1) Schedule 4B (additional pension: accrual rates for purposes of section 45(2)(d)) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1) in the opening words after “45(2)(d)” insert “or (2A)(b)”;

(b) in sub-paragraphs (1)(a) and (b) and (2) after “45(2)(d)” insert “or (2A)(b) (as the case may be)”.

(3) In paragraph 11 after “45(2)(d)” insert “or (2A)(b)”.

6.—(1) Schedule 4C (additional pension: consolidated amount for the purposes of section 45(2A)) (as inserted by Schedule 2 to the Pensions (No. 2) Act (Northern Ireland) 2008) is amended as follows.

(2) In paragraphs 1 and 2 for “flat rate introduction” substitute “additional pension consolidation”.

(3) Omit paragraph 3.

(4) In paragraphs 5(b) and 7(1) for “and (c)” (in each place) substitute “, (c) and (d)”.

(5) In paragraph 6 for “6th April 2020” substitute “the date specified for the purposes of section 45(2) of this Act”.

(6) In paragraph 7(1) for “6th April 2020” substitute “the date specified for the purposes of section 45(2)”.

(7) In paragraph 7(2)—

(a) in paragraph (b) after “2(2)(b),” insert “5(2)(b),”;

(b) after paragraph (b) insert—

“(c) in Schedule 4B, paragraphs 4, 5(b), 8(3), 9(2)(b) and (3) and 10(1)(b).”.

(8) After paragraph 7(2) insert—

“(3) Paragraph 1(1) of Schedule 4B applies as if a reference to the relevant years within section 45(2)(d) were a reference to the relevant years falling within the period beginning with the flat rate introduction year and ending immediately before the consolidation date.”.

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The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

7. In section 42 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits) in subsection (1A) (as inserted by section 82(2) of the Pensions (No. 2) Act (Northern Ireland) 2008) for “in tax year after 5th April 2020” substitute “on or after the date specified for the purposes of section 45(2) of that Act”.

8. In section 42A (retirement in tax year after 5th April 2020) (as inserted by section 82(3) of the Pensions (No. 2) Act (Northern Ireland) 2008)—

- (a) in subsection (1)(c) for “in tax year after 5th April 2020” substitute “on or after the date specified for the purposes of section 45(2) of that Act”;
- (b) in the heading for “**in tax year after 5th April 2020**” substitute “**on or after the specified date**”.

The Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)

9. In section 81 (consolidation of additional pension) in subsection (7) for “6th April 2020” substitute “the date specified for the purposes of section 45(2) of the Contributions and Benefits Act”.

Section 22.

SCHEDULE 4

PENSION PROTECTION FUND

Requirements to obtain actuarial valuations

1. The Pensions (Northern Ireland) Order 2005 is amended as follows.
2. In Article 54(3) (right to apply under Article 367 of the Insolvency (Northern Ireland) Order 1989)—
 - (a) for the words from “an actuarial” to the first “scheme” substitute “a determination made, or actuarial valuation obtained, in respect of the scheme by the Board under Article 127(2)”, and
 - (b) for “that Article” substitute “Article 127”.
- 3.—(1) Article 125 (effect of review of ill health pension) is amended as follows.
 - (2) In paragraph (4) after “which” insert “a determination under Article 127(2)(a) or”.
 - (3) In paragraph (5)(a) after “first” insert “makes a determination under Article 127(2)(a) or”.
4. In Article 126 (interpretation) in the definition of “scheme valuation” for “127” substitute “127(2)(b)”.
- 5.—(1) Article 127 (Board’s obligation to obtain valuation of assets and protected liabilities) is amended as follows.
 - (2) For paragraph (2) substitute—
 - “(2) The Board must, as soon as reasonably practicable—
 - (a) determine whether the condition in paragraph (2)(a) of the Article in question is satisfied, or

- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.
- (2A) Before doing so, it must give a notice stating whether it will make a determination under paragraph (2)(a) or obtain an actuarial valuation under paragraph (2)(b) to—
- (a) the trustees or managers of the scheme, and
 - (b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.”.
- (3) In paragraph (3) for “those purposes” substitute “the purposes of this Article”.
- (4) In paragraph (4) for “this Article” substitute “a determination made under paragraph (2)(a) or an actuarial valuation obtained under paragraph (2)(b)”.
- (5) In paragraph (5B) for “mentioned in paragraph (2)” substitute “of this Article”.
- (6) After paragraph (5B) insert—
- “(5C) The Board must issue a statement setting out how (subject to any provision made under paragraph (4)) it will make determinations under paragraph (2)(a).”.
- (7) In paragraph (6)—
- (a) after “paragraph (4),” insert “for the purposes of an actuarial valuation obtained under paragraph (2)(b)”, and
 - (b) for “sub-paragraphs (a) and (b) of that paragraph” substitute “paragraph (4)(a) and (b)”.
- (8) In paragraph (9)—
- (a) for “requires the” substitute “requires a determination to be made, or an”, and
 - (b) after “purposes of” insert “the determination or”.
- (9) In paragraph (10) for “requires the” substitute “requires a determination to be made, or an”.
- (10) In paragraph (11)(b)(ii) after “first” insert “makes a determination under paragraph (2)(a) or”.
6. After Article 127 insert—

“Determinations under Article 127

- 127A.—(1) Where the Board makes a determination under Article 127(2)(a) it must give a copy of the determination to—
- (a) the Regulator,
 - (b) the trustees or managers of the scheme, and
 - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (2) For the purposes of this Chapter a determination under Article 127(2)(a) is not binding until—

SCH. 4

- (a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and
- (b) if the determination is so reviewed—
 - (i) the review and any reconsideration,
 - (ii) any reference to the PPF Ombudsman in respect of the determination, and
 - (iii) any appeal against the PPF Ombudsman’s determination or directions,
 has been finally disposed of.

(3) For the purposes of determining whether or not the condition in Article 111(2)(a) or, as the case may be, Article 112(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under Article 127(2)(a) is conclusive.

This paragraph is subject to Article 156(3) and (4) (treatment of fraud compensation payments).

(4) Where a determination under Article 127(2)(a) becomes binding under this Article the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—

- (a) the Regulator,
- (b) the trustees or managers of the scheme, and
- (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

(5) A notice under paragraph (4) must be in the prescribed form and contain the prescribed information.”.

7.—(1) Article 128 (approval of valuation) is amended as follows.

(2) In paragraph (1) for “127” substitute “127(2)(b)”.

(3) In paragraph (2) for “that Article” substitute “Article 127”.

8. In Article 129(1) (binding valuations) for “127” substitute “127(2)(b)”.

9.—(1) Article 135 (application for Board to assume responsibility for schemes) is amended as follows.

(2) In paragraphs (2)(b) and (3)(b) for the words from “the valuation” to “scheme” substitute “the determination made by the Board or valuation obtained by the Board in respect of the scheme under Article 127(2)”.

(3) In paragraph (6) in sub-paragraphs (a)(ii) and (b)(ii) after “binding” insert “determination or”.

(4) In paragraph (10) for “under that Article” substitute “under Article 127(2)(b)”.

10. In Article 138(5)(b) (requirement to wind up scheme) after “that the” insert “determination made by the Board or”.

11.—(1) Article 142 (Board’s duty to assume responsibility for closed schemes) is amended as follows.

(2) For paragraph (3) substitute—

“(3) The Board must, as soon as reasonably practicable—

- (a) determine whether the condition in paragraph (1) is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of Article 127) of the scheme as at the relevant time.

(3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under paragraph (3)(a) or obtain an actuarial valuation under paragraph (3)(b).”.

(3) In paragraph (4) for “those purposes as it applies for the purposes mentioned in paragraph (2)” substitute “the purposes of this Article as it applies for the purposes”.

(4) In paragraph (5)—

- (a) for “a valuation obtained under paragraph (3)” substitute “a determination made under paragraph (3)(a) and a valuation obtained under paragraph (3)(b)”,
- (b) for “a valuation obtained under Article 127” substitute “a determination made under Article 127(2)(a) and a valuation obtained under Article 127(2)(b)”, and
- (c) after sub-paragraph (a) insert—

“(aa) Article 127A (determinations under Article 127), other than paragraphs (1)(c) and (4)(c) (duty to give copy of determinations to employer’s insolvency practitioner);”.

(5) In paragraph (6)—

- (a) after “Articles 127” insert “, 127A”,
- (b) omit “and” at the end of sub-paragraph (a), and
- (c) after that sub-paragraph insert—

“(aa) paragraph (3) of Article 127A applies as if the reference to Article 112(2)(a) included a reference to paragraph (1) of this Article, and”.

12.—(1) Article 144 (transfer notice) is amended as follows.

(2) In paragraph (3) for “valuation obtained under Article 127” substitute “determination made or valuation obtained under Article 127(2)”.

(3) In paragraph (4) after “until the” insert “determination made or”.

13.—(1) Schedule 8 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute—

“7B. A notice under Article 127(2A) (whether Board will make a determination or obtain an actuarial valuation).

7C. The failure by the Board either to—

- (a) make a determination under Article 127(2)(a), or
- (b) obtain an actuarial valuation under Article 127(2)(b).

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7D. A determination by the Board under Article 127(2)(a) (whether condition in Article 111(2)(a) or Article 112(2)(a) satisfied).”.

(3) After paragraph 14 insert—

“14A. A notice under Article 142(3A) (whether Board will make a determination or obtain an actuarial valuation).

14B. The failure by the Board either to—

(a) make a determination under Article 142(3)(a), or

(b) obtain an actuarial valuation under Article 142(3)(b).

14C. A determination by the Board under Article 142(3)(a) (whether condition in Article 142(1) satisfied).”.

Requirement to obtain protected benefits quotation

14. In Article 135(4)(a) of the Pensions (Northern Ireland) Order 2005 (application for Board to assume responsibility for scheme) after “form,” insert “or evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so,”.

15.—(1) Article 136 of the Pensions (Northern Ireland) Order 2005 (Board’s duty to assume responsibility for scheme) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Paragraph (2) applies where the application is accompanied by a protected benefits quotation.”.

(3) After paragraph (2) insert—

“(2A) Paragraph (2B) applies where—

(a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and

(b) the Board is satisfied that that is the case.

(2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.”.

(4) In paragraph (3)—

(a) after “paragraph (2)” insert “or (2B)”, and

(b) for “a determination notice” substitute “a notice to that effect (a “determination notice”)”.

(5) Omit paragraph (4).

(6) In paragraph (5)—

(a) after “in paragraph (2)” insert “or (2B)”, and

(b) for “under paragraph (2)” substitute “under that paragraph”.

(7) Omit paragraph (8).

(8) In paragraph (10) for “Regulations” substitute “Where paragraph (2) applies, regulations”.

(9) After paragraph (10) insert—

“(10A) The Board may, for the purposes of paragraph (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of Article 135).

(10B) A valuation under paragraph (10A) must be prepared in accordance with such requirements as may be prescribed.

(10C) Article 127(3) to (6) applies in relation to a determination under paragraph (2B) and a valuation under paragraph (10A) as it applies in relation to a determination under Article 127(2)(a) and an actuarial valuation obtained under Article 127(2)(b).

(10D) In the application of Article 127 by virtue of paragraph (10C)—

(a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of Article 135), and

(b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this Article.”.

16. In the following provisions of the Pensions (Northern Ireland) Order 2005 after “136(2)” insert “or (2B)”—

(a) Article 138(2)(c) (requirement to wind up certain schemes), and

(b) Article 156(4) and (5)(c) (fraud compensation regime).

Removal of restriction on transfer notices

17.—(1) The Pensions (Northern Ireland) Order 2005 is amended as follows.

(2) In Article 144(7) (transfer notice)—

(a) for “156(1) and (2)” substitute “156(2)”, and

(b) omit “within first 12 months of assessment period or”.

(3) Omit Article 156(1) (no transfer notice within first 12 months of assessment period).

Assembly control of orders and regulations

18. In Article 288(3) of the Pensions (Northern Ireland) Order 2005 (Assembly etc. control of orders and regulations) omit sub-paragraph (b) (the administration levy).

Pension credit members

19.—(1) Schedule 6 to the Pensions (Northern Ireland) Order 2005 (pension compensation provisions) is amended as follows.

(2) For paragraph 21 (pension credit members under normal benefit age at assessment date) substitute—

“21.—(1) This paragraph applies to a person who—

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- (a) is a pension credit member of the scheme immediately before the assessment date, but
 - (b) has not attained normal benefit age before that date.
- (2) But it applies only to the extent that the member's pension credit rights do not involve the member being credited by the scheme with notional pensionable service.
- (3) Paragraphs 15, 18 and 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.
- (4) In paragraph 15—
- (a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,
 - (b) in sub-paragraph (4) for the words from “the aggregate of” to the end substitute “the accrued amount”, and
 - (c) for sub-paragraph (5) substitute—
 - “(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the initial annual rate of the pension to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day.”.
- (5) In paragraph 18—
- (a) for sub-paragraph (1)(b) substitute—
 - “(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under Article 26(1)(b) of the 1999 Order.”, and
 - (b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.
- (6) In paragraph 19—
- (a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,
 - (b) in sub-paragraph (4) for the words from “the aggregate of” to the end substitute “the accrued amount”,
 - (c) for sub-paragraph (5) substitute—
 - “(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the amount of the scheme lump sum to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day.”, and
 - (d) omit sub-paragraph (6).
- (7) In this paragraph “transfer day” has the meaning given by Article 26 of the 1999 Order (creation of pension debits and credits).
- 21A.—(1) This paragraph applies to a person who—
- (a) is a pension credit member of the scheme immediately before the assessment date, but

(b) has not attained normal benefit age before that date.

(2) But it applies only to the extent that the member's pension credit rights involve the member being credited by the scheme with notional pensionable service.

(3) Paragraphs 15 to 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.

(4) In paragraph 15—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and

(b) for sub-paragraph (5) substitute—

“(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the initial annual rate of the pension to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day.”.

(5) In paragraph 16(2)(a) for the words from “day after” to “ended” substitute “transfer day”.

(6) In paragraph 17(2)(b) the reference to normal pension age is to be read as a reference to normal benefit age.

(7) In paragraph 18—

(a) for sub-paragraph (1)(b) substitute—

“(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under Article 26(1)(b) of the 1999 Order.”, and

(b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.

(8) In paragraph 19—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and

(b) for sub-paragraph (5) substitute—

“(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the amount of the scheme lump sum to which the deferred member would have been entitled in accordance with the admissible rules had the member attained normal benefit age on the transfer day.”.

(9) In this paragraph “transfer day” has the meaning given by Article 26 of the 1999 Order (creation of pension debits and credits).”.

(3) In each of the following after “21” insert “or 21A”—

(a) paragraph 25(1) (early payment of compensation),

(b) paragraph 25(3) (as amended by paragraph 12 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008),

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- (c) in paragraph 25B(4) (terminal illness lump sum) paragraph (b) of the definition of “relevant age”, and
 - (d) paragraph 28(8)(c) (annual increase in periodic compensation).
- (4) In paragraph 36(5)(a) (meaning of “pensionable service”) after “credit” insert “(except for the purposes of paragraphs 21 and 21A)”.

20. In the Pensions (No. 2) Act (Northern Ireland) 2008 omit paragraphs 10 and 11 of Schedule 6 (which amend paragraph 21 of Schedule 6 to the Pensions (Northern Ireland) Order 2005).

Postponement of compensation

21. Schedule 6 to the Pensions (Northern Ireland) Order 2005 (pension compensation provisions) is amended as follows.

22. For paragraph 25A (deferral of compensation) and the heading before it substitute—

“Postponement of compensation

25A.—(1) Regulations may prescribe circumstances in which, and conditions subject to which—

- (a) a person who becomes entitled to periodic compensation under paragraph 5, 8, 11 or 15 may elect to postpone the commencement of periodic compensation under that paragraph, and
- (b) a person who becomes entitled to lump sum compensation under paragraph 7, 10, 14 or 19 may elect to postpone the payment of lump sum compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 ceases to be postponed, the Board must determine—

- (a) the amount mentioned in sub-paragraph (3)(a) of that paragraph, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and
- (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to periodic compensation, are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) Where the payment of lump sum compensation under paragraph 7, 10, 14 or 19 ceases to be postponed, the Board must determine—

- (a) the relevant amount, as at the time the lump sum compensation would have been payable if its payment had not been postponed, and
- (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(5) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to lump sum compensation, are to the difference between the amounts in sub-paragraphs (4)(a) and (4)(b).

(6) In sub-paragraph (4) the “relevant amount” means (as appropriate)—

- (a) the amount mentioned in paragraph 7(2)(a),
- (b) the aggregate of the amounts mentioned in paragraph 10(2)(a) and (b),
- (c) the amount mentioned in paragraph 14(3)(a), or
- (d) the amount mentioned in paragraph 19(3)(a).”.

23.—(1) In paragraph 5(3) (periodic compensation for postponed pensioner at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(2) In paragraph 7(2) (lump sum compensation for postponed pensioner at assessment date) for the words from “the amount” to the end substitute “the aggregate of—

- (a) the amount of the scheme lump sum which would have been payable had the postponement ceased immediately before the assessment date, and
- (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”.

(3) In paragraph 8(3) (periodic compensation for active member over pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(4) In paragraph 10(2) (lump sum compensation for active member over pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after paragraph (b) insert “, and
- (c) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”.

(5) In paragraph 11(3) (periodic compensation for active member under pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—

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“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(6) In paragraph 14(3) (lump sum compensation for active member under pension age at assessment date) for “the protected amount” substitute “the aggregate of—

- (a) the protected amount, and
- (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”.

(7) In paragraph 15(3) (periodic compensation for deferred member under pension age at assessment date)—

- (a) omit “and” at the end of paragraph (a), and
- (b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.

(8) In paragraph 19(3) (lump sum compensation for deferred member under pension age at assessment date) for “the protected amount” substitute “the aggregate of—

- (a) the protected amount, and
- (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”.

(9) In paragraph 26 (compensation cap)—

- (a) in sub-paragraphs (3)(c) and (6)(e) for “14(3)” substitute “14(3)(a)”, and
- (b) in sub-paragraphs (3)(e) and (6)(g) for “19(3)” substitute “19(3)(a)”.

24.—(1) In paragraph 6 (periodic compensation for widow or widower of postponed pensioner at assessment date)—

- (a) in sub-paragraph (3) after “including” insert “any actuarial increase under paragraph 25A and”, and
- (b) after sub-paragraph (3) insert—

“(3A) If, on the day the postponed pensioner (“P”) died, commencement of P’s periodic compensation under paragraph 5 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of P’s death.”.

(2) In paragraph 9 (periodic compensation for widow or widower of active member over pension age at assessment date)—

- (a) in sub-paragraph (3) after “including” insert “any actuarial increase under paragraph 25A and”, and
- (b) after sub-paragraph (3) insert—

“(3A) If, on the day the active member (“A”) died, commencement of A’s periodic compensation under paragraph 8 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of A’s death.”.

(3) In paragraph 13 (periodic compensation for widow or widower of active member under pension age at assessment date)—

(a) in sub-paragraph (3)(a) after “including” insert “any actuarial increase under paragraph 25A and”,

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and

(c) after sub-paragraph (3) insert—

“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the active member (“A”) died commencement of A’s periodic compensation under paragraph 11 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of A’s death.”.

(4) In paragraph 18 (periodic compensation for widow or widower of deferred member under pension age at assessment date)—

(a) in sub-paragraph (3)(a) after “including” insert “any actuarial increase under paragraph 25A and”,

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and

(c) after sub-paragraph (3) insert—

“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the deferred member (“D”) died commencement of D’s periodic compensation under paragraph 15 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of D’s death.”.

25. In paragraph 24(1) (commutation of periodic compensation) for “becomes payable” substitute “commences”.

26.—(1) In paragraph 25B (eligibility for terminal illness lump sum)—

(a) in sub-paragraph (4) in the definition of “relevant age”—

(i) in paragraph (a) omit “or deferred” and “or (as the case may be) 25A”, and

(ii) in paragraph (b) omit “or deferred”, and

(b) after sub-paragraph (4) insert—

“(5) Sub-paragraph (6) applies where—

(a) the commencement of a person’s periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or

(b) the payment of a person’s lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph.

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(6) This paragraph applies as if—

- (a) the person first becomes entitled to compensation under the paragraph in question immediately after the period of postponement ends, and
- (b) in sub-paragraph (1)(b), for “if the person lived to the relevant age, the person would become entitled on attaining that age” there were substituted “if the period of postponement ended, the person would become entitled”.

(2) In paragraph 25E (effect of successful application for terminal illness lump sum) after sub-paragraph (6) insert—

“(7) Where on the granting of the application—

- (a) the commencement of a person’s periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or
- (b) the payment of a person’s lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph,

this paragraph applies as if the references to the person attaining the relevant age were references to the period of postponement ending.”.

27.—(1) Paragraph 28 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (3)—

- (a) in the definition of “underlying rate” for “any of the paragraphs mentioned in sub-paragraph (1)” substitute “paragraph 3 or 22”, and
- (b) after that definition insert—

““underlying rate” means, in the case of periodic compensation under paragraph 5, 8, 11 or 15, the aggregate of—

- (a) so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service,
- (b) so much of the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question as is attributable to post-1997 service, and
- (c) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date.”.

(3) In sub-paragraph (5)—

- (a) in paragraph (a) for the second “the” substitute “each”,
- (b) omit the “and” at the end of that paragraph, and
- (c) after paragraph (b) insert—

“(c) for the purposes of sub-paragraph (2), the definition of “underlying rate” in the case of periodic compensation under paragraph 5, 8, 11 or 15 applies as if the reference in paragraph (b) of the definition to the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question were a reference to that amount reduced by the commutation percentage, and

- (d) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that amount

would have been so attributable had no part of the periodic compensation been commuted.”.

(4) After sub-paragraph (5) insert—

“(5A) The amount mentioned in sub-paragraph (3)(aa) of paragraph 5, 8, 11 or 15 is attributable—

- (a) to post-1997 service, in so far as it relates to so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service, and
- (b) to pre-1997 service, in so far as it relates to so much of that amount as is attributable to pre-1997 service.

(5B) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 has been postponed by virtue of paragraph 25A, this paragraph applies as if the person first becomes entitled to periodic compensation under the paragraph in question on the day on which the periodic compensation commences.”.

28.—(1) In paragraph 29 (Board’s powers to alter rates of revaluation and indexation) after sub-paragraph (6) insert—

“(6A) A determination under sub-paragraph (2) which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of periodic compensation to a person is postponed by virtue of paragraph 25A, the determination applies as if the person first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”.

(2) In paragraph 30 (Department’s powers to vary percentage paid as compensation) after sub-paragraph (6) insert—

“(6A) An order under this paragraph which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of compensation to a person is postponed by virtue of paragraph 25A, the order applies as if the person first becomes entitled to the compensation immediately after the period of postponement ends.”.

Pension compensation sharing: postponement of compensation

29. Schedule 4 to the Pensions (No. 2) Act (Northern Ireland) 2008 (pension compensation payable on discharge of pension compensation credit) is amended as follows.

30.—(1) Omit paragraph 11 (deferral of compensation).

(2) In Part 4 after the Part heading insert—

“Postponement of compensation

16A.—(1) Regulations may prescribe circumstances in which, and conditions subject to which, a person who becomes entitled to periodic compensation under paragraph 4 or 6 may elect to postpone the commencement of periodic compensation under that paragraph.

(2) Where the commencement of periodic compensation under paragraph 4 or 6 ceases to be postponed, the Board must determine—

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(a) the relevant amount, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and

(b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.

(3) References in this Schedule to the amount of an actuarial increase under this paragraph are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).

(4) In sub-paragraph (2) the “relevant amount” means (as appropriate)—

(a) the amount mentioned in paragraph 4(3)(a), or

(b) the aggregate of the amounts mentioned in paragraph 6(3)(a) and (b).”.

31.—(1) In paragraph 4(3) (periodic compensation for transferee over pension compensation age on transfer day)—

(a) omit “and” at the end of paragraph (a), and

(b) after that paragraph insert—

“(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.

(2) In paragraph 4(4) (provisions to which paragraph 4 is subject) after “subject to” insert “paragraph 16A (postponement of compensation) and”.

(3) In paragraph 6(3) (periodic compensation for transferee under pension compensation age on transfer day)—

(a) omit “and” at the end of paragraph (b), and

(b) after that paragraph insert—

“(ba) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.

(4) In paragraph 6(4) (provisions to which paragraph 6 is subject)—

(a) omit the entry for paragraph 11,

(b) omit “and” at the end of the entry for paragraph 15, and

(c) after that entry insert—

“paragraph 16A (postponement of compensation), and”.

32.—(1) In paragraph 5 (periodic compensation for widow etc. of transferee over pension compensation age on transfer day)—

(a) in sub-paragraph (3) after “(including” insert “any actuarial increase under paragraph 16A and”, and

(b) after sub-paragraph (3) insert—

“(3A) If, on the day the transferee (“T”) died, commencement of T’s periodic compensation under paragraph 4 was postponed by virtue of

paragraph 16A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of T's death."

(2) In paragraph 7 (periodic compensation for widow etc. of transferee under pension compensation age on transfer day)—

(a) in sub-paragraph (3)(a) after "(see paragraph 8)" insert ", any actuarial increase under paragraph 16A",

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

"(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 16A).", and

(c) after sub-paragraph (3) insert—

"(3A) For the purposes of sub-paragraph (3)(a), if on the day the transferee ("T") died commencement of T's periodic compensation under paragraph 6 was postponed by virtue of paragraph 16A, assume that the periodic compensation commenced immediately before the date of T's death."

33. In paragraph 9(1) (commutation of periodic compensation) for "becomes payable" substitute "commences".

34.—(1) In paragraph 12 (eligibility for terminal illness lump sum)—

(a) in sub-paragraph (4) in the definition of "relevant age"—

(i) in paragraph (a) omit "or deferred" and "or (as the case may be) 11", and

(ii) in paragraph (b) omit "or deferred", and

(b) after sub-paragraph (4) insert—

"(5) Sub-paragraph (6) applies where the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A.

(6) This paragraph applies as if—

(a) the person first becomes entitled to compensation under paragraph 6 immediately after the period of postponement ends, and

(b) in sub-paragraph (1)(b), for "if the transferee lived to the relevant age, he or she would become entitled on attaining that age" there were substituted "if the period of postponement ended, the transferee would become entitled".

(2) In paragraph 15 (effect of successful application for terminal illness lump sum) after sub-paragraph (3) insert—

"(4) Where on the granting of the application the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A, this paragraph applies as if the references to the transferee attaining the relevant age were references to the period of postponement ending."

35.—(1) Paragraph 17 (annual increase in periodic compensation) is amended as follows.

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- (2) In sub-paragraph (4) in the definition of “the underlying rate”—
- (a) omit “and” at the end of paragraph (a), and
 - (b) after that paragraph insert—
 - “(aa) so much of any actuarial increase under paragraph 16A as relates to the amount in paragraph (a), and”.
- (3) In sub-paragraph (7)—
- (a) after “references in” insert “paragraph (a) of”, and
 - (b) at the end insert “(and paragraph (aa) of the definition applies accordingly).”.
- (4) After sub-paragraph (7) insert—
- “(7A) Where the commencement of periodic compensation has been postponed by virtue of paragraph 16A, this paragraph applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”.

36. In paragraph 20 (Board’s power to alter rates of revaluation and indexation) after sub-paragraph (5) insert—

“(5A) A determination under sub-paragraph (1)(b) which has effect as mentioned in sub-paragraph (5)(b)(ii) may provide that, where the payment of periodic compensation to the transferee is postponed by virtue of paragraph 16A, the determination applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”.

Calculation of compensation: admissible rules etc.

37.—(1) Schedule 6 to the Pensions (Northern Ireland) Order 2005 (pension compensation provisions) is amended as follows.

(2) In paragraph 3(6) (pensions in payment at assessment date) for “35(3)” substitute “35(3A)”.

(3) In paragraph 5(5) (pensions postponed at assessment date) for “35(3)” substitute “35(3A)”.

- (4) In paragraph 35 (admissible rules, recent discretionary increases etc.)—
- (a) for sub-paragraph (3) substitute—

“(3) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent rule changes is that those liabilities are greater than they otherwise would be.

(3A) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent discretionary increases is that those liabilities are greater than they otherwise would be.”, and

- (b) in sub-paragraph (4) for “sub-paragraph (3)” substitute “sub-paragraphs (3) and (3A)”.

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