



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART III

<sup>F1</sup>[<sup>F1</sup>SCHEMES THAT WERE CONTRACTED-OUT ETC.]  
AND EFFECTS ON MEMBERS' STATE SCHEME RIGHTS ...

### CHAPTER II

<sup>F1</sup>[<sup>F1</sup>REDUCTION IN SOCIAL SECURITY BENEFITS FOR  
MEMBERS OF SCHEMES THAT WERE CONTRACTED-OUT]

*Effect of entitlement to guaranteed minimum pensions on payment of social security benefits*

#### **43 Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 42.**

- (1) The reference in section 42(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [<sup>F1</sup>, surviving same sex spouse][<sup>F2</sup>or surviving civil partner] of an earner [<sup>F3</sup> in any case where he is entitled to a benefit other than a widowed parent's allowance [<sup>F4</sup>... only if—
  - <sup>F5</sup>(a) he is also entitled to a Category B retirement pension by virtue of the earner's contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992); or]
  - (b) he is also entitled to a Category A retirement pension by virtue of [<sup>F6</sup> section 41(5) of that Act].
- (2) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
  - (a) if its commencement had not been postponed, as mentioned in section 9(4); or

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- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 16 as a result of which—
    - (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
    - (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member’s [<sup>F7</sup>widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 15; and
  - (b) either—
    - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
    - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
  - (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
  - (d) the combined proceeds of—
    - (i) any relevant policies and annuity contracts, and
    - (ii) any cash sums paid or alternative arrangements made under the [<sup>F8</sup>Financial Services Compensation Scheme],
 are inadequate to provide the whole of the amount secured,
- the member and the member’s [<sup>F7</sup>widow, widower or surviving civil partner] shall be treated for the purposes of section 42 as only entitled to such part (if any) of the member’s or, as the case may be, the member’s [<sup>F9</sup>widow’s, widower’s or surviving civil partner’s] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 15 applies.
  - (5) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
    - (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 17(1); or
    - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 17(2).
  - [<sup>F10</sup>(6) For the purposes of section 42, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for [<sup>F11</sup> section 10(2A) and] any reduction under section 11A.]
  - [<sup>F12</sup>(7) For the purposes of section 42, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under Article 315A of the Insolvency (Northern Ireland) Order 1989 (recovery of excessive pension contributions).]

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- [<sup>F13</sup>(8) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which he would have been entitled but for the fact that the trustees or managers were discharged from their liability to provide that pension on the Board of the Pension Protection Fund assuming responsibility for the scheme.]
- [<sup>F14</sup>(9) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, he would have been entitled but for [<sup>F15</sup>the amendment of a scheme so that it no longer contains the guaranteed minimum pension rules][<sup>F15</sup>GMP conversion (within the meaning given by section 20A(1)) in relation to the person] .
- (10) Where the earner's accrued rights have been transferred after the amendment of the scheme, in making the calculation under subsection (9) the Commissioners shall assume the application of section 12(1) after the transfer.
- (11) In making the calculation under subsection (9) the Commissioners shall ignore any effect of the scheme being wound up.]

#### Textual Amendments

- F1** Words in s. 43(1) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **68(7)** (with regs. 6-9)
- F2** Words in s. 43(1) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(a)**
- F3** Words in s. 43(1) inserted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(a)**, 21(2); S.R. 2002/366, art. 2(2)
- F4** Words in s. 43(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. II para. 55, **Sch. 2**; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F5** S. 43(1)(a) substituted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(b)**, 21(2); S.R. 2002/366, art. 2(2)
- F6** Words in s. 43(1)(b) substituted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(c)**, 21(2); S.R. 2002/366, art. 2(2)
- F7** Words in s. 43(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(b)(i)**
- F8** Words in s. 43(3)(d) substituted (3.7.2002) by [Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), **art. 20**
- F9** Words in s. 43(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(b)(ii)**
- F10** S. 43(6) added (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a)**, 29(4); S.R. 2000/133, art. 2(3), **Sch. Pt. IV**
- F11** Words in s. 43(6) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 23(4)**; S.I. 2003/120, art. 2, Sch. (with arts. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F12** S. 43(7) added (1.12.1999 for certain purposes and 6.4.2002 otherwise) by S.I. 1999/3147 (N.I. 11), art. 17, **Sch. 2 para. 5** (with transitional provisions in art. 75(1)); S.R. 2002/25, **art. 2(b)**
- F13** S. 43(8) added (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), **149(3)** (with art. 285(5)); S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F14** S. 43(9)-(11) added (3.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), **ss. 12(5)**, 21(1); S.R. 2009/75, art. 2(a)(b)

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**F15** Words in s. 43(9) substituted (28.4.2022 for specified purposes) by Pension Schemes (Conversion of Guaranteed Minimum Pensions) Act 2022 (c. 33), ss. 2(9), 3(4)(b)

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

**C1** S. 43(2) modified (6.4.1997) by S.R. 1996/509, reg. 6(3)

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### Changes and effects yet to be applied to :

- s. 43(2)(3) words substituted by [2008 c. 13 \(N.I.\) Sch. 3 para. 17\(3\)](#)
- s. 43(5)-(9) words substituted by [2008 c. 13 \(N.I.\) Sch. 3 para. 17\(3\)](#)
- specified provision(s) amendment to savings in S.R. 2016/106 for effects of 2015 c. 5 (N.I.), Sch. 13 by [S.R. 2016/162 art. 5](#)
- specified provision(s) savings for effects of 2015 c. 5 (N.I.), Sch. 13 by [S.R. 2016/106 art. 2](#)

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

- Act power to modify conferred by [S.I. 2005/255 \(N.I.\) art. 281\(3\)\(a\)\(i\)](#)

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

- s. 21A inserted by [2008 c. 1 \(N.I.\) Sch. 4 para. 9](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by [2008 c. 13 \(N.I.\)](#), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 21A repealed by [2008 c. 13 \(N.I.\) s. 85\(2\)\(b\) Sch. 10 Pt. 3](#) (This amendment not applied to [legislation.gov.uk](#). This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by [2008 c. 13 \(N.I.\)](#), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A inserted by [2008 c. 1 \(N.I.\) Sch. 4 para. 10](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by [2008 c. 13 \(N.I.\)](#), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A repealed by [2008 c. 13 \(N.I.\) s. 85\(2\)\(b\) Sch. 10 Pt. 3](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by [2008 c. 13 \(N.I.\)](#), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 42(1A)(1B) inserted by [2008 c. 13 \(N.I.\) s. 82\(2\)](#)
- s. 42(1A) words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 7](#)
- s. 42A inserted by [2008 c. 13 \(N.I.\) s. 82\(3\)](#)
- s. 42A repealed by [2015 c. 5 \(N.I.\) Sch. 12 para. 79](#)
- s. 42A heading words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 8\(b\)](#)
- s. 42A(1)(c) words substituted by [2012 c. 3 \(N.I.\) Sch. 3 para. 8\(a\)](#)
- s. 67(1A) inserted by [2016 c. 1 \(N.I.\) s. 39\(2\)\(b\)](#)
- s. 78A inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 2](#)
- s. 79(1A)-(1AC) substituted for s. 79(1A) by [2016 c. 1 \(N.I.\) Sch. 1 para. 3](#)
- s. 80-80F substituted for s. 80 by [2016 c. 1 \(N.I.\) Sch. 1 para. 4](#)
- s. 81A inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 5](#)
- s. 82A82B inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 6](#)
- s. 90(2A)(a)(viii) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(2\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(a)(ix) inserted by [2015 c. 5 \(N.I.\) Sch. 18 para. 9\(2\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))

- s. 90(2A)(b)(vi) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(2\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(b)(vii) inserted by [2015 c. 5 \(N.I.\) Sch. 18 para. 9\(2\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 97AI(7)(a)(x) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(4\)\(a\)](#)
- s. 97AI(7)(b)(viii) inserted by [2015 c. 5 \(N.I.\) Sch. 17 para. 19\(4\)\(b\)](#)
- s. 109(4)(4A) substituted for s. 109(4) by [2016 c. 1 \(N.I.\) s. 38\(5\)](#)
- s. 141(4)(5) added by [S.I. 2005/255 \(N.I.\) art. 251](#)
- s. 142(6A) inserted by [S.I. 2005/255 \(N.I.\) Sch. 10 para. 19\(b\)](#)
- s. 170A inserted by [2008 c. 13 \(N.I.\) Sch. 9 para. 1](#)
- s. 172(2)(b)(ii)-(ix) substituted for s. 172(2)(b)(ii) by [2008 c. 1 \(N.I.\) Sch. 4 para. 33](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 33 repealed immediately before the "abolition date" (see [2008 c. 1 \(N.I.\)](#), s. 13) by S.R. 2012/124, art. 7(2))
- Sch. 2 para. A1 inserted by [2016 c. 1 \(N.I.\) Sch. 1 para. 8](#)
- Sch. 2 para. 3A omitted by [2016 c. 1 \(N.I.\) Sch. 1 para. 9](#)