

*Status: Point in time view as at 16/07/2015. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Pensions Act (Northern Ireland) 2012 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



## 2012 CHAPTER 3

### 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—

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“6th April 1953 to 5th May 1953	6th July 2016
6th May 1953 to 5th June 1953	6th November 2016
6th June 1953 to 5th July 1953	6th March 2017
6th July 1953 to 5th August 1953	6th July 2017
6th August 1953 to 5th September 1953	6th November 2017
6th September 1953 to 5th October 1953	6th March 2018

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6th October 1953 to 5th November 1953	6th July 2018
6th November 1953 to 5th December 1953	6th November 2018”.

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(5) For table 2 substitute—

**“TABLE 2**

<b>(1)</b> <i>Period within which birthday falls</i>	<b>(2)</b> <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”.

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(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.

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### Commencement Information

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

### 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.”.

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(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.

(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.

#### Commencement Information

- I2** S. 3(1)-(4)(9)(10) in operation at 7.6.2012 by S.R. 2012/233, **art. 2(2)(b)**
- I3** S. 3(5) in operation at 7.6.2012 for specified purposes by S.R. 2012/233, **art. 2(2)(c)**
- I4** S. 3(6)(8) in operation at 7.6.2012 for specified purposes by S.R. 2012/233, **art. 2(2)(j)**
- I5** S. 3(7) in operation at 7.6.2012 for specified purposes by S.R. 2012/233, **art. 2(2)(c)**

PROSPECTIVE

#### Consolidation of additional pension

<sup>F14</sup> .....

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### Textual Amendments

- F1** S. 4 repealed (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), Sch. 12 para. 82(b); S.R. 2015/307, art. 2(1)(k)

## 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

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(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)”.

#### Commencement Information

**I6** S. 5 partly in operation; s. 5 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I7** S. 5 in operation at 30.6.2012 in so far as not already in operation by S.R. 2012/265, art. 2(1)(a)

#### 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).”.

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(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).

(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.”.

#### Commencement Information

**I8** S. 6 in operation at 30.6.2012 by S.R. 2012/265, art. 2(2)(a)

### 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—

#### “4 Postponement or disapplication of automatic enrolment

(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,

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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);



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

#### Commencement Information

**I9** S. 7 partly in operation; s. 7 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I10** S. 7 in operation at 30.6.2012 in so far as not already in operation by S.R. 2012/265, art. 2(1)(b)

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### 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 ”.

#### Commencement Information

**I11** S. 8 partly in operation; s. 8 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I12** S. 8 in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/206, art. 2

### 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 ”.

#### Commencement Information

**I13** S. 9 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(d)

### Rounded figures for earnings trigger and qualifying earnings band

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

#### “15A Power to specify rounded figures

(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.”.

#### Commencement Information

**I14** S. 10 partly in operation; s. 10 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I15** S. 10 in operation at 7.6.2012 in so far as not already in operation by S.R. 2012/233, art. 2(1)(a)

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## Qualifying schemes: administration charges

<sup>F2</sup>11 .....

### Textual Amendments

**F2** S. 11 repealed (16.7.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(1\), Sch. 18 para. 12](#); S.R. 2015/307, art. 2(1)(n)

## 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—

### “23 Test scheme

(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) 1/120th 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.”.

#### Commencement Information

**I16** S. 12 partly in operation; s. 12 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I17** S. 12 in operation at 30.6.2012 in so far as not already in operation by S.R. 2012/265, art. 2(1)(c)

#### 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 ”.

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(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).”.

#### Commencement Information

**I18** S. 13 partly in operation; s. 13 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I19** S. 13 in operation at 7.6.2012 in so far as not already in operation by S.R. 2012/233, art. 2(1)(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.”.

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#### Commencement Information

**I20** S. 14 partly in operation; s. 14 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I21** S. 14 in operation at 7.6.2012 in so far as not already in operation by S.R. 2012/233, art. 2(1)(c)

### 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).”.

#### Commencement Information

**I22** S. 15 partly in operation; s. 15 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I23** S. 15 in operation at 30.6.2012 in so far as not already in operation by S.R. 2012/265, art. 2(1)(d)

### 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))”.

#### Commencement Information

**I24** S. 16 partly in operation; s. 16 in operation for certain purposes at 2.6.2012 see s. 34(1)

**I25** S. 16 in operation at 30.6.2012 in so far as not already in operation by S.R. 2012/265, art. 2(1)(e)

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*Status: Point in time view as at 16/07/2015. This version of this Act contains provisions that are prospective.  
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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 ”.

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#### **Commencement Information**

**I26** S. 17 in operation at 30.6.2012 by S.R. 2012/265, art. 2(2)(b)

### **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 ”.

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#### **Commencement Information**

**I27** S. 18 in operation at 30.6.2012 by S.R. 2012/265, art. 2(2)(c)

### **Power to exempt certain cross-border employment from enrolment duty**

<sup>F3</sup>**19** .....

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#### **Textual Amendments**

**F3** S. 19 repealed (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), ss. 37(3)(c), 53(1); S.R. 2015/307, art. 2(1)(c)

## **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 ”.

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(3) Omit subsection (6).

(4) Schedule 2 to the Pension Schemes (Northern Ireland) Act 1993 (which sets out methods for revaluing accrued benefits for the purposes of section 80 of that Act) is amended as follows.

(5) After paragraph 1(4) add—

“(5) The sub-paragraphs above are subject to sub-paragraph (6).

(6) If paragraph 2A applies to the pension or other benefit, the final salary method is to apply the requirement of the rules of the scheme mentioned in paragraph 2A(1).”

(6) After paragraph 2 insert—

“**2A.**—(1) This paragraph applies to the pension or other benefit if the rules of the scheme under which it is payable contain a requirement that the accrued benefit be revalued by adding to the accrued benefit an amount of at least the relevant amount.

(2) “The accrued benefit” has the same meaning as in paragraph 1.

(3) “The relevant amount” means the amount which, ignoring paragraph 1(5) and (6), would be the additional amount specified in paragraph 1(1A), (1B), (1C) or (1D) (as the case may be) were the appropriate higher revaluation percentage and the appropriate lower revaluation percentage to be determined on the following basis.

(4) The higher revaluation percentage and the lower revaluation percentage for the revaluation period mentioned in paragraph 2(3) are to be taken to be the percentages which would have been specified in the Secretary of State's order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 had the modifications set out in paragraph 2A(4) of that Schedule applied to paragraph 2 of that Schedule.”

(7) Article 51 of the Pensions (Northern Ireland) Order 1995 (annual increase in rate of certain pensions) is amended as follows.

(8) For paragraphs (3) and (4) substitute—

“(3) Paragraph (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being being increased at intervals of not more than 12 months by at least the relevant percentage.

(4) For the purposes of paragraph (3) the relevant percentage is—

(a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or

(b) if lower, the default percentage for that period.



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(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—

- (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;

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“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.”.

#### Commencement Information

**I28** S. 20 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(e)

#### Indexation requirements for cash balance benefits

**21.—**(1) Article 51 of the Pensions (Northern Ireland) Order 1995 (annual increase in rate of certain pensions) is amended as follows.

(2) In paragraph (1) for “paragraph (6)” substitute “ paragraphs (6) and (7) ”.

(3) After paragraph (6) add—

“(7) This Article does not apply to any pension (or part of a pension) under a relevant occupational pension scheme which—

- (a) is a cash balance benefit (see Article 51ZB), and
- (b) first comes into payment on or after the day on which section 21 of the Pensions Act (Northern Ireland) 2012 comes into operation.

(8) An occupational pension scheme is a “relevant occupational pension scheme” if—

- (a) it has not, on or after the appointed day, been contracted-out by virtue of satisfying section 5(2) of the Pension Schemes Act, or
- (b) it has, on or after the appointed day, been so contracted-out, but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to the period on or after that day when it was so contracted-out.”.

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(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—

- (a) the rate or amount of a benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of a benefit which was (or would have been) payable to the member;
- (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.”.

**Commencement Information**

**I29** S. 21 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(f)

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## *Pension Protection Fund*

### **Pension Protection Fund**

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

#### **Commencement Information**

- I30** S. 22 in operation at 7.6.2012 for specified purposes by [S.R. 2012/233, art. 2\(2\)\(k\)](#)  
**I31** S. 22 in operation at 2.7.2012 for specified purposes and 23.7.2012 for further specified purposes by [S.R. 2012/265, art. 002\(03\)\(b\)\(04\)\(b\)](#)  
**I32** S. 22 in operation at 27.3.2013 in so far as not already in operation by [S.R. 2013/83, art. 2](#)

## *Miscellaneous*

### **Payment of surplus to employer: transitional power to amend scheme**

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

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

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

(3) After paragraph (2) insert—

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

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

(5) In paragraph (6)—

(a) after sub-paragraph (a) insert—

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

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

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

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(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.”.

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#### **Commencement Information**

**I33** S. 24 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(g)

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### **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,”;
  - (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—

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### **“176B Money purchase benefits: supplementary**

(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—

### **“78A Money purchase benefits: supplementary**

(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.

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(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.

**Commencement Information**

**I34** S. 27 in operation at 24.7.2014 by S.R. 2014/203, art. 2

**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 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.



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### **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.

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## 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.**”.

#### **Commencement Information**

**I35** S. 32 in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(h)

#### **Service of documents and electronic working**

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

#### **“113A 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”.

#### **Commencement Information**

**I36** S. 33(1) in operation at 30.6.2012 by S.R. 2012/265, art. 2(1)(f)

**I37** S. 33(2) in operation at 7.6.2012 by S.R. 2012/233, art. 2(2)(i)

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## 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;
- (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.

**Status:**

Point in time view as at 16/07/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

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