

*Status: Point in time view as at 29/09/2018.*

**Changes to legislation:** *Pensions Act (Northern Ireland) 2015 is up to date with all changes known to be in force on or before 27 June 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)*



## 2015 CHAPTER 5

### PART 1

#### STATE PENSION

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

- C1 Pt. 1 excluded by S.I. 2007/1398, **reg. 8(3)** as amended (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), **arts. 1(2)(b), 30(4)(a)**
- C2 Pt. 1 modified (6.4.2016) by [The Social Security \(Reciprocal Agreements\) Order \(Northern Ireland\) 2016 \(S.R. 2016/188\)](#), **arts. 1, 2, Schs. 1, 2**
- C3 Pt. 1 modified (6.4.2016) by [The Social Security \(Reciprocal Agreement\) \(Isle of Man\) Order \(Northern Ireland\) 2016 \(S.R. 2016/189\)](#), **arts. 1, 2**

##### *Introduction*

##### **State pension**

**1.—(1)** This Part creates a benefit called state pension.

(2) A person who reaches pensionable age before 6 April 2016 is not entitled to benefits under this Part (but may be entitled to similar benefits under Part 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (in this Act referred to as “the Contributions and Benefits Act”)).

##### Commencement Information

- II S. 1 in operation at 6.4.2016, see [s. 53\(1\)\(3\)](#)

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### *State pension at the full or reduced rate*

#### **Entitlement to state pension at full or reduced rate**

- 2.—(1) A person is entitled to a state pension payable at the full rate if—
- (a) the person has reached pensionable age, and
  - (b) the person has 35 or more qualifying years.
- (2) A person is entitled to a state pension payable at the reduced rate if—
- (a) the person has reached pensionable age, and
  - (b) the person has at least the minimum number of qualifying years but fewer than 35 qualifying years.
- (3) The minimum number of qualifying years for a state pension payable at the reduced rate is to be specified in regulations and may not be more than 10.
- (4) In this Part “qualifying year” means a tax year, during a person's working life, in which the person's earnings factor (or the sum of the person's earnings factors) is equal to or greater than the qualifying earnings factor for the year.
- (5) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.
- (6) For transitional cases in which a person may be entitled to a different state pension (instead of a state pension under this section), see sections 4 and 12.
- (7) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

#### **Commencement Information**

- I2** S. 2(3) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(a\)](#)
- I3** S. 2 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

#### **Full and reduced rates of state pension**

- 3.—(1) The full rate of the state pension is the weekly rate for the time being specified in regulations.
- (2) The reduced rate of the state pension for a person is the following proportion of the full rate—

$$\frac{1}{35} \times \text{the person's number of qualifying years}$$

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(3) Once the full rate has been specified, the power to make regulations under subsection (1) may not be re-exercised so as to reduce the rate.

#### Commencement Information

- I4** S. 3(1) in operation at 25.2.2016 for specified purposes by [S.R. 2016/68, art. 2\(a\)](#)  
**I5** S. 3 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### *State pension at the transitional rate*

#### **Entitlement to state pension at transitional rate**

**4.—(1)** A person is entitled to a state pension payable at the transitional rate if—

- (a) the person has reached pensionable age,
- (b) the person has at least the minimum number of qualifying years, and
- (c) the person has at least one pre-commencement qualifying year.

(2) The minimum number of qualifying years for a state pension payable at the transitional rate is to be specified in regulations and may not be more than 10.

(3) A person entitled to a state pension payable at the transitional rate is not entitled to a state pension under section 2.

(4) In this Part—

“post-commencement qualifying year” means a qualifying year beginning on or after 6 April 2016;

“pre-commencement qualifying year” means—

- (a) a qualifying year beginning on or after 6 April 1978 and ending before 6 April 2016, or
- (b) a reckonable year that would have been treated under regulation 13(1) of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979 as a qualifying year for the purposes of determining the person's entitlement to an old state pension that is a Category A retirement pension.

(5) A reckonable year mentioned in paragraph (b) of the definition of “pre-commencement qualifying year” in subsection (4) counts towards the minimum number of qualifying years required by subsection (1)(b) (even though it does not come within the definition of “qualifying year” for the purposes of this Part).

(6) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.

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(7) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

#### Commencement Information

- I6** S. 4(2) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(b\)](#)  
**I7** S. 4 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### Transitional rate of state pension

**5.—(1)** The transitional rate of the state pension for a person is a weekly rate equal to—

- (a) the sum of the amounts calculated under Schedule 1 for the person's pre-commencement and post-commencement qualifying years capped at the full rate of the state pension on the day on which the person reaches pensionable age, or
- (b) if higher, the amount for the person's pre-commencement qualifying years alone.

(2) The transitional rate of the state pension for a person is to be increased from time to time in accordance with the applicable paragraph of Schedule 2.

(3) Section 6 requires the transitional rate of the state pension for a person to be recalculated in certain circumstances.

(4) There are special rules about the transitional rate for certain women: see section 11 (reduced rate elections).

#### Commencement Information

- I8** S. 5 in operation at 6.4.2016, see [s. 53\(1\)\(3\)](#)

### Recalculation and backdating of transitional rate in special cases

**6.—(1)** This section modifies the transitional rate of the state pension for a person if, after the person has reached pensionable age, a determination is made under section 44A(2) of the Pension Schemes (Northern Ireland) Act 1993 (in this Act referred to as “the Pension Schemes Act”) (contracting-out: reinstatement in state scheme following payment of contributions equivalent premium).

(2) The person's transitional rate is to be recalculated (taking the determination into account under paragraph 3(8) of Schedule 1).

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(3) The recalculated rate has effect as from the day on which the person reached pensionable age (and the other provisions of this Part apply accordingly).

**Commencement Information**

**19** S. 6 in operation at 6.4.2016, see s. 53(1)(3)

*Transitional entitlement based on contributions of others*

**Survivor's pension based on inheritance of additional old state pension**

7.—(1) A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age,
- (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other, and
- (c) the person is entitled to an inherited amount under Schedule 3.

(2) A state pension under this section is payable at a weekly rate equal to the inherited amount.

(3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 4.

(4) Regulations may provide that if at any time the sum of the relevant state pensions for a person exceeds an amount provided for by regulations, the rate of any state pension payable to the person under this section is to be reduced by the amount of the excess.

(5) The “sum of the relevant state pensions” for a person is the sum of—

- (a) the rate of any state pension payable to the person under this section (ignoring any reduction under subsection (4)), and
- (b) the rate of any state pension payable to the person under section 2, 4 or 12.

(6) In subsections (4) and (5) a reference to the rate of a person's state pension is to the rate—

- (a) taking into account any reduction under section 14 (in the case of a state pension under section 4), but
- (b) ignoring any increase under section 17.

(7) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

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#### **Commencement Information**

**I10** S. 7 in operation at 6.4.2016, see s. 53(1)(3)

### **Choice of lump sum or survivor's pension under section 9 in certain cases**

- 8.—**(1) A person is entitled to a choice under this section if—
- (a) the person has reached pensionable age,
  - (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other,
  - (c) the spouse's or civil partner's entitlement to an old state pension was deferred at the time of death and throughout the period of 12 months ending with the day before the death,
  - (d) either—
    - (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
    - (ii) the person was over pensionable age when the spouse or civil partner died, and
  - (e) the person would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act—
    - (i) the words “before 6 April 2016” were omitted, and
    - (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 29 of this Act.
- (2) The person may choose—
- (a) to be paid a lump sum under this section, or
  - (b) to be paid a state pension under section 9.
- (3) Regulations are to set out the manner in which, and the period within which, that choice is to be made.
- (4) A person who chooses to be paid a lump sum under this section, or who fails to choose within that period, is entitled to a “widowed person's or surviving civil partner's lump sum” calculated under paragraph 7B of Schedule 5 to the Contributions and Benefits Act.
- (5) In that paragraph as it applies for the purposes of this section—
- (a) read the references to “W” as references to the person,
  - (b) read sub-paragraph (5) as if it required increases under paragraph 4 of the Schedule to be excluded, and

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- (c) read the reference in sub-paragraph (7)(a) to the date on which W becomes entitled to a Category A or Category B retirement pension as a reference to the date on which the person becomes entitled to make a choice under this section.
- (6) There are provisions elsewhere that affect a person's entitlement to a lump sum under this section.
- (7) Regulations may allow a person, in specified circumstances—
  - (a) to alter his or her choice under this section;
  - (b) to make a late choice.
- (8) Regulations under subsection (7) may, for the purpose of avoiding the duplication of payment—
  - (a) enable recovery of an amount paid to the person, or
  - (b) reduce the amount of a lump sum to be paid to the person.
- (9) For the purposes of this section—
  - (a) “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act,
  - (b) “the relevant provisions” of the Contributions and Benefits Act are—
    - section 44(1)(a);
    - section 48(1);
    - section 48A(1) and (3);
    - section 48B(1), (1A), (4) and (4A);
    - section 48BB(1) and (3), and
  - (c) in determining whether a person would have been entitled to an old state pension as mentioned in subsection (1)(e) ignore any requirement to make a claim.

#### **Commencement Information**

- I11** S. 8(3)(7)(8) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(c\)](#)
- I12** S. 8 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

#### **Survivor's pension based on inheritance of deferred old state pension**

- 9.—(1)** A person is entitled to a state pension under this section if—
- (a) the person has reached pensionable age,
  - (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other,

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(c) either—

- (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
- (ii) the person was over pensionable age when the spouse or civil partner died,

(d) the person is entitled to an inherited deferral amount under Schedule 5, and

(e) in the case of a person entitled to a choice under section 8, the person has chosen to be paid a state pension under this section.

(2) A state pension under this section is payable at a weekly rate equal to the inherited deferral amount.

(3) But if at any time an order under section 132B of the Social Security Administration (Northern Ireland) Act 1992 (in this Act referred to as “the Administration Act”) comes into operation, the rate of the person's state pension under this section is increased (at that time) by the percentage specified in the order.

(4) A person may be entitled to more than one state pension under this section.

(5) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

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

- C4** S. 9 sums amended (with effect in accordance with arts. 1(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2017 \(S.R. 2017/56\)](#), arts. 1(1)(c), **6(4)(a)**
- C5** S. 9 sums amended (25.9.2017) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2017 \(S.R. 2017/187\)](#), arts. 1, **6(3)(a)**
- C6** S. 9 sums amended (24.3.2018) by [The Social Security \(2017 Benefits Up-rating\) Order \(Northern Ireland\) 2018 \(S.R. 2018/56\)](#), arts. 1, **6(3)(a)**
- C7** S. 9 sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2018 \(S.R. 2018/58\)](#), arts. 1(1)(c), **6(4)(a)**
- C8** S. 9 sums amended (29.9.2018) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2018 \(S.R. 2018/167\)](#), arts. 1, **6(3)(a)**

#### **Commencement Information**

- I13** S. 9 in operation at 6.4.2016, see s. 53(1)(3)

### **Inheritance of graduated retirement benefit**

**10.—(1)** Regulations may make provision corresponding or similar to any provision of sections 7 to 9 and Schedules 3 to 5 for the purpose of conferring



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benefits on a person whose dead spouse or civil partner paid graduated contributions as an insured person.

(2) The regulations may—

- (a) include provision corresponding or similar to any provision that may be made by regulations under section 7 or 8;
- (b) amend or otherwise modify this Act or any other statutory provision (whenever passed or made).

(3) In this section “graduated contributions” and “insured person” have the meanings given by section 35(8) of the National Insurance Act (Northern Ireland) 1966.

**Commencement Information**

**I14** S. 10 in operation at 25.2.2016 for specified purposes by [S.R. 2016/68, art. 2\(b\)](#)

**I15** S. 10 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

*Transition: women who have had a reduced rate election*

**Reduced rate elections: effect on section 4 pensions**

**11.—(1)** Section 4(1)(b) (minimum number of qualifying years for state pension at the transitional rate) does not apply to a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(2) Schedule 6 modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(3) In this section—

“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

**Commencement Information**

**I16** S. 11 in operation at 6.4.2016, see [s. 53\(1\)\(3\)](#)

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### **Reduced rate elections: pension for women with no section 4 pension**

**12.—**(1) A woman is entitled to a state pension under this section if—

- (a) she has reached pensionable age,
- (b) a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period,
- (c) she does not have any pre-commencement qualifying years, and
- (d) she is entitled to a basic amount under Schedule 7.

(2) A state pension under this section is payable at a weekly rate equal to the basic amount.

(3) But if at any time the full rate of the state pension is increased, the rate of the woman's state pension under this section is increased (at that time) by the same percentage as the increase in the full rate.

(4) In subsection (3) the reference to the rate of the woman's state pension is to the rate ignoring any increase under section 17.

(5) A woman is not entitled to a state pension under this section and section 2 at the same time: she is only entitled to the one with the higher rate.

(6) There are provisions elsewhere that affect a woman's entitlement to a state pension under this section or the rate at which it is payable.

(7) In this section—

“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

#### **Commencement Information**

**117** S. 12 in operation at 6.4.2016, see s. 53(1)(3)

*Transition: pension sharing on divorce etc.*

### **Shared state pension on divorce etc.**

**13.—**(1) A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age, and
- (b) the person is entitled to a state scheme pension credit.

(2) A state pension under this section is payable at the appropriate weekly rate set out in Schedule 8.

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(3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 9.

(4) A person may be entitled to more than one state pension under this section.

(5) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

(6) In this Part—

“state scheme pension credit” means—

(a) a new state scheme pension credit, or

(b) an old state scheme pension credit;

“new state scheme pension credit” means a credit under Article 46A(2)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“old state scheme pension credit” means a credit under Article 46(1)(b) of that Order.

#### Commencement Information

**I18** S. 13(2) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), [art. 2\(2\)\(i\)](#)

**I19** S. 13 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

#### Pension sharing: reduction in the sharer's section 4 pension

**14.—**(1) The rate of a person's state pension under section 4 is reduced under this section if the person is subject to a state scheme pension debit.

(2) The amount by which the rate is reduced is the amount of the appropriate weekly reduction set out in Schedule 10.

(3) A person's state pension may be reduced more than once under this section.

(4) In this Part—

“state scheme pension debit” means—

(a) a new state scheme pension debit, or

(b) an old state scheme pension debit;

“new state scheme pension debit” means a debit under Article 46A(2)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“old state scheme pension debit” means a debit under Article 46(1)(a) of that Order.

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#### Commencement Information

- I20** S. 14(2) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(j\)](#)
- I21** S. 14 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### Pension sharing: amendments

**15** Schedule 11 contains amendments to do with pension sharing.

#### Commencement Information

- I22** S. 15 in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(k\)](#)
- I23** S. 15 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### *Postponing or suspending state pension*

#### Pensioner's option to suspend state pension

**16.—(1)** A person who has become entitled to a state pension under this Part may opt to suspend his or her entitlement in accordance with regulations.

(2) A person is not entitled to any state pension under this Part for the period for which the person has opted to suspend his or her entitlement.

(3) For other effects of a person exercising the option, see section 17.

(4) A person may not opt to suspend his or her entitlement to a state pension under this Part on more than one occasion.

(5) Regulations may specify other circumstances in which a person may not opt to suspend his or her entitlement to a state pension under this Part.

(6) Regulations may allow a person who has opted to suspend his or her entitlement to a state pension under this Part to cancel the exercise of that option (in whole or in part) in relation to a past period.

#### Commencement Information

- I24** S. 16(1)(6) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(2\)\(d\)](#)
- I25** S. 16 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

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### **Effect of pensioner postponing or suspending state pension**

17.—(1) If a person's entitlement to a state pension under this Part has been deferred for a period, the weekly rate of the person's state pension is increased by an amount equal to the sum of the increments to which the person is entitled.

(2) But the weekly rate is not to be increased under subsection (1) if the increase would be less than 1% of the person's weekly rate ignoring that subsection.

(3) A person is entitled to one increment for each whole week in the period during which the person's entitlement to a state pension was deferred.

(4) The amount of an increment is equal to a specified percentage of the weekly rate of the state pension to which the person would have been entitled immediately before the end of that period if the person's entitlement had not been deferred.

(5) In subsection (4) “specified” means specified in regulations.

(6) The amount of an increase under this section is itself to be increased from time to time in accordance with any order made under section 132 of the Administration Act (annual up-rating of benefits).

(7) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is deferred for a period if the person has opted under section 16 to suspend his or her entitlement for that period.

(8) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is also deferred for a period if the person is not entitled to it for that period by reason only of—

- (a) not satisfying the conditions in section 1 of the Administration Act (entitlement dependent on claim etc.), or
- (b) subsection (9).

(9) A person is not entitled to a state pension under this Part for any period during which his or her entitlement to any other state pension under this Part is deferred.

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

- C9** S. 17 sums amended (with effect in accordance with arts. 1(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2017 \(S.R. 2017/56\)](#), arts. 1(1)(c), **6(3)**
- C10** S. 17 sums amended (25.9.2017) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2017 \(S.R. 2017/187\)](#), arts. 1, **6(2)**
- C11** S. 17 sums amended (24.3.2018) by [The Social Security \(2017 Benefits Up-rating\) Order \(Northern Ireland\) 2018 \(S.R. 2018/56\)](#), arts. 1, **6(2)**

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- C12** S. 17 sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2018 \(S.R. 2018/58\)](#), arts. 1(1)(c), **6(3)**
- C13** S. 17 sums amended (29.9.2018) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2018 \(S.R. 2018/167\)](#), arts. 1, **6(2)**

#### Commencement Information

- I26** S. 17(4)(5) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), **art. 2(2)(e)**
- I27** S. 17 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### Section 17 supplementary: calculating weeks, overseas residents, etc.

#### 18.—(1) Regulations may—

- (a) provide for circumstances in which a part of a week is to be treated for the purposes of section 17(3) as a whole week, and
- (b) provide for circumstances in which a day does not count in determining a number of whole weeks for the purposes of section 17(3) (for example if the person is receiving other benefits).

(2) Regulations may modify section 17(4) in cases where, at any time in the period during which a person's entitlement to a state pension is deferred, the rate for the person would have changed otherwise than because of an up-rating increase.

(3) Regulations may modify section 17(4) in relation to a person who has been an overseas resident during any part of the period for which the person's entitlement to a state pension has been deferred.

(4) In subsection (3) “overseas resident” means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(5) Regulations may amend the percentage specified in section 17(2).

#### Commencement Information

- I28** S. 18(1) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), **art. 2(2)(f)**
- I29** S. 18(2)-(4) in operation at 25.2.2016 for specified purposes by [S.R. 2016/68](#), **art. 2(c)**
- I30** S. 18 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

*Status: Point in time view as at 29/09/2018.*

*Changes to legislation: Pensions Act (Northern Ireland) 2015 is up to date with all changes known to be in force on or before 27 June 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)*

## *Prisoners and overseas residents*

### **Prisoners**

**19.—**(1) Regulations may provide that a person is not to be paid a state pension under this Part for any period during which the person is a prisoner.

(2) “Prisoner” means a person (in Northern Ireland or elsewhere) who is—

- (a) imprisoned or detained in legal custody, or
- (b) unlawfully at large.

(3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

#### **Commencement Information**

**I31** S. 19 in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), [art. 2\(2\)\(g\)](#)

**I32** S. 19 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### **Overseas residents**

**20.—**(1) Regulations may provide that an overseas resident who is entitled to a state pension under this Part is not entitled to up-rating increases.

(2) In this section “overseas resident” means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(3) Regulations under this section do not affect the rate of an overseas resident's state pension for any period during which he or she is in Northern Ireland or a territory specified in the regulations (but once the overseas resident ceases to be in Northern Ireland or a specified territory the rate reverts to what it would have been had he or she not been in Northern Ireland or a specified territory).

(4) Regulations under this section do not affect the rate of a person's state pension once the person stops being an overseas resident.

#### **Commencement Information**

**I33** S. 20 in operation at 25.2.2016 for specified purposes by [S.R. 2016/68](#), [art. 2\(d\)](#)

**I34** S. 20 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

*Status: Point in time view as at 29/09/2018.*

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## Definitions

### “Old state pension”

**21.—(1)** In this Part “old state pension” means a Category A retirement pension or a Category B retirement pension.

(2) A reference in this Part to the rate of an old state pension (however expressed) does not include—

- (a) graduated retirement benefit under the National Insurance Act (Northern Ireland) 1966, or
- (b) any increase in the rate because of Schedule 5 to the Contributions and Benefits Act (deferral increases).

### Commencement Information

**I35** S. 21 in operation at 6.4.2016, see s. 53(1)(3)

### General definitions etc.

**22.—(1)** In this Part—

“Category A retirement pension” means a Category A retirement pension under Part 2 of the Contributions and Benefits Act;

“Category B retirement pension” means a Category B retirement pension under Part 2 of the Contributions and Benefits Act;

“full rate” means the rate mentioned in section 3(1);

“old state pension” has the meaning given by section 21 (and references to the rate of an old state pension are to be read in accordance with that section);

“pensionable age” has the meaning given by section 121(1) of the Contributions and Benefits Act; and a person is “over” pensionable age if the person has reached that age (and is otherwise “under” that age);

“post-commencement qualifying year” has the meaning given by section 4(4);

“pre-commencement qualifying year” is to be read in accordance with section 4(4) and (5);

“qualifying earnings factor” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“qualifying year” has the meaning given by section 2(4);

“reduced rate” means the rate mentioned in section 3(2);

“regulations” means regulations made by the Department;

“state scheme pension credit”, and related expressions, have the meanings given by section 13;



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“state scheme pension debit”, and related expressions, have the meanings given by section 14;

“tax year” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“transitional rate” means the rate mentioned in section 5;

“up-rating increase”, in relation to a state pension under this Part, means—

- (a) an increase in the rate of the state pension because of an increase in the amount specified in regulations under section 3(1), <sup>F1</sup> . . .
- (b) an increase in the rate of the state pension because of section 9(3), 12(3) or 17(6) or Schedule 2, 4 or 9; <sup>F2</sup>, or
- (c) an increase in the rate of the state pension because of regulations under section 10 which make provision corresponding or similar to section 9(3) or Schedule 4;]

“working life” has the meaning given by section 121(1) of the Contributions and Benefits Act.

(2) For the purposes of any other provision of this Part two people are to be treated as if they are not married to each other in relation to times when either of them is married to a third person.

#### Textual Amendments

- F1** Word in art. 22(1) omitted (6.4.2016) by virtue of [The State Pension \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/80\)](#), **regs. 1, 3(2)(a)**
- F2** Words in art. 22(1) inserted (6.4.2016) by [The State Pension \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/80\)](#), **regs. 1, 3(2)(b)**

#### Commencement Information

- I36** S. 22(1) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), **art. 2(2)(h)**
- I37** S. 22 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### *Consequential and other amendments*

#### Amendments

**23** In Schedule 12—

- Part 1 contains amendments to do with state pensions under this Part;
- Part 2 contains key amendments to do with the old state pension system;
- Part 3 contains amendments to do with state pension credit;
- Part 4 contains other amendments to do with this Part.

*Status: Point in time view as at 29/09/2018.*

*Changes to legislation: Pensions Act (Northern Ireland) 2015 is up to date with all changes known to be in force on or before 27 June 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)*

#### Commencement Information

- I38** S. 23 in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), [art. 2\(1\)\(k\)](#)
- I39** S. 23 in operation at 14.9.2015 for specified purposes by [S.R. 2015/329](#), [art. 2\(2\)\(a\)](#)
- I40** S. 23 in operation at 25.2.2016 for specified purposes by [S.R. 2016/68](#), [art. 2\(e\)](#)
- I41** S. 23 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

#### Abolition of contracting-out for salary related schemes etc.

**24.—(1)** Schedule 13 contains amendments to abolish contracting-out for salary related schemes.

(2) An employer may amend an occupational pension scheme in relation to some or all of its members to take account of increases in the employer's national insurance contributions in respect of some or all of the members to whom the amendments apply because of the repeal of section 37 of the Pension Schemes Act (by Schedule 13).

(3) The power may be used to make amendments that will apply in relation to future members and correspond to the amendments being made in relation to current members.

(4) The power may not be used—

- (a) to make amendments that apply to a member who is a protected person in relation to a scheme, or
- (b) to amend a public service pension scheme or a scheme of a description specified in regulations under this paragraph.

(5) Regulations must define what is meant by a protected person in relation to a scheme for the purposes of subsection (4)(a).

(6) Schedule 14 contains more detail about the power.

(7) In this section and Schedule 14—

“current member”, in relation to a scheme, means a person who is a member of the scheme at the time that the power is used (and “future member” is to be read accordingly);

“employer”, in relation to a scheme, means the employer of persons in the description of employment to which the scheme relates;

“member” has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995 (in this Act referred to as “the 1995 Order”);

“national insurance contributions”, in relation to an employer, means secondary Class 1 national insurance contributions payable by the employer;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act;

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“public service pension scheme” has the meaning given by that section.

(8) Subsections (2) to (7) and Schedule 14 are repealed at the end of the period of 5 years beginning with 6 April 2016.

(9) The Department may by order amend subsection (8) to extend the period for the time being mentioned there.

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

**C14** S. 24 applied (with modifications) (14.12.2015) by [The Occupational Pension Schemes \(Power to Amend Schemes to Reflect Abolition of Contracting-out\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/372\)](#), [regs. 1, 13\(2\), 14\(2\), 15\(2\)](#)

**Commencement Information**

**I42** S. 24(2)-(9) in operation at 16.7.2015 by [S.R. 2015/307](#), [art. 2\(1\)\(a\)](#)

**I43** S. 24(1) in operation at 14.9.2015 for specified purposes by [S.R. 2015/329](#), [art. 2\(1\)\(a\)](#)

**I44** S. 24 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

## PART 2

### OPTION TO BOOST OLD RETIREMENT PENSIONS

#### Option to boost old retirement pensions

**25** Schedule 15 (option to boost old retirement pensions) contains amendments to make provision in relation to people who have paid additional contributions to boost their retirement pensions.

**Commencement Information**

**I45** S. 25 in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), [art. 2\(2\)\(1\)](#)

**I46** S. 25 in operation at 12.10.2015 in so far as not already in operation by [S.R. 2015/329](#), [art. 2\(3\)](#)

## PART 3

### PENSIONABLE AGE

#### Increase in pensionable age to 67

**26.**—(1) Paragraph 1 of Schedule 2 to the 1995 Order is amended as follows.

(2) In sub-paragraph (7) for “6th April 1968” substitute “ 6th April 1960 ”.

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*Status: Point in time view as at 29/09/2018.*

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(3) For sub-paragraph (8) and table 3 substitute—

“(8) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age when the person attains the age shown against that period in column 2.

**TABLE 3**

<b>(1)</b> <b><i>Period within which birthday falls</i></b>	<b>(2)</b> <b><i>Age pensionable age attained</i></b>
6th April 1960 to 5th May 1960	66 years and 1 month
6th May 1960 to 5th June 1960	66 years and 2 months
6th June 1960 to 5th July 1960	66 years and 3 months
6th July 1960 to 5th August 1960	66 years and 4 months
6th August 1960 to 5th September 1960	66 years and 5 months
6th September 1960 to 5th October 1960	66 years and 6 months
6th October 1960 to 5th November 1960	66 years and 7 months
6th November 1960 to 5th December 1960	66 years and 8 months
6th December 1960 to 5th January 1961	66 years and 9 months
6th January 1961 to 5th February 1961	66 years and 10 months
6th February 1961 to 5th March 1961	66 years and 11 months

(8A) For the purposes of table 3—

- (a) a person born on 31st July 1960 is to be taken to attain the age of 66 years and 4 months at the commencement of 30th November 2026;
- (b) a person born on 31st December 1960 is to be taken to attain the age of 66 years and 9 months at the commencement of 30th September 2027;
- (c) a person born on 31st January 1961 is to be taken to attain the age of 66 years and 10 months at the commencement of 30th November 2027”.

(4) In sub-paragraph (9) for “5th April 1969” substitute “ 5th March 1961 ”.

*Status: Point in time view as at 29/09/2018.*

*Changes to legislation: Pensions Act (Northern Ireland) 2015 is up to date with all changes known to be in force on or before 27 June 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)*

## PART 4

### STATE PENSION CREDIT

#### State pension credit: phasing out assessed income periods

**27.—**(1) In section 6 of the State Pension Credit Act (Northern Ireland) 2002 (duty to specify assessed income period), in subsection (1), after “subsection (3) or (4)” insert “ where the relevant decision takes effect before 6 April 2016 ”.

(2) At the end of the heading to that section insert “ for pre-6 April 2016 awards ”.

(3) Regulations under section 9(5) of the State Pension Credit Act (Northern Ireland) 2002 may in particular be made for the purpose of phasing out, on or after 6 April 2016, any remaining assessed income period that is 5 years or shorter than 5 years.

#### Commencement Information

**I47** S. 27(3) in operation at 14.9.2015 by S.R. 2015/329, **art. 2(2)(b)**

**I48** S. 27(1)(2) in operation at 6.4.2016 by S.R. 2015/329, **art. 2(4)**

#### Preserving indefinite status of certain existing assessed income periods

**28.—**(1) Section 84(6) of the Pensions (No. 2) Act (Northern Ireland) 2008 (in this Act referred to as “the Pensions (No. 2) Act”) (which provides that section 9(6) of the State Pension Credit Act (Northern Ireland) 2002 ceases to have effect on 6th April 2014) is repealed and is to be treated as never having had effect.

(2) In section 9(6)(a) of the State Pension Credit Act (Northern Ireland) 2002 (duration of assessed income period for certain transitional cases to be treated as indefinite) as restored by this section, after “brought to an end” insert “ , on or after 6 April 2009 but before 6 April 2014, ”.

## PART 5

### BEREAVEMENT SUPPORT PAYMENT

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

**C15** Pt. 5 modified (6.4.2017) by [The Social Security \(Reciprocal Agreements\) Order \(Northern Ireland\) 2017 \(S.R. 2017/73\)](#), arts. 1, 2

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## Bereavement support payment

**29.—(1)** A person is entitled to a benefit called bereavement support payment if—

- (a) the person's spouse or civil partner dies,
- (b) the person is under pensionable age when the spouse or civil partner dies,
- (c) the person is ordinarily resident in Northern Ireland, or a specified territory, when the spouse or civil partner dies, and
- (d) the contribution condition is met (see section 30).

(2) The Department must by regulations specify—

- (a) the rate of the benefit, and
- (b) the period for which it is payable.

(3) The regulations may specify different rates for different periods.

(4) In the case of a person who is pregnant or entitled to child benefit in specified circumstances, the regulations may—

- (a) specify a higher rate;
- (b) provide for the allowance to be payable for a longer period.

(5) A person is not entitled to bereavement support payment for periods after the person has reached pensionable age.

(6) A person is not entitled to bereavement support payment if the death occurred before this section came fully into operation.

(7) In this section—

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the 1995 Order;

“specified territory” means a territory specified in regulations made by the Department.

### Commencement Information

**I49** S. 29 in operation at 10.3.2017 for specified purposes by [S.R. 2017/44, art. 2\(1\)\(a\)](#)

**I50** S. 29 in operation at 6.4.2017 in so far as not already in operation by [S.R. 2017/44, art. 2\(1\)\(b\)](#)

## Bereavement support payment: contribution condition and amendments

**30.—(1)** For the purposes of section 29(1)(d) the contribution condition is that, for at least one tax year during the deceased's working life—

- (a) he or she actually paid Class 1 or Class 2 national insurance contributions, and

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- (b) those contributions give rise to an earnings factor (or total earnings factors) equal to or greater than 25 times the lower earnings limit for the tax year.
- (2) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.
- (3) For the purposes of section 29(1)(d) the contribution condition is to be treated as met if the deceased was an employed earner and died as a result of—
  - (a) a personal injury of the kind mentioned in section 94(1) of the Contributions and Benefits Act, or
  - (b) a disease or personal injury of the kind mentioned in section 108(1) of that Act.
- (4) In this section the following expressions have the meanings given by section 121(1) of the Contributions and Benefits Act—
  - “employed earner”,
  - “lower earnings limit”,
  - “tax year”, and
  - “working life”.
- (5) Schedule 16 contains amendments to do with bereavement support payment.

#### Commencement Information

- I51** S. 30(1)-(4) in operation at 10.3.2017 for specified purposes by [S.R. 2017/44, art. 2\(1\)\(a\)](#)
- I52** S. 30(1)-(4) in operation at 6.4.2017 in so far as not already in operation by [S.R. 2017/44, art. 2\(1\)\(b\)](#)
- I53** S. 30(5) in operation at 9.2.2017 for specified purposes by [S.R. 2017/37, art. 2\(a\)](#)
- I54** S. 30(5) in operation at 6.4.2017 in so far as not already in operation by [S.R. 2017/44, art. 2\(2\)](#) (with [arts. 3, 4](#))

#### Bereavement support payment: prisoners

- 31.**—(1) The Department may by regulations provide that a person is not to be paid bereavement support payment for any period during which the person is a prisoner.
- (2) “Prisoner” means a person (in Northern Ireland or elsewhere) who is—
    - (a) imprisoned or detained in legal custody, or
    - (b) unlawfully at large.
  - (3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

*Status: Point in time view as at 29/09/2018.*

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#### Commencement Information

- I55** S. 31 in operation at 10.3.2017 for specified purposes by [S.R. 2017/44, art. 2\(1\)\(a\)](#)
- I56** S. 31 in operation at 6.4.2017 in so far as not already in operation by [S.R. 2017/44, art. 2\(1\)\(b\)](#)

## PART 6

### PRIVATE PENSIONS

#### *Transfer of pension benefits*

#### **Automatic transfer of pension benefits etc.**

##### **32** Schedule 17—

- (a) requires the Department to make regulations under which, in certain circumstances, the cash equivalent of a person's accrued rights to benefits under a pension scheme must be transferred to another scheme of which the person is an active member;
- (b) permits the Department to make regulations requiring accounts relating to a person's accrued rights to benefits under a pension scheme to be merged in certain circumstances.

#### Commencement Information

- I57** [S. 32](#) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307, art. 2\(1\)\(m\)](#)

#### **Power to prohibit offer of incentives to transfer pension rights**

**33.—(1)** The Department may by regulations make provision prohibiting a person from offering an incentive to another person with the intention of inducing a member of a salary related occupational pension scheme to—

- (a) exercise a right to require a pensions transfer, or
- (b) agree to a pensions transfer.

(2) “Pensions transfer” means a transfer of sums or assets representing any of the member's pension rights to be used for one or more of the following—

- (a) acquiring rights (whether to present or future benefit) for the member under the rules of another occupational pension scheme or a personal pension scheme;
- (b) purchasing one or more annuities for the member;
- (c) subscribing to other pension arrangements for the member.



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(3) “Pension right” means, at any time—

- (a) any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules, or
- (b) any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules;

and for this purpose “right” includes a pension credit right.

(4) Regulations under this section may in particular—

- (a) provide for the prohibition to apply whether the incentive offered is to be provided by the person making the offer or another person;
- (b) create exceptions to the prohibition;
- (c) provide for Article 10 of the 1995 Order (civil penalties) to apply to a person who contravenes the regulations.

(5) Regulations made by virtue of subsection (4)(c) may in particular provide that for the purposes of Article 10 of the 1995 Order the offer of an incentive is to be regarded as a separate act in relation to each member of a scheme to whom the incentive relates.

(6) Nothing in any regulations made under this section affects the validity of a pensions transfer (or of the exercise of a right to require a transfer or of an agreement to a transfer).

(7) In this section—

- “incentive” means a financial or other advantage;
- “member” has the meaning given by Article 121(1) of the 1995 Order;
- “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act;
- “pension credit right” has the meaning given by Article 121(1) of the 1995 Order;
- “salary related occupational pension scheme” has the meaning given by section 96D of the Pension Schemes Act;
- “scheme rules” has the meaning given by Article 67A(8) of the 1995 Order.

(8) This section binds the Crown.

### **Expiry of power in section 33**

**34** If no regulations have been made under section 33 by the end of the period of 7 years beginning with the day on which it comes into operation, that section is repealed at the end of that period.

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### **Short service benefit for scheme member with money purchase benefits**

**35.—**(1) Section 67 of the Pension Schemes Act (basic principle as to short service benefit) is amended as follows.

(2) In subsection (1)(a), after “service,” insert—

“(aa) he has at least 30 days' qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be money purchase benefit.”.

(3) After subsection (9) insert—

“(10) Subsections (7) to (9) apply, with the substitution for references to 2 years of references to 30 days, for determining whether a person has at least 30 days' qualifying service for the purposes of subsection (1).

(11) Subsection (1)(aa) does not apply in relation to a person's membership of a scheme if any period of relevant service began before the day on which section 35 of the Pensions Act (Northern Ireland) 2015 came into operation (whether or not it also ended before that date).

“Relevant service” means service that counts towards the 30 days' qualifying service for the purposes of subsection (1).”.

(4) In section 97AA of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds), in subsection (4)(b), after “(a)” insert “, (aa) ”.

#### **Commencement Information**

**I58** S. 35 in operation at 1.10.2015 by S.R. 2015/307, art. 2(3)

### *Automatic enrolment*

#### **Automatic re-enrolment: exceptions where automatic enrolment deferred**

**36.—**(1) The Pensions (No. 2) Act is amended as follows.

(2) In section 5 (automatic re-enrolment), after subsection (3) insert—

“(3A) Subsection (2) does not apply if the jobholder's automatic enrolment date is deferred under section 4 from a date before the automatic re-enrolment date to a date after the automatic re-enrolment date.”.

(3) In section 30(7) (transitional period for defined benefits and hybrid schemes), at the end insert—

“(c) section 5(2) does not apply in relation to an automatic re-enrolment date that falls before the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”.

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#### Commencement Information

**I59** S. 36 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(b)

### Automatic enrolment: powers to create general exceptions

**37.**—(1) In section 10 of the Pensions (No. 2) Act (information to be given to workers)—

- (a) in subsection (1)—
  - (i) for “must” substitute “ may ”;
  - (ii) in paragraphs (a) and (b), omit “all”;
- (b) in subsection (2) for “must state” substitute “ may in particular make provision about ”.

(2) In Chapter 7 of Part 1 of the Pensions (No. 2) Act, before section 70 (and the heading “Workers” above it) insert—

#### *“Exceptions*

#### **Power to create exceptions from the employer duties etc.**

**69A.**—(1) The Department may by regulations provide for exceptions to the employer duties; and an exception may in particular—

- (a) turn an employer duty into a power;
- (b) be framed by reference to a description of worker, particular circumstances or in some other way.

(2) But the regulations may not provide for an exception for employers of a particular size.

(3) Regulations which make provision under subsection (1)(a) may make provision modifying this Part or regulations made under it in connection with that provision.

(4) The regulations may make provision in connection with the coming to an end of the state of affairs that caused an exception to apply, including provision—

- (a) modifying this Part or regulations made under it in relation to a person;
- (b) for the purpose of putting a person, wholly or partly, in the position he or she would have been in if the exception had never applied.

(5) In this section “employer duties” means any duty of an employer under any provision of sections 2 to 11 and 54 or of regulations made under those sections.”.

*Status: Point in time view as at 29/09/2018.*

*Changes to legislation: Pensions Act (Northern Ireland) 2015 is up to date with all changes known to be in force on or before 27 June 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)*

- (3) In consequence of subsection (2), the following are repealed—
- (a) Article 268A of the Pensions (Northern Ireland) Order 2005 (in this Act referred to as “the 2005 Order”);
  - (b) section 5(4) of the Pensions (No. 2) Act;
  - (c) section 19 of the Pensions Act (Northern Ireland) 2012.

#### Commencement Information

**I60** S. 37 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(c)

### Alternative quality requirements for UK defined benefits scheme

**38.—**(1) The Pensions (No. 2) Act is amended as follows.

(2) After section 23 insert—

#### “23A Alternative quality requirements for UK defined benefits schemes

(1) The Department may by regulations provide that a defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if any one or more of the following is satisfied—

- (a) the scheme is of a prescribed description and satisfies the quality requirement under section 20 in relation to that jobholder;
- (b) the cost of providing the benefits accruing for or in respect of the relevant members over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the members' total relevant earnings over that period;
- (c) in the case of each of at least 90% of the relevant members, the cost of providing the benefits accruing for or in respect of the member over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the member's total relevant earnings over that period.

(2) For this purpose—

“contributions” means contributions to the scheme by, or on behalf or in respect of, a relevant member;

“relevant earnings” means earnings of a prescribed description;

“relevant members” means members of the scheme of a prescribed description;

“relevant period” means a period specified in or determined in accordance with the regulations.

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*Status: Point in time view as at 29/09/2018.*

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- (3) A percentage prescribed under subsection (1)(b) or (c) must be at least 8%.
- (4) Regulations under subsection (1)(b) or (c) may make provision—
- (a) about how to calculate whether the requirement is satisfied, including provision requiring the calculation to be made in accordance with prescribed methods or assumptions;
  - (b) requiring benefits of a prescribed description to be disregarded in determining whether the requirement is satisfied;
  - (c) that a scheme only satisfies the requirement if the scheme actuary certifies that it does; and for this purpose “scheme actuary” has the prescribed meaning.
- (5) Section 13(3) (meaning of “earnings”) applies for the purposes of this section as it applies for the purposes of that section.”.
- (3) In section 24 (quality requirement: UK hybrid schemes), in subsection (1)(b), for “23” substitute “ 23A ”.
- (4) In section 28 (certification that quality requirement or alternative requirement is satisfied)—
- (a) after subsection (3A) insert—
 

“(3B) This section also applies to a defined benefits scheme that has its main administration in the United Kingdom and is of a description prescribed under section 23A(1)(a).”;
  - (b) in subsection (4), after paragraph (d) insert—
 

“(e) for a scheme within subsection (3B), means the quality requirement under section 23A(1)(a).”.
- (5) In section 29 (transitional periods for money purchase and personal pension schemes), in subsections (1) and (3) omit “for money purchase and personal pension schemes”.
- (6) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (7) In subsection (3), at the end of the substituted subsection (2) insert—
- “A reference in this subsection to a scheme does not include a scheme to which section 30(11)(a) or (b) applies.”.
- (8) In subsection (5), in the substituted subsection (2)—
- (a) in paragraph (a), after “defined benefits scheme” insert “ other than a scheme to which section 30(11)(a) applies ”;
  - (b) in paragraph (aa) (inserted by section 39), after “a hybrid scheme” insert “ other than a scheme to which section 30(11)(b) applies ”;
  - (c) after paragraph (c) (inserted by section 39), insert—

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- “(d) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a defined benefits scheme to which section 30(11)(b) applies, or
- (e) becomes a defined benefits member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme to which section 30(11)(b) applies.”.
- (9) After subsection (10) (added by section 39) add—
- “(11) In subsection (2) references to a scheme do not include—
- (a) a defined benefits scheme that satisfies the quality requirement in relation to the jobholder by reason only of section 23A(1)(a), or
- (b) a hybrid scheme if—
- (i) the appropriate paragraph of section 24(1) for any provisions of the scheme is paragraph (b) (those provisions are referred to below as “the defined benefits section”),
- (ii) the defined benefits section satisfies section 23A(1)(a) as applied by section 24(1)(b), and
- (iii) the defined benefits section does not satisfy any of the other requirements mentioned in section 24(1)(b).”.

#### Commencement Information

**I61** S. 38 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(d)

#### Automatic enrolment: transitional period for hybrid schemes

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

(2) In subsection (2)(b) and (c), for “a hybrid scheme” substitute “a defined benefits member of a hybrid scheme”.

(3) In subsection (3), in the substituted subsection (2)—

(a) after “becomes” insert “(a)”;

(b) for “or a hybrid scheme” substitute “, or

(b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a hybrid scheme.”.

(4) In subsection (5), in the substituted subsection (2)—

(a) in paragraph (a), for “a hybrid scheme, or” substitute—

“(aa) becomes a defined benefits member, with effect from the closure date of an automatic enrolment scheme which is a hybrid scheme;”;

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(b) after paragraph (b) insert—

“(c) becomes a money purchase member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme.”.

(5) After subsection (9) add—

“(10) For the purposes of this section—

(a) a person is a “money purchase member” of a hybrid scheme if—

(i) the person is an active member of the scheme, and

(ii) all the benefits accruing in respect of his or her membership are money purchase benefits, and

(b) a person is a “defined benefits member” of a hybrid scheme if the person is an active member of the scheme other than a money purchase member.”.

(6) Subsection (7) applies if—

(a) an employer whose first enrolment date is before the date on which the amendments made by this section come into operation (“the commencement date”) has given a jobholder notice under section 30(3) of the Pensions (No. 2) Act,

(b) the conditions in section 30(2) of that Act have continued to be satisfied during the period beginning with the employer's first enrolment date and ending with the day before the commencement date, and

(c) had the amendments made by this section come into operation on 19 December 2012, the condition in section 30(2)(c) of that Act would not have been satisfied at a time during that period.

(7) Section 30(5) to (7) of the Pensions (No. 2) Act (as amended by this section) applies in relation to the jobholder with the following modifications—

(a) references in section 30(5) and (6) of that Act to the closure date are to be read as references to the commencement date, and

(b) references in section 30(5) and (6) of that Act to the automatic enrolment date are to be read as references to—

(i) 19 December 2012, or

(ii) if later, the employer's first enrolment date;

and section 30(3) and (4) of that Act does not apply.

(8) Expressions used in this section and in section 30 of the Pensions (No. 2) Act have the same meaning in this section as in that section.

*Status: Point in time view as at 29/09/2018.*

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#### Commencement Information

I62 S. 39 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(e)

#### Penalty notices under sections 40 and 41 of the Pensions (No. 2) Act etc.

**40.**—(1) In sections 40(1)(d) and 41(1)(d) of the Pensions (No. 2) Act (fixed and escalating penalty notices), at the end insert “ , so far as relevant to the exercise of any of its functions under or by virtue of this Part ”.

(2) In Article 67 of the 2005 Order (powers to require information), in paragraph (1A), for “Chapter 2 of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 or section 51 of that Act” substitute “ or by virtue of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 ”.

#### Unpaid scheme contributions

**41.**—(1) The Pension Schemes Act is amended as follows.

(2) In section 119 (payment by Department for Employment and Learning of unpaid scheme contributions on employer insolvency: interpretation)—

(a) in subsection (2), for the definition of “contract of employment” and related expressions substitute—

““employer”, “employment”, “worker” and “worker's contract” and other expressions which are defined in the Employment Rights (Northern Ireland) Order 1996 have the same meaning as in that Order (see further subsections (2A) and (2B));”;

(b) in subsection (2), in paragraph (b) of the definition of “holiday pay”, for “the employee's contract of employment” substitute “ the worker's contract ”;

(c) after subsection (2) insert—

“(2A) Section 71 of the Pensions (No. 2) Act (Northern Ireland) 2008 (agency workers) applies for the purposes of this Chapter as it applies for the purposes of Part 1 of that Act.

(2B) References in this Chapter to a worker include references to an individual to whom Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 applies as if the individual were a worker because of regulations made under section 77 of that Act; and related expressions are to be read accordingly.”.

(3) In section 120 (Department for Employment and Learning's duty to pay unpaid contributions)—

(a) for “an employee”, in each place, substitute “ a worker ”;

(b) for “the employee”, in each place, substitute “ the worker ”;



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- (c) for “the employee's” substitute “the worker's”;
- (d) for “employees”, in each place, substitute “ workers ”.
- (4) In section 157, for “contract of employment” substitute “ worker's contract ”.
- (5) In section 161(6)—
  - (a) in paragraph (a), for “contract of employment the employee” substitute “ worker's contract the worker ”;
  - (b) in paragraph (b), for “employee” substitute “ worker ”.

**Commencement Information**

**I63** S. 41 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(f)

*Other*

**Power to restrict charges or impose requirements in relation to schemes**

- 42** Schedule 18 permits the Department to make regulations—
- (a) restricting the charges that may be imposed on members of certain pension schemes;
  - (b) imposing requirements relating to administration or governance that must be satisfied in relation to certain pension schemes.

**Commencement Information**

**I64** S. 42 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(g)

**Disclosure of information about transaction costs to members etc.**

**43** In section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc.), after subsection (4) insert—

“(5) The Department must make regulations under subsection (1) requiring information about some or all of the transaction costs of a relevant scheme to be given to some or all of the persons mentioned in subsection (2).

(6) The Department must by regulations make provision requiring the publication of information about—

- (a) some or all of the transaction costs of a relevant scheme, and
- (b) some or all of the administration charges imposed on members of a relevant scheme.

*Status: Point in time view as at 29/09/2018.*

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(7) Regulations under subsection (6) may require other relevant information to be published along with information about transaction costs or administration charges in relation to a scheme.

(8) “Other relevant information” means other information which would or may assist in making comparisons between those costs or charges and costs or charges in relation to other schemes.

(9) In this section—

“administration charge” has the meaning given by paragraph 1(5) of Schedule 18 to the Pensions Act (Northern Ireland) 2015;

“relevant scheme” means a money purchase scheme that is an occupational pension scheme.”.

#### Commencement Information

**I65** S. 43 in operation at 9.3.2018 by S.R. 2018/41, art. 2(1) (with art. 2(2))

#### Power to require pension levies to be paid in respect of past periods

**44.—**(1) The Department may by regulations provide for the 2005 Order, and regulations made under it, to have effect, so far as relating to the requirement to pay pension levy, as if the amendments made by the 2010 regulations had always had effect.

(2) Regulations under this section may in particular—

- (a) modify the application of the 2005 Order, or regulations made under it, in relation to amounts of pension levy required to be paid because of regulations under this section;
- (b) provide for interest to be charged at a specified rate on such amounts (including in respect of periods before the coming into operation of regulations under this section).

(3) In this section—

“the 2010 regulations” means—

- (a) regulations 2, 3 and 8 of the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2010, and
- (b) regulation 2 of the Occupational Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2010;

“pension levy” means—

- (a) a levy under regulations made under Article 103 of the 2005 Order (administration levy),

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- (b) a levy under regulations made under Article 157 of that Order (initial levy), or
- (c) a levy under Article 158 of that Order (pension protection levies).

#### Commencement Information

I66 S. 44 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(h)

### Prohibition and suspension orders: directors of corporate trustees

45.—(1) The 1995 Order is amended as follows.

(2) After Article 3 insert—

#### “Prohibition orders: directors of corporate trustees etc.

3A.—(1) A company is prohibited from being a trustee of a trust scheme at any time when an individual who is a director of the company is prohibited from being a trustee of the scheme by an order under Article 3.

(2) Where a company which is a trustee of a trust scheme becomes prohibited under paragraph (1) in relation to the scheme, that paragraph has the effect of removing the company as a trustee.

(3) The Authority may, on the application of a company, give notice in writing to the applicant waiving the prohibition under paragraph (1)—

- (a) in relation to an individual against whom an order under Article 3 has been made, and
- (b) either generally or in relation to a particular scheme or particular description of schemes.

(4) A notice may be given under paragraph (3) only if the Authority is satisfied that the applicant would be a fit and proper person to be a trustee of the scheme or schemes to which the notice relates despite the individual being, or even if the individual were to become, a director of the applicant.

(5) A notice given at any time under paragraph (3) cannot affect anything done before that time.

(6) An application under paragraph (3) may not be made—

- (a) during the period within which the determination to exercise the power to make the order against the individual may be referred to the Tribunal under Article 91(3) or 94(7) of the Pensions (Northern Ireland) Order 2005 (whether by a company which became prohibited under paragraph (1) on the making of the order or by another person), and

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- (b) if the determination is so referred, until the reference, and any appeal against the Tribunal's determination, has been finally disposed of.
- (7) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this Article.
- (8) The Authority may revise any statement published under paragraph (7) and must publish any revised statement.
- (9) References in this Article to an order under Article 3 are to an order under that Article made on or after the date on which section 45(2) of the Pensions Act (Northern Ireland) 2015 comes fully into operation.”.
- (3) Article 4 (Pensions Regulator's power to suspend trustee of occupational pension scheme) is amended as follows.
- (4) In paragraph (1)(f), after “sub-paragraph” insert “ (aa), ”.
- (5) In paragraph (2)(a), after “or (aa)” insert “ or, in a case where the Authority would have power to suspend a director under sub-paragraph (aa), by virtue of sub-paragraph (f) ”.
- (6) Schedule 19 contains consequential amendments.

#### Commencement Information

**I67** S. 45 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(i)

#### Pensions Regulator's objectives

- 46** In Article 4(1) of the 2005 Order, after sub-paragraph (c) insert—
- “(cza) in relation to the exercise of its functions under Part 4 only, to minimise any adverse impact on the sustainable growth of an employer.”.

#### Maximum period between scheme returns to be 5 years for micro schemes

- 47.**—(1) Article 58 of the 2005 Order (duty of the Regulator to issue scheme return notices) is amended as follows.
- (2) After paragraph (3) insert—
- “(3A) But paragraph (3)(a) has effect as if the reference to three years were a reference to five years if—
- (a) the trustees or managers have complied with sub-paragraph (b) of Article 57(2),
- (b) the information they provided under that sub-paragraph included the number of members of the scheme, and
- (c) that number was no more than 4.”.

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(3) After paragraph (4) insert—

“(4A) But paragraph (4)(a) has effect as if the reference to three years were a reference to five years if—

- (a) on the date on which the previous scheme return notice was issued, the number of members of the scheme was recorded in the register, and
- (b) that number was no more than 4.”

**Commencement Information**

**I68** S. 47 in operation at 16.7.2015 by S.R. 2015/307, art. 2(1)(j)

**Pension Protection Fund: increased compensation cap for long service**

**48** See Schedule 20 for amendments increasing the Pension Protection Fund compensation cap for persons with long pensionable service.

**Commencement Information**

**I69** S. 48 in operation at 10.3.2017 for specified purposes by S.R. 2017/44, art. 5(a)

**I70** S. 48 in operation at 6.4.2017 in so far as not already in operation by S.R. 2017/44, art. 5(b)

**Pension Protection Fund: compensation cap to apply separately to certain benefits**

**49.**—(1) Paragraph 26 of Schedule 6 to the 2005 Order (Pension Protection Fund: compensation cap) is amended as follows.

(2) In sub-paragraph (1)(b), for “sub-paragraph (2)(a) or (b)” substitute “ sub-paragraph (2)(a), (b) or (c) ”.

(3) In sub-paragraph (2)(a)(ii), for “paragraph (b)(i) does not apply” substitute “ neither of paragraphs (b) and (c) applies ”.

(4) In sub-paragraph (2)(b)—

(a) before paragraph (i) insert—

“(zi) benefit A is attributable to the person's pensionable service.”;

(b) in paragraph (i), after “one or more other benefits” insert “ that are attributable to his pensionable service ”.

(5) In sub-paragraph (2), after paragraph (b) insert “, and

(c) this paragraph applies if—

(i) benefit A is attributable to a pension credit from a transferor,

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- (ii) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits that are—
  - (ia) under the scheme or a connected occupational pension scheme, and
  - (ib) attributable to a pension credit from the same transferor, (“benefit or benefits B”), and
- (iii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.”.

(6) In sub-paragraph (5), after “sub-paragraph (2)(b)” insert “ or (c) ”.

(7) The amendments made by this section are to be treated as always having had effect.

(8) Regulations under paragraph 26(9) of Schedule 6 to the 2005 Order (modifications for cases where compensation becomes payable on different occasions) made in consequence of this section may be made with retrospective effect.

## PART 7

### FINAL PROVISIONS

#### **Power to make consequential amendments etc.**

**50.**—(1) The Department or the Department of Finance and Personnel may by order make consequential, incidental or supplementary provision in connection with any provision made by this Act.

(2) An order under this section may amend, repeal, revoke or otherwise modify any statutory provision (whenever passed or made).

#### **Regulations and orders**

**51.**—(1) Subject to the following provisions of this section, any orders or regulations made by the Department or the Department of Finance and Personnel under this Act are subject to negative resolution.

(2) Subsection (1) does not apply to an order under section 53(1) or (5).

(3) Orders or regulations (whether alone or with other provisions) to which this subsection applies—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to

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the making of a new order or regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(4) Subsection (3) applies to—

- (a) regulations under section 3, 17, 18(3) or (5), 19, 20, 29, 31 or 33,
- (b) the first regulations under section 10,
- (c) an order under section 50 that amends or repeals any relevant statutory provision,
- (d) regulations under Schedule 17,
- (e) regulations under paragraph 2 of Schedule 18 or regulations under paragraph 7 of that Schedule that amend any relevant statutory provision, or
- (f) the first regulations under paragraph 1 or 3 of that Schedule.

(5) In this section “relevant statutory provision” means a statutory provision contained in—

- (a) an Act of the Parliament of Northern Ireland;
- (b) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 or the Schedule to the Northern Ireland Act 2000;
- (c) an Act of the Assembly; or
- (d) an Act of the Parliament of the United Kingdom.

(6) Regulations or orders under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

## **Interpretation**

**52.—**(1) In this Act—

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005;

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Department” means the Department for Social Development;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the Pensions (No. 2) Act” means the Pensions (No. 2) Act (Northern Ireland) 2008;

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“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

- (2) In the application, for the purposes of this Act, of—
- (a) section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post), omit the word “registering”;
  - (b) section 39(2) of that Act (time beginning on a particular day), omit the word “not”.

### **Commencement**

**53.**—(1) Subject to the following provisions of this section, this Act comes into operation on such day or days as the Department may by order appoint.

(2) The following come into operation on the day after this Act receives Royal Assent—

- (a) Part 3;
- (b) section 28;
- (c) sections 33 and 34;
- (d) section 40;
- (e) section 46;
- (f) section 49; and
- (g) this Part.

(3) Part 1 comes into operation on 6 April 2016, so far as not brought into operation earlier by an order under subsection (1).

(4) The Department may by order—

- (a) amend subsection (3) so as to replace the reference to 6 April 2016 with a later date, and
- (b) make corresponding amendments in Part 1 or any statutory provision amended by it.

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

### **Short title**

**54** This Act may be cited as the Pensions Act (Northern Ireland) 2015.



**Status:**

Point in time view as at 29/09/2018.

**Changes to legislation:**

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