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STATUTORY INSTRUMENTS

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**1995 No. 3213**

**The Pensions (Northern Ireland) Order 1995**

**PART II**

**OCCUPATIONAL PENSIONS**

*Indexation*

**Annual increase in rate of pension**

**51** .—(1) Subject to [<sup>F1</sup>paragraphs (6) and (7)] , this Article applies to a pension under an occupational pension scheme if—

(a) the scheme—

[<sup>F2</sup>(i) is a registered pension scheme under section 153 of the Finance Act 2004, and ]

(ii) is not a public service pension scheme, and

[<sup>F3</sup>(iii) in the case where the pension becomes a pension in payment on or after the commencement day, is not a money purchase scheme, and]

[<sup>F3</sup>(b) the whole, or any part of, the pension is attributable—

(i) to pensionable service on or after [<sup>F46</sup>April 1997 ] , or

(ii) in the case of money purchase benefits where the pension is in payment before the commencement day, to payments in respect of employment carried on on or after [<sup>F46</sup>April 1997 ] , and

(c) apart from this Article—

(i) the annual rate of the pension, or

(ii) if only part of the pension is attributable as described in sub-paragraph (b), so much of the annual rate as is attributable to that part,

would not be increased each year by at least the appropriate percentage of that rate.]

[<sup>F5</sup>(1A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (see section 52(2)(b) of that Act) is to be treated for the purposes of this Article as a separate occupational pension scheme which is a money purchase scheme.]

(2) [<sup>F6</sup>Subject to Articles 51A and 52], where a pension to which this Article applies, or any part of it, is attributable to pensionable service on or after [<sup>F46</sup>April 1997] or, in the case of money purchase benefits[<sup>F3</sup> where the pension is in payment before the commencement day], to payments in respect of employment carried on or after [<sup>F46</sup>April 1997] —

(a) the annual rate of the pension, or

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- (b) 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 [<sup>F4</sup>6 April 1997] , so much of the annual rate as is attributable to that part,

must be increased annually by at least the appropriate percentage.

[<sup>F7</sup>(3) Paragraph (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being increased at intervals of not more than 12 months by at least the relevant percentage.

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

- (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or  
(b) if lower, the default percentage for that period.

(4ZA) Paragraph (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if paragraph (4ZB) applies to the rate or part.

(4ZB) Subject to paragraph (4ZD), this paragraph applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being increased, and since the relevant time has always been increased, at intervals of not more than 12 months by at least—

- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or  
(b) if lower, the default percentage for that period.

(4ZC) In paragraph (4ZB) “the relevant time” means—

- (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 [<sup>F4</sup>6 April 1997] , in paragraphs (3) to (4ZD) references to the annual rate of the pension are references to so much of that rate as is attributable to that part.

(4ZF) For the purposes of paragraphs (4) and (4ZB) the default percentage for a period is the percentage for that period which corresponds to—

- (a) in the case of a category X pension, 5% per annum, and  
(b) in the case of a category Y pension, 2.5% per annum.

(4ZG) In paragraphs (4) and (4ZB)—

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board, or  
(b) where that index is not published for a month, any substituted index or figures published by the Board;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or

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

[<sup>F3</sup>(4A) For the purposes of this Article, a pension is a category X pension if it is—

- (a) a pension which became a pension in payment before the commencement day, or
- (b) a pension—
  - (i) which becomes a pension in payment on or after the commencement day, and
  - (ii) the whole of which is attributable to pensionable service before that day.

(4B) For the purposes of this Article, a pension is a category Y pension if it is a pension—

- (a) which becomes a pension in payment on or after the commencement day, and
- (b) the whole of which is attributable to pensionable service on or after the commencement day.

(4C) For the purposes of applying this Article in the case of a pension—

- (a) which becomes a pension in payment on or after the commencement day,
- (b) part of which is attributable to pensionable service before the commencement day, and
- (c) part of which is attributable to pensionable service on or after that day,

each of those parts of the pension is to be treated as if it were a separate pension.]

(5) Regulations may provide that [<sup>F3</sup> any of the provisions of this Article] apply in relation to a pension as if so much of it as would not otherwise be attributable to pensionable service or to payments in respect of employment were attributable to pensionable service or, as the case may be, payments in respect of employment—

- (a) before [<sup>F4</sup>6 April 1997][<sup>F3</sup> or the commencement day],
- (b) on or after that day, or
- (c) partly before and partly on or after that day.

(6) This Article does not apply to any pension or part of a pension [<sup>F8</sup> which is attributable (directly or indirectly) to a pension credit or] which, in the opinion of the trustees or managers, is derived from the payment by any member of the scheme of voluntary contributions.

[<sup>F9</sup>(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.

[<sup>F10</sup>(8) An occupational pension scheme is a “relevant occupational pension scheme” if—

- (a) it has not, at any time on or after 6 April 1997, been a salary related contracted-out scheme (see section 3B of the Pension Schemes Act), or
- (b) it has, at any time on or after 6 April 1997, been a salary related contracted-out scheme but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to a period on or after that day when it was such a scheme.]]

**F1** Words in art. 51(1) substituted (7.6.2012) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3\), ss. 21\(2\), 34\(3\)](#); S.R. 2012/233, art. 2(2)(f)

**F2** Art. 51(1)(a)(i) substituted (6.4.2006) by [Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), art. 11\(2\)](#)

**F3** 2005 NI 1

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- F4** Words in art. 51 substituted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 13 para. 58(2)**
- F5** Art. 51(1A) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in operation) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 6 para. 7**; S.R. 2022/197, art. 3(a)
- F6** 2000 c. 4 (NI)
- F7** Art. 51(3)-(4ZG) substituted for art. 51(3)(4) (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 20(8), 34(3)**; S.R. 2012/233, art. 2(2)(e)
- F8** 1999 NI 11
- F9** Art. 51(7)(8) added (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 21(3), 34(3)**; S.R. 2012/233, art. 2(2)(f)
- F10** Art. 51(8) substituted (6.4.2016) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 13 para. 58(3)**

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

- C1** mod. by SR 2005/170
- C2** Art. 51 excluded (24.7.2014) by **The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014** (S.R. 2014/204), regs. 1(1), **25(1)**

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

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)
- art. 51(1) words substituted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(a\)](#)
- art. 51(1)(a)(iii) words substituted by [2016 c. 1 \(N.I.\) Sch. 2 para. 9](#)
- art. 51(1)(a)(ii) words inserted by [2016 c. 1 \(N.I.\) s. 42\(2\)](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

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

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)