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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 paragraph (6), this Article applies to a pension under an occupational pension scheme if—

(a) the scheme—

[<sup>F1</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>F2</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>F2</sup>(b) the whole, or any part of, the pension is attributable—

(i) to pensionable service on or after the appointed day, 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 the appointed day, 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.]

(2) [<sup>F3</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 the appointed day or, in the case of money purchase benefits [<sup>F2</sup> where the pension is in payment before the commencement day], to payments in respect of employment carried on or after the appointed day—

(a) the annual rate of the pension, or

(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 the appointed day, so much of the annual rate as is attributable to that part,

must be increased annually by at least the appropriate percentage.

(3) Paragraph (2) does not apply to a pension under an occupational pension scheme if the rules of the scheme require—

**Status:** Point in time view as at 02/06/2012.

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- (a) the annual rate of the pension, or
- (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 the appointed day, so much of the annual rate as is attributable to that part,

to be increased at intervals of not more than twelve months by at least the relevant percentage and the scheme complies with any prescribed requirements.

- (4) For the purposes of paragraph (3) the relevant percentage is—
- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodical increase under the rules, or
  - (b) the percentage for that period which corresponds to<sup>F2</sup>
    - [<sup>F2</sup>(i) in the case of a category X pension, 5 per cent. per annum, and
    - (ii) in the case of a category Y pension, 2.5 per cent. per annum.,]

whichever is the lesser.

- [<sup>F2</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>F2</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 the appointed day<sup>F2</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>F4</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.

**F1** [Art. 51\(1\)\(a\)\(i\) substituted \(6.4.2006\) by Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), art. 11\(2\)](#)

**F2** [2005 NI 1](#)

**F3** [2000 c. 4 \(NI\)](#)

**F4** [1999 NI 11](#)

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

C1 mod. by SR 2005/170

**[<sup>F5</sup>Meaning of “the appropriate percentage”**

**51ZA.** For the purposes of Article 51(1)(c) and (2), “the appropriate percentage” in relation to an increase in the whole or part of the annual rate of a pension—

(a) in the case of a category X pension, means the [<sup>F6</sup>higher revaluation percentage] for the latest revaluation period specified in the latest revaluation order (revaluation of accrued pension benefits) which is in force at the time of the increase, and

[<sup>F7</sup>(b) in the case of a category Y pension, means the lower revaluation percentage for that period.]]

- F5** 2005 NI 1
- F6** Words in art. 51ZA(a) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(c), 118(1), **Sch. 1 para. 8(a)** (with s. 80(2)); S.R. 2009/22, **art. 2(2)(c)**
- F7** Art. 51ZA(b) substituted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(c), 118(1), **Sch. 1 para. 8(b)** (with s. 80(2)); S.R. 2009/22, **art. 2(2)(c)**

**[<sup>F8</sup>Restriction on increase where annuity tied to investments**

**51A.—(1)** No increase under Article 51 is required to be made, at any time on or after the relevant date, of so much of any pension under a money purchase scheme as—

(a) is payable by way of an annuity the amount of which for any year after the first year of payment is determined (whether under the terms of the scheme or under the terms of the annuity contract in pursuance of which it is payable) by reference to fluctuations in the value of, or the return from, particular investments, [<sup>F9</sup>and]

<sup>F10</sup>(b) .....

(c) satisfies such other conditions (if any) as may be prescribed.

(2) For the purposes of this Article it shall be immaterial whether the annuity in question is payable out of the funds of the scheme in question or under an annuity contract entered into for the purposes of the scheme.

(3) In this Article “the relevant date” means the date appointed for the coming into operation of section 47 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000.]

- F8** 2000 c. 4 (NI)
- F9** Word in art. 51A(1)(a) inserted (6.4.2012) by The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(b), **5(2)(a)**
- F10** Art. 51A(1)(b) omitted (6.4.2012) by virtue of The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(b), **5(2)(b)**

**Restriction on increase where member is under 55**

**52.—(1)** Subject to paragraph (2), no increase under Article 51 is required to be paid to or for a member of a scheme whose pension is in payment but who has not attained the age of 55 at the time when the increase takes effect.

(2) Paragraph (1) does not apply if the member—

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- (a) is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or
  - (b) has retired on account of mental or physical infirmity from the employment in respect of which, or on retirement from which, the pension is payable.
- (3) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of paragraph (2), the member—
- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but
  - (b) continues to be entitled to the pension,
- any increases subsequently taking effect under Article 51 in the annual rate of the pension shall not be paid or shall not be paid in full.
- (4) In any case where—
- (a) by virtue only of paragraph (1) or (3), increases are not paid to or for a member or are not paid in full, but
  - (b) the member attains the age of 55 or, in a case falling within paragraph (3), again satisfies the condition set out in paragraph (2)(a) or (b),
- his pension shall then become payable at the annual rate at which it would have been payable apart from paragraph (1) or (3).

#### **Effect of increases above the statutory requirement**

**53.**—(1) Where in any tax year the trustees or managers of an occupational pension scheme make an increase in a person's pension, not being an increase required by section 105 of the Pension Schemes Act or Article 51, they may deduct the amount of the increase from any increase which, but for this paragraph, they would be required to make under that section or Article in the next tax year.

(2) Where in any tax year the trustees or managers of such a scheme make an increase in a person's pension and part of the increase is not required by section 105 of the Pension Schemes Act or Article 51, they may deduct that part of the increase from any increase which, but for this paragraph, they would be required to make under that section or Article in the next tax year.

(3) Where by virtue of paragraph (1) or (2) any pensions are not required to be increased in pursuance of section 105 of the Pension Schemes Act or Article 51, or not by the full amount that they otherwise would be, their amount shall be calculated for any purpose as if they had been increased in pursuance of that section or Article or, as the case may be, by that full amount.

[<sup>F11</sup>(3A) In paragraphs (1) and (2), the references to a person's pension do not include any pension which is attributable (directly or indirectly) to a pension credit.]

(4) In section 106 of the Pension Schemes Act (resources for annual increase of guaranteed minimum pension)—

- (a) subsections (2) to (4) are omitted, and
- (b) in subsection (1), for “subsection (2) or (3)” substitute “Article 53 of the Pensions (Northern Ireland) Order 1995”.

**F11** 1999 NI 11

#### **Articles 51 to 53: supplementary**

**54.**—(1) The first increase required by Article 51 in the rate of a pension must take effect not later than the first anniversary of the date on which the pension is first paid; and subsequent increases must take effect at intervals of not more than twelve months.

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(2) Where the first such increase is to take effect on a date when the pension has been in payment for a period of less than twelve months, the increase must be of an amount at least equal to one twelfth of the amount of the increase so required (apart from this paragraph) for each complete month in that period.

(3) In Articles 51 to 53 and this Article—

“annual rate”, in relation to a pension, means the annual rate of the pension, as previously increased under the rules of the scheme or under Article 51,

“the appointed day” means the day appointed under Article 1 for the commencement of Article 51,

*Definition rep. by 2005 NI 1*

[<sup>F12</sup>“the commencement day” means the day appointed for the coming into operation of Article 255 of the Pensions (Northern Ireland) Order 2005 (amendments to Article 51);]

[<sup>F13</sup>“higher revaluation percentage” and “lower revaluation percentage” mean the higher revaluation percentage and the lower revaluation percentage specified for a revaluation period by a revaluation order;]

“pension”, in relation to a scheme, means any pension in payment under the scheme and includes an annuity,

“reference period” has the meaning given by paragraph 2 of Schedule 3 to the Pension Schemes Act 1993<sup>F14</sup>,

“revaluation order” means an order under paragraph 2(1) of Schedule 2 to the Pension Schemes Act,

<sup>F15</sup> .....

“revaluation period” has the meaning given by paragraph 2(2) of Schedule 2 to the Pension Schemes Act.

**F12** 2005 NI 1  
**F13** Art. 54(3): definitions of "higher revaluation percentage" and "lower revaluation percentage" inserted (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(c), 118(1), **Sch. 1 para. 9(a)** (with s. 80(2)); S.R. 2009/22, **art. 2(2)(c)**  
**F14** 1993 c. 48  
**F15** Art. 54(3): definition of "revaluation percentage" repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 80(1)(c), 116, 118(1), Sch. 1 para. 9(b), **Sch. 10 Pt. 5** (with s. 80(2)); S.R. 2009/22, **art. 2(2)(c)(d)**

**Article 51: end of annual increase in GMP**

**55.** In section 105 of the Pension Schemes Act (annual increase of guaranteed minimum pensions), in subsection (1) (increase in rate of that part of guaranteed minimum pension attributable to earnings factors for tax year 1988#89 and subsequent tax years) for “the tax year 1988#89 and subsequent tax years” substitute “the tax years in the relevant period as defined in that section”.

*Arts. 56 - 61 rep. by 2005 NI 1*

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