



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART III

CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON MEMBERS' STATE SCHEME RIGHTS AND DUTIES

CHAPTER II

REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

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

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

(1) Where for any period a person is entitled both—

(a) to a Category A or Category B retirement pension, a widowed mother's allowance [^{F1}, a widowed parent's allowance], [^{F2} or a widow's pension] under the ^{M1}Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

(b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—

[^{F3}(i) to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day,]

(ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

whichever is the less.

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^{F4}(2)

[^{F5}(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

for that period an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions shall be deducted from any increase payable under regulations under section 30B(7) of that Act and he shall be entitled to such an increase only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

(4) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the ^{M2}Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—

^{F6}(i)

- (ii) to a Category A retirement pension under section 44 of that Act; or
- (iii) to a Category B retirement pension under [^{F7}section 48A [^{F8}, 48B or 48BB]] of that Act; and

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(c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”

(7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to any of the pensions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 mentioned in subsection (6)(b); and
- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- ^{F9}(a)
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 11(1).

^{F10}(9)

Textual Amendments

- F1** Words in s. 42(1) inserted (24.4.2000 for certain purposes, otherwise 9.4.2001) by S.I. 1999/3147 (N.I. 11), arts. 1(2), 67, **Sch. 8 Pt. I para. 17(2)** (with transitional provisions in art. 75(5)); S.R. 2000/133, art. 2(3), **Sch. Pt. I**
- F2** Words in s. 42(1) substituted (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1), Sch. 1 Pt. II para. 54(2); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F3** S. 42(1)(i) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 36**; S.R. 1997/192, **art. 2(b)**
- F4** S. 42(2) repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(3), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F5** S. 42(3) substituted (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1), Sch. 1 Pt. II para. 54(4); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F6** S. 42(6)(b)(i) repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(5), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**

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- F7** Words in s. 42(6)(b)(iii) substituted (16.12.1995) by [S.I. 1995/3213](#) (NI 22), arts. 1(3)(a), 123, Sch. 2 Pt. III para. 19
- F8** Words in s. 42(6)(b)(iii) substituted (24.4.2000 for certain purposes, otherwise 9.4.2001) by [S.I. 1999/3147](#) (N.I. 11), arts. 1(2), 67, **Sch. 8 Pt. I para. 17(3)** (with transitional provisions in [art. 75\(5\)](#)); [S.R. 2000/133](#), art. 2(3), **Sch. Pt. I**
- F9** S. 42(8)(a) and the word “and” immediately following it repealed (13.4.1995) by [S.I. 1994/1898](#) (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(6), Sch. 2; [S.R. 1994/450](#), art. 2(d), **Sch. Pt. IV**
- F10** S. 42(9) repealed (13.4.1995) by [S.I. 1994/1898](#) (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(7), Sch. 2; [S.R. 1994/450](#), art. 2(d), **Sch. Pt. IV**

Marginal Citations

- M1** 1992 c. 7.
M2 1992 c. 7.

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

- (1) ^{F11}The reference in section 42(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [^{F12}or surviving civil partner] of an earner [^{F13} in any case where he is entitled to a benefit other than a widowed parent's allowance] . . . only if—
- [^{F14}(a) he is also entitled to a Category B retirement pension by virtue of the earner's contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992); or]
- (b) he is also entitled to a Category A retirement pension by virtue of [^{F15}section 41(5) of that Act] .
- (2) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 9(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 16 as a result of which—
- (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
- (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member's [^{F16}widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 15; and
- (b) either—
- (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
- (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and

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- (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of—
- (i) any relevant policies and annuity contracts, and
 - (ii) any cash sums paid or alternative arrangements made under the ^[F17]Financial Services Compensation Scheme],
- are inadequate to provide the whole of the amount secured, the member and the member's ^[F16]widow, widower or surviving civil partner] shall be treated for the purposes of section 42 as only entitled to such part (if any) of the member's or, as the case may be, the member's ^[F18]widow's, widower's or surviving civil partner's] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 15 applies.
- (5) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 17(1); or
 - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 17(2).
- ^[F19](6) For the purposes of section 42, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for ^[F20]section 10(2A) and] any reduction under section 11A.]
- ^[F21](7) For the purposes of section 42, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under Article 315A of the Insolvency (Northern Ireland) Order 1989 (recovery of excessive pension contributions).]
- ^[F22](8) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which he would have been entitled but for the fact that the trustees or managers were discharged from their liability to provide that pension on the Board of the Pension Protection Fund assuming responsibility for the scheme.]
- ^[F23](9) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, he would have been entitled but for the amendment of a scheme so that it no longer contains the guaranteed minimum pension rules.
- (10) Where the earner's accrued rights have been transferred after the amendment of the scheme, in making the calculation under subsection (9) the Commissioners shall assume the application of section 12(1) after the transfer.
- (11) In making the calculation under subsection (9) the Commissioners shall ignore any effect of the scheme being wound up.]

Textual Amendments

- F11** Words in s. 43(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. II para. 55, Sch. 2; S.R. 1994/450, art. 2(d), Sch. Pt. IV

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- F12** Words in s. 43(1) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(a)**
- F13** Words in s. 43(1) inserted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(a)**, 21(2); S.R. 2002/366, art. 2(2)
- F14** S. 43(1)(a) substituted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(b)**, 21(2); S.R. 2002/366, art. 2(2)
- F15** Words in s. 43(1)(b) substituted (14.1.2003) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\)](#), **ss. 18(c)**, 21(2); S.R. 2002/366, art. 2(2)
- F16** Words in s. 43(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(b)(i)**
- F17** Words in s. 43(3)(d) substituted (3.7.2002) by [Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), **art. 20**
- F18** Words in s. 43(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), art. 1(3), **Sch. 1 para. 15(b)(ii)**
- F19** S. 43(6) added (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a)**, 29(4); S.R. 2000/133, art. 2(3), **Sch. Pt. IV**
- F20** Words in s. 43(6) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 23(4)**; S.I. 2003/120, art. 2, **Sch.** (with arts. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F21** S. 43(7) added (1.12.1999 for certain purposes and 6.4.2002 otherwise) by S.I. 1999/3147 (N.I. 11), art. 17, **Sch. 2 para. 5** (with transitional provisions in art. 75(1)); S.R. 2002/25, **art. 2(b)**
- F22** S. 43(8) added (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), arts. 1(2), **149(3)** (with art. 285(5)); S.R. 2006/95, art. 2(c), **Sch. Pt. 3**
- F23** S. 43(9)-(11) added (3.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), **ss. 12(5)**, 21(1); S.R. 2009/75, art. 2(a)(b)

Modifications etc. (not altering text)

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

[^{F24}44] Reduced benefits where minimum payments or minimum contributions paid.

- (1) Subject to subsection (3), this subsection applies where for any period—
- (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or
 - (b) minimum contributions have been paid in respect of an earner under section 39.
- (2) Where subsection (1) applies then, for the purposes of section 42—
- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
 - ^{F25}(b)
 - (c) in prescribed circumstances ^{F26}. . . any [^{F27}widow, widower or surviving civil partner] of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies, paragraphs (a) to (c) of this subsection apply also for the purposes of [^{F28}section]47(2) of the ^{M3}Social Security Contributions and

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Benefits (Northern Ireland) Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.

- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.]

Textual Amendments

- F24** S. 44 shall cease to have effect for specified purposes (6.4.1997) by [S.I. 1995/3213 \(N.I.22\)](#), [art. 137\(3\)](#)
- F25** S. 44(2)(b) repealed (14.3.1996 for certain purposes otherwise 6.4.1996) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 137\(2\)](#), [168](#), [Sch. 5 Pt. III](#); [S.R. 1996/91](#), [arts. 2\(b\)\(c\)](#), [Sch. Pts. II III](#)
- F26** Words in s. 44(2)(c) repealed (14.3.1996 for certain purposes otherwise 6.4.1996) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 137\(2\)](#), [168](#), [Sch. 5 Pt. III](#); [S.R. 1996/91](#), [arts. 2\(b\)\(c\)](#), [Sch. Pts. II III](#)
- F27** Words in s. 44(2)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005/433\)](#), [art. 1\(3\)](#), [Sch. 1 para. 16](#)
- F28** Words in s. 44(2) substituted (13.4.1995) by [S.I. 1994/1898 \(NI 12\)](#), [art. 13\(1\)](#), [Sch. 1 Pt. II para. 56](#); [S.R. 1994/450](#), [art. 2\(d\)](#), [Sch. Pt. IV](#)

Marginal Citations

- M3** [1992 c. 7.](#)

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