



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART IV

PROTECTION FOR EARLY LEAVERS

CHAPTER II

REVALUATION OF ACCRUED BENEFITS (EXCLUDING GUARANTEED MINIMUM PENSIONS)

Modifications etc. (not altering text)

- C1 Pt. 4 Ch. 2 modified (1.4.2015) by [The Police Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/156\)](#), regs. 1(2), **8(1)**
- C2 Pt. 4 Ch. 2 modified (1.4.2015) by [The Teachers Pension Scheme \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/170\)](#), regs. 1, **8(1)**
- C3 Pt. 4 Ch. 2 modified (1.4.2015) by [The Judicial Pensions Regulations \(Northern Ireland\) 2015 \(S.R. 2015/76\)](#), reg. 1(3), **Sch. 3 para. 6(1)**
- C4 Pt. 4 Ch. 2 modified (1.4.2015) by [The Public Service \(Civil Servants and Others\) Pensions \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/81\)](#), regs. 1(1), **8(1)**
- C5 Pt. 4 Ch. 2 modified (1.4.2015) by [The Firefighters Pension Scheme \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/166\)](#), regs. 1, **8(1)**
- C6 Pt. 4 Ch. 2 modified (1.4.2015) by [The Health Service Workers \(Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/167\)](#), regs. 1, **8(1)**

79 Scope of Chapter II.

- (1) This Chapter applies for the purpose of revaluing—
 - (a) [F¹relevant] benefits payable to or in respect of a member of an occupational pension scheme where—

Status: Point in time view as at 01/09/2021.

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- (i) his pensionable service ends on or after 1st January 1986;
- (ii) on the date on which his pensionable service ends (in this Chapter referred to as “the termination date”) he has accrued rights to benefit under the scheme;
- (iii) the period beginning with the day after the termination date and ending with the date on which he attains normal pension age (in this Chapter referred to as “the pre-pension period”) is at least 365 days; and
- (iv) in the case of benefit payable to any other person in respect of the member, the member dies after attaining normal pension age; and
- (b) [^{F1}relevant] benefits payable to or in respect of a member of a personal pension scheme—
 - (i) in respect of whom contributions to the scheme have ceased to be paid; and
 - (ii) who has accrued rights to benefit under the scheme.

[^{F2}(1A) The following are relevant benefits for the purposes of subsection (1)—

- (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
- (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service.]

[^{F3}(1B) The reference in subsection (1)(a)(iii) to normal pension age is to be read, in relation to a person who is an active or deferred member of a scheme under section 1 or section 32(7) of the Public Service Pensions Act (Northern Ireland) 2014, as—

- (a) the member's normal pension age within the meaning of that Act, or
- (b) the member's deferred pension age within the meaning of that Act, if that is later.

In this subsection “active member” and “deferred member”, in relation to such a scheme, have the meanings given by Article 121(1) of the Pensions (Northern Ireland) Order 1995.]

(2) In calculating 365 days for the purpose of subsection (1)(a)(iii), any day which is 29th February shall be disregarded.

(3) In subsection (1)(b)—

- (a) the reference to a personal pension scheme does not include a scheme which is comprised in an annuity contract made before 4th January 1988; and
- (b) the reference to contributions includes any minimum contributions.

[^{F4}(4) For the purposes of this section, an occupational pension scheme is salary related if—

- (a) it is not a money purchase scheme, and
- (b) it does not fall within a prescribed class.]

Textual Amendments

F1 Words in s. 79(1)(a)(b) inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 20(2)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**

F2 S. 79(1A) inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 20(3)**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**

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- F3** S. 79(1B) inserted (28.4.2014) by [Public Service Pensions Act \(Northern Ireland\) 2014 \(c. 2\)](#), s. 37(2), [Sch. 8 para. 21](#); S.R. 2014/123, art. 2(1)(r)
- F4** S. 79(4) added (1.12.2000) by [S.I. 1999/3147 \(N.I. 11\)](#), art. 74, [Sch. 9 para. 20\(4\)](#); S.R. 2000/133, art. 2(3), [Sch. Pt. IV](#)

80 Basis of revaluation.

- (1) [^{F5}Subject to subsections (2) to (3B),] in the case of such benefits as are mentioned in section 79(1)(a), any pension or other retirement benefit payable under the scheme in question to the member and any pension or other benefit payable under it to any other person in respect of him, is to be revalued by the final salary method.
- (2) If—
- (a) any such benefit is an average salary benefit or flat rate benefit; and
 - (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the average salary method or, as the case may be, the flat rate method,
- then the benefit shall be revalued using that method.
- (3) If any benefit such as is mentioned in paragraph (a) of section 79(1) is a money purchase benefit [^{F6}other than a collective money purchase benefit], and in the case of such benefit as is mentioned in paragraph (b) of that section, the benefit shall be revalued using the money purchase method.

[^{F7}(3A) If—

- (a) any such benefit as is mentioned in section 79(1)(a) is a cash balance benefit in respect of which the available sum is not calculated by reference to final salary;
- (b) the benefit is attributable to periods of pensionable service falling on or after the day on which section 27 of the Pensions Act (Northern Ireland) 2012 (definition of money purchase benefits) comes into operation; and
- (c) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the cash balance method,

then the benefit shall be revalued using that method.

[If any such benefit as is mentioned in section 79(1)(a) is a collective money purchase ^{F8}(3AA) benefit, the benefit shall be revalued using the cash balance method.]

- (3B) Where a cash balance benefit in respect of which the available sum is not calculated by reference to final salary—
- (a) is attributable to periods of pensionable service falling partly before and partly on or after the day on which section 27 of the Pensions Act (Northern Ireland) 2012 comes into operation; and
 - (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue so much of the benefit as is attributable to the member's pensionable service falling on or after that day by the cash balance method,
- then so much of the benefit as is attributable to the member's pensionable service falling on or after that day shall be revalued using that method.]

(4) In this section—

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“average salary benefit” means benefit the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;

[^{F9}“cash balance benefit” has the meaning given by regulation 2 of the Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014;

“final salary”, in relation to a member to or in respect of whom benefits under a pension scheme are payable, means the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;]

“flat rate benefit” means any benefit the rate or amount of which is calculated by reference solely to the member’s length of service;

“average salary method”, [^{F10}“cash balance method”], “final salary method”, “flat rate method” and “money purchase method” have the meanings given in Schedule 2.

[^{F11}“pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated.]

(5) The fact that a scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of him to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 132 of the ^{M1}Social Security Administration (Northern Ireland) Act 1992; ^{F12} . . . [^{F13}or
- (b) under any arrangement which maintains the value of the pension or other benefit by reference to the rise in [^{F14}the general level of prices] during that period,]

^{F12}(b)

does not in itself result in conflict with this section, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member’s [^{F15}widow, widower [^{F16}, surviving same sex spouse] or surviving civil partner] has not been deducted.

^{F17}(6)

Textual Amendments

- F5** Words in s. 80(1) substituted (24.7.2014) by [The Pensions \(2012 Act\) \(Consequential and Supplementary Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/213\)](#), regs. 1, **2(2)(a)**
- F6** Words in s. 80(3) inserted (11.2.2021 for specified purposes) by [Pension Schemes Act 2021 \(c. 1\)](#), s. 131(1)(3)(a), **Sch. 6 para. 2(2)**
- F7** S. 80(3A)-(3B) inserted (24.7.2014) by [The Pensions \(2012 Act\) \(Consequential and Supplementary Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/213\)](#), regs. 1, **2(2)(b)**
- F8** S. 80(3AA) inserted (11.2.2021 for specified purposes) by [Pension Schemes Act 2021 \(c. 1\)](#), s. 131(1)(3)(a), **Sch. 6 para. 2(3)**
- F9** Words in s. 80(4) inserted (24.7.2014) by [The Pensions \(2012 Act\) \(Consequential and Supplementary Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/213\)](#), regs. 1, **2(2)(c)(i)**
- F10** Words in s. 80(4) inserted (24.7.2014) by [The Pensions \(2012 Act\) \(Consequential and Supplementary Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/213\)](#), regs. 1, **2(2)(c)(ii)**

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- F11** Words in s. 80(4) added (24.7.2014) by The Pensions (2012 Act) (Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 (S.R. 2014/213), regs. 1, **2(2)(c)(iii)**
- F12** S. 80(5)(b) and the word “or” immediately preceding repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 52, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F13** S. 80(5)(b) and word inserted (17.2.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(3), **258(2)** (with art. 285(5))
- F14** Words in s. 80(5)(b) substituted (7.6.2012) by Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 20(2), 34(3)**; S.R. 2012/233, art. 2(2)(e)
- F15** Words in s. 80(5) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R. 2005/434), art. 1(3), **Sch. para. 13**
- F16** Words in s. 80 inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **68(8)** (with regs. 6-9)
- F17** S. 80(6) omitted (7.6.2012) by virtue of Pensions Act (Northern Ireland) 2012 (c. 3), **ss. 20(3), 34(3)**; S.R. 2012/233, art. 2(2)(e)

Modifications etc. (not altering text)

- C7** S. 80 applied (24.7.2014) by The Pensions (2012 Act) (Transitional, Consequential and Supplementary Provisions) Regulations (Northern Ireland) 2014 (S.R. 2014/204), regs. 1(1), **24(4)**
- C8** S. 80(1) modified (1.7.2012) by The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 (S.R. 2010/122), regs. 1(1), **37(3)**; as amended (1.7.2012) by S.R. 2012/237, regs. 1(1)(b), 2(2)

Marginal Citations

- M1** 1992 c. 8.

81 Revaluation not to apply to substituted benefit.

Nothing in this Chapter is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of section 69(2)(b) [^{F18}or 97D(2)(b)] by way of complete substitute for another pension or benefit.

Textual Amendments

- F18** Words in s. 81 inserted (1.12.2000) by S.I. 1999/3147 (N.I. 11), art. 74, **Sch. 9 para. 21**; S.R. 2000/133, art. 2(3), **Sch. Pt. IV**

82 Supplementary provisions.

- (1) In making any calculation for the purposes of this Chapter in relation to any occupational pension scheme—
- any commutation, forfeiture or surrender of,
 - any charge or lien on, and
 - any set-off against,
- the whole or part of a pension shall be disregarded.
- (2) The same money may not be treated as providing both the increase in benefit required by this Chapter and the benefit required by Chapter III.

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