



Pensions (No. 2) Act (Northern Ireland) 2008

CHAPTER 13

PENSIONS (NO. 2) ACT (NORTHERN IRELAND) 2008

PART 1

PENSION SCHEME MEMBERSHIP FOR JOBHOLDERS

CHAPTER 1

EMPLOYERS' DUTIES

Jobholders

1. Jobholders

Employers' duties

2. Continuity of scheme membership
3. Automatic enrolment
4. Postponement of automatic enrolment
5. Automatic re-enrolment
6. Timing of automatic re-enrolment
7. Jobholder's right to opt in
8. Jobholder's right to opt out

Status: This is the original version (as it was originally enacted).

Duty in relation to workers without qualifying earnings

9. Workers without qualifying earnings

Supplementary provision about the duties

10. Information to be given to workers
11. Information to be given to the Pensions Regulator
12. Introduction of employers' duties

Qualifying earnings

13. Qualifying earnings
14. Review of qualifying earnings band
15. Pay reference period

Qualifying schemes and automatic enrolment schemes

16. Qualifying schemes
17. Automatic enrolment schemes
18. Occupational pension schemes
19. Personal pension schemes

Quality requirements

20. Quality requirement: UK money purchase schemes
21. Quality requirement: UK defined benefits schemes
22. Test scheme standard
23. Test scheme
24. Quality requirement: UK hybrid schemes
25. Quality requirement: non-UK occupational pension schemes
26. Quality requirement: UK personal pension schemes
27. Quality requirement: other personal pension schemes
28. Sections 20, 24 and 26: certification that quality requirement is satisfied

Transitional

29. Transitional periods for money purchase and personal pension schemes
30. Transitional period for defined benefits and hybrid schemes

Miscellaneous

31. Effect of freezing order or assessment period
32. Power of trustees to modify by resolution
33. Deduction of contributions

CHAPTER 2

COMPLIANCE

Effect of failure to comply

34. Effect of failure to comply

Compliance notices and unpaid contributions notices

35. Compliance notices
36. Third party compliance notices
37. Unpaid contributions notices
38. Calculation and payment of contributions
39. Meaning of “relevant contributions”

Penalty notices

40. Fixed penalty notices
41. Escalating penalty notices
42. Penalty notices: recovery

Reviews and references

43. Review of notices
44. References to the Pensions Regulator Tribunal

Offences and monitoring

45. Offences of failing to comply
46. Offences by bodies corporate
47. Offences by partnerships and unincorporated associations
48. Offences of providing false or misleading information
49. Monitoring of employers' payments to personal pension schemes

CHAPTER 3

SAFEGUARDS: EMPLOYMENT AND PRE-EMPLOYMENT

Prohibited recruitment conduct

50. Prohibited recruitment conduct
51. Compliance notices
52. Penalty notices
53. Review of notices and references to the Pensions Regulator Tribunal

Inducements

- 54. Inducements

Protection of employment rights

- 55. The right not to suffer detriment
- 56. Enforcement of the right
- 57. Right of employee not to be unfairly dismissed
- 58. Restrictions on agreements to limit operation of this Part

CHAPTER 4

SUPPLEMENTARY PROVISION ABOUT
COMPLIANCE AND INFORMATION-SHARING

Records and information

- 59. Requirement to keep records
- 60. Powers to require information and to enter premises
- 61. Disclosure of tax information etc.
- 62. Penalty for disclosure

Objectives of the Regulator

- 63. Objectives of the Regulator

Functions of the Pensions Ombudsman

- 64. Functions of the Pensions Ombudsman

CHAPTER 5

PERSONAL ACCOUNTS DELIVERY AUTHORITY

Functions

- 65. Functions and winding up
- 66. Principles
- 67. Directions and guidance
- 68. Disclosure of information by the Regulator

CHAPTER 6

STAKEHOLDER PENSION SCHEMES

- 69. Stakeholder pension schemes

CHAPTER 7

APPLICATION AND INTERPRETATION

Workers

70. “Employer”, “worker” and related expressions
71. Agency workers
72. Directors
73. Crown employment
74. Armed forces
75. Police
76. Persons working on vessels
77. Extension of definition of worker

General

78. Interpretation of Part

PART 2

SIMPLIFICATION ETC.

Private pensions

79. Abolition of safeguarded rights
80. Revaluation of accrued benefits etc.

State pensions etc.

81. Consolidation of additional pension
82. Effect of entitlement to guaranteed minimum pension
83. Additional State Pension etc.: minor and consequential amendments
84. State pension credit: extension of assessed income period for those aged 75 or over
85. Contracting-out: abolition of all protected rights

PART 3

PENSION COMPENSATION

CHAPTER 1

PENSION COMPENSATION ON DIVORCE ETC.

86. Scope of mechanism
87. Interpretation
88. Activation of pension compensation sharing
89. Creation of pension compensation debits and credits

Status: This is the original version (as it was originally enacted).

90. Cash equivalents
91. Reduction of compensation
92. Time for discharge of liability
93. “Implementation period”
94. Discharge of liability
95. Charges in respect of pension compensation sharing costs
96. Supply of information about pension compensation in relation to divorce etc.
97. Supply of information about pension compensation sharing
98. Pension compensation sharing and attachment on divorce etc.

CHAPTER 2

OTHER PROVISION ABOUT PENSION COMPENSATION

99. Charges in respect of pension sharing etc.
100. Amendments of Schedule 6 to the 2005 Order
101. Consequential amendments

PART 4

ADDITIONAL PENSIONS

102. Additional pension: upper accrual point to replace upper earnings limit from 2009–10

PART 5

MISCELLANEOUS

Miscellaneous provisions relating to pensions

103. Amendments of provisions of the 2005 Order relating to contribution notices or financial support directions
104. Interest on late payment of levies
105. Payments to employers
106. Appointment of trustees
107. Intervention by the Regulator where scheme’s technical provisions improperly determined
108. Delegation of powers by the Regulator
109. Exclusion of transfers out in certain cases

Official pensions

110. Official pensions: adjustment of increases in survivors' pensions

Information relating to state pension credit recipients

111. Disclosure of information relating to state pension credit recipients

PART 6

GENERAL

112. Orders and regulations
113. Orders and regulations: supplementary
114. Further provision etc.
115. Pre-consolidation amendments
116. Repeals
117. Interpretation
118. Commencement
119. Short title

SCHEDULES

SCHEDULE 1 — REVALUATION OF ACCRUED BENEFITS ETC.

PART 1 — REVALUATION OF ACCRUED PENSION BENEFITS

Amendments to Schedule 2 to the Pension Schemes (Northern Ireland) Act 1993

1. This Part makes amendments to Schedule 2 to the Pension...
2. In paragraph 1 (the final salary method), for sub-paragraphs (1)...
3. (1) Paragraph 2 (the revaluation percentage and the appropriate revaluation...

PART 2 — REVALUATION OF ACCRUED AMOUNTS ETC.

Amendments to Schedule 6 to the 2005 Order

4. This Part makes amendments to Schedule 6 to the 2005...
5. (1) Paragraph 12 (active members who have not attained normal...
6. (1) Paragraph 17 (deferred members who have not attained normal...
7. In paragraph 29 (Board's powers to alter rates of revaluation...

PART 3 — CONSEQUENTIAL AMENDMENTS

8. In Article 51ZA of the 1995 Order (meaning of "the...)
9. In Article 54(3) of the 1995 Order (Articles 51 to...

SCHEDULE 2 — ADDITIONAL PENSION CONSOLIDATION

SCHEDULE 3 — ADDITIONAL STATE PENSION ETC.: MINOR AND
CONSEQUENTIAL AMENDMENTS

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

1. The Contributions and Benefits Act is amended as follows.
2. In section 21(5A)(c) (contribution conditions) after “5(2)(b) and (4)(a)” insert...
3. In section 39(1) (rate of widowed mother’s allowance and widow’s...
4. (1) Section 39C (rate of widowed parent’s allowance and bereavement...
5. (1) After section 45 (additional pension in Category A retirement...
6. (1) Section 46 (modifications of section 45 for calculating the...
7. In section 48A(4) (Category B retirement pension for married person)—...
8. In section 48B(2) (Category B retirement pension for widows and...
9. (1) Section 48BB (Category B retirement pension: entitlement by reference...
10. In section 48C(4) (Category B retirement pension: general) for “and...
11. In section 51(2) and (3) (Category B retirement pension for...
12. (1) Schedule 4B (additional pension: accrual rates for purposes of...
13. In Schedule 7 (industrial injuries benefits) in paragraph 3(3) after...

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

14. After section 130AA of the Social Security Administration (Northern Ireland)...

The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

15. The Pension Schemes Act is amended as follows.
16. (1) Section 42 (effect of entitlement to guaranteed minimum pensions...
17. (1) Section 43 (further provisions concerning entitlement to guaranteed minimum...
18. In section 44(2) (reduced benefits where minimum payments or minimum...
19. In section 45(b) (women, married women and widows) after “42(1),”...

20. In section 160(5) (Crown employment) after “42(1),” insert “42A(2),”.
21. In section 161(2)(b) (cases with a foreign element) after “those...”
22. (1) In section 163(4) (application of provisions relating to social...

SCHEDULE 4 — PENSION COMPENSATION PAYABLE ON
DISCHARGE OF PENSION COMPENSATION
CREDIT

PART 1 — INTRODUCTORY

Introductory

1. This Schedule applies for the purposes of determining the compensation...

Interpretation

2. In this Schedule— “the initial annual rate of compensation” is...

Pension compensation age

3. (1) This paragraph applies for the purpose of determining the...

PART 2 — TRANSFEREE ATTAINS PENSION
COMPENSATION AGE BEFORE OR ON TRANSFER
DAY

Compensation payable to transferee

4. (1) Compensation is payable in accordance with this paragraph where...

Compensation payable to widow, widower or surviving civil partner

5. (1) This paragraph applies where— (a) the transferee dies after...

PART 3 — TRANSFEREE ATTAINS PENSION
COMPENSATION AGE AFTER TRANSFER DAY

Compensation payable to transferee

6. (1) Compensation is payable in accordance with this paragraph where...

Status: This is the original version (as it was originally enacted).

Compensation payable to widower, widow or surviving civil partner

7. (1) This paragraph applies where— (a) the transferee dies after...

Revaluation

8. (1) This paragraph applies for the purpose of calculating the...

Commutation of periodic compensation

9. (1) A transferee who is entitled to periodic compensation under...

Early payment of compensation

10. (1) Regulations may prescribe circumstances in which, and conditions subject...

Deferral of compensation

11. (1) Regulations may prescribe circumstances in which, and conditions subject...

Terminal illness lump sum: eligibility

12. (1) This paragraph applies where all of the following conditions...

Terminal illness lump sum: application and evidence

13. An application for a terminal illness lump sum—

Terminal illness lump sum: determination of application

14. (1) The Board must determine an application for a terminal...

Terminal illness lump sum: effect of successful application

15. (1) If the Board grants an application for a terminal...

Terminal illness lump sum: information

16. (1) Relevant information held by the Department or the Secretary...

PART 4 — PROVISIONS APPLICABLE IRRESPECTIVE OF AGE OF TRANSFEREE ON TRANSFER DAY

Annual increase in periodic compensation

17. (1) This paragraph provides for annual increases to compensation payable...

Compensation cap

18. (1) The Department may by regulations make provision for restricting...

Compensation in form of dependant's benefits

19. (1) The Department may by regulations make provision for compensation...

Board's power to alter rates of revaluation and indexation

20. (1) The Board may determine the percentage that is to...

SCHEDULE 5 — PENSION COMPENSATION ON DIVORCE ETC.

PART 1 — AMENDMENTS OF THE MATRIMONIAL CAUSES
(NORTHERN IRELAND) ORDER 1978

1. The Matrimonial Causes (Northern Ireland) Order 1978 (NI 15) is...
2. After Article 23A (pension sharing orders) insert— Pension compensation sharing...
3. After Article 26C (pension sharing orders: apportionment of charges) insert—...
4. (1) Article 27 (matters to which court is to have...
5. In Article 27A(1) (exercise of court's powers in favour of...
6. In Article 27E(9) (the Pension Protection Fund) omit the definition...
7. After Article 27E insert— Attachment of pension compensation (1) This Article applies where, having regard to any PPF...
8. (1) Article 33 (variation, discharge etc. of certain orders for...
9. After Article 42A (appeals relating to pension sharing orders which...

PART 2 — AMENDMENTS OF THE MATRIMONIAL AND
FAMILY PROCEEDINGS (NORTHERN IRELAND)
ORDER 1989

10. The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI...
11. In Article 21 (orders for financial provision and property adjustment)...
12. In Article 22(7) (matters to which court is to have...
13. (1) Article 25 (application of certain provisions of Part 3...

PART 3 — AMENDMENTS OF THE CIVIL PARTNERSHIP ACT
2004

14. The Civil Partnership Act 2004 (c. 33) is amended as...
15. After Part 3 of Schedule 15 (pension sharing orders on...

16. (1) Part 4 of Schedule 15 (matters to which court...
17. (1) Part 6 of Schedule 15 (pension protection fund compensation...
18. (1) Part 10 of Schedule 15 (variation, discharge etc. of...
19. In Part 13 of Schedule 15 (miscellaneous and supplementary) after...
20. (1) In Schedule 17 (financial relief in Northern Ireland after...

SCHEDULE 6 — AMENDMENTS OF SCHEDULE 6 TO THE 2005 ORDER

1. Schedule 6 to the 2005 Order (pension compensation provisions) is...
2. In paragraph 3(6), at the end, add “to the scheme”....
3. In paragraph 5(5), at the end, add “to the scheme”....
4. In paragraph 11(8), after paragraph (b) insert—
5. In paragraph 13, after sub-paragraph (3) insert—
6. In paragraph 14(9), after paragraph (a) insert—
7. In paragraph 15(6), after paragraph (a) insert—
8. In paragraph 18, after sub-paragraph (3) insert—
9. In paragraph 19(8), after “This paragraph is subject to—” insert—...
10. In paragraph 21(1) for “15, 18 and 19” substitute “15...
11. For paragraph 21(2)(b) and (c) substitute— (c) for paragraph 15(5)...
12. In paragraph 25(3), after “before that person attains normal pension...
13. After paragraph 25 insert— Deferral of compensation (1) Regulations may prescribe circumstances in which, and conditions subject...
14. After paragraph 25A (inserted by paragraph 13) insert— Terminal illness...
15. In paragraph 33 make the existing provision sub-paragraph (1) and...
16. In paragraph 34(1) after “ill health” insert “or otherwise”.
17. For paragraph 35(2)(a) substitute— (a) in the case of a...
18. For paragraph 35(3) substitute— (3) This sub-paragraph applies to a...

SCHEDULE 7 — ADDITIONAL PENSION: CONSEQUENTIAL AMENDMENTS

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

1. The Contributions and Benefits Act is amended as follows.
2. In section 22 (earnings factors), after subsection (8) add—

3. (1) Section 23 is amended as follows.
4. (1) Section 44A (deemed earnings factors) is amended as follows....
5. In section 44B(2)(a) (deemed earnings factors: 2010–11 onwards), for “the...
6. (1) Paragraph 1 of Schedule 1 (Class 1 contributions where...

The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

7. The Pension Schemes Act is amended as follows.
8. (1) Section 4 (meaning of “contracted-out employment” etc.) is amended...
9. In section 8B(7) (contracted-out pension scheme: reference scheme), in the...
10. (1) Section 37 (reduced rates of Class 1 contributions for...
11. (1) In section 38A(1) (reduced rates of Class 1 contributions,...
12. (1) In section 41(1) (personal pensions: amount of minimum contributions),...
13. (1) Paragraph 2 of Schedule 3 (priority in bankruptcy etc.:...

SCHEDULE 8 — CONTRIBUTION NOTICES AND FINANCIAL SUPPORT DIRECTIONS UNDER 2005 ORDER

Introduction

1. The 2005 Order is amended as follows.

Contributions notices: material detriment test

2. (1) In Article 34(5)(a) (main purpose or one of main...
3. In Article 85(2) (the matters in relation to which the...
4. In Article 91 (standard procedure), after paragraph (1) insert—
5. In Article 288(3) (orders and regulations under Order that are...

Contribution notices: acting or failing to act otherwise than in good faith

6. In Article 34(5) (acts or failures to act in relation...

Whether reasonable for Pensions Regulator to issue contribution notice

7. (1) Article 34 (contribution notices where avoidance of employer debt)...

Contribution notices: series of acts or failures to act

8. (1) In Article 34 (contribution notices where avoidance of employer...

Status: This is the original version (as it was originally enacted).

Contribution notices and financial support directions: bulk transfers

9. After Article 35 (the sum specified in an Article 34...
10. After Article 39 (financial support directions) insert—
Financial support directions:...
11. In Article 279(2) (overriding requirements)— (a) after sub-
paragraph (d) insert—...
12. In Article 288(3) (orders and regulations under Order that are...
13. In Part 4 of Schedule 2 (the reserved regulatory functions...

Financial support directions: meaning of “insufficiently resourced”

14. (1) In Article 40(3) (meaning of “insufficiently resourced”), for
sub-paragraph...

Effect of amendments made by this Schedule

15. (1) The amendments made by paragraphs 2, 6 and 7...

Transitional provision

16. (1) In the case of the first set of regulations...

SCHEDULE 9 — INTEREST ON LATE PAYMENT OF LEVIES

The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

1. After section 170 of the Pension Schemes Act (levies
towards...

The Pensions (Northern Ireland) Order 2005 (NI 1)

2. The 2005 Order is amended as follows.
3. After Article 103 (PPF administration levy) insert—
Administration levy: interest...
4. After Article 164 (calculation, collection and recovery of
levies) insert—...
5. After Article 171 (fraud compensation levy) insert— Fraud
compensation levy:...
6. In Article 191 (the PPF Ombudsman) at the end add—...

SCHEDULE 10 — REPEALS

**PART 1 — PENSION SCHEME MEMBERSHIP FOR
JOBHOLDERS**

PART 2 — SAFEGUARDED RIGHTS

**PART 3 — CONTRACTING-OUT: ABOLITION OF ALL
PROTECTED RIGHTS**

PART 4 — PENSION COMPENSATION

PART 5 — MISCELLANEOUS
PART 6 — ADDITIONAL PENSIONS