



Welfare Reform and Pensions Act 1999

1999 CHAPTER 30

PART IV

PENSION SHARING

CHAPTER I

SHARING OF RIGHTS UNDER PENSION ARRANGEMENTS

Indexation

39 Public service pension schemes.

- (1) The ^{M1}Pensions (Increase) Act 1971 shall be amended as follows.
- (2) In section 3 (qualifying conditions), after subsection (2) there shall be inserted—

“(2A) A pension attributable to the pensioner having become entitled to a pension credit shall not be increased unless the pensioner has attained the age of fifty-five years.”
- (3) In section 8, in subsection (1) (definition of “pension”), in paragraph (a), the words from “(either” to “person)” shall be omitted.
- (4) In that section, in subsection (2) (when pension deemed for purposes of the Act to begin), after “pension”, in the first place, there shall be inserted “ which is not attributable to a pension credit ”, and after that subsection there shall be inserted—

“(2A) A pension which is attributable to a pension credit shall be deemed for purposes of this Act to begin on the day on which the order or provision on which the credit depends takes effect.”
- (5) In section 17(1) (interpretation)—

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- (a) for the definitions of “derivative pension” and “principal pension” there shall be substituted—

““derivative pension” means a pension which—

- (a) is not payable in respect of the pensioner’s own services, and
- (b) is not attributable to the pensioner having become entitled to a pension credit;”

- (b) after the definition of “pension” there shall be inserted—

““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;

“principal pension” means a pension which—

- (a) is payable in respect of the pensioner’s own services, or
- (b) is attributable to the pensioner having become entitled to a pension credit;”, and

- (c) for the definition of “widow’s pension” there shall be substituted—

““widow’s pension” means a pension payable—

- (a) in respect of the services of the pensioner’s deceased husband, or
- (b) by virtue of the pensioner’s deceased husband having become entitled to a pension credit.”

Commencement Information

II S. 39 wholly in force at 1.12.2000; s. 39 in force for certain purposes at Royal Assent see s. 89(1); s. 39 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), [art. 2\(2\)\(d\)](#), [Sch. Pt. IV](#)

Marginal Citations

M1 1971 c. 56.

40 Other pension schemes.

(1) The Secretary of State may by regulations make provision for a pension to which subsection (2) applies to be increased, as a minimum, by reference to [^{F1}relevant percentage increases], so far as not exceeding [^{F2}the maximum percentage] per annum.

(2) [^{F3}Subject to subsection (2A), this] subsection applies to—

- (a) a pension provided to give effect to eligible pension credit rights of a member under a qualifying occupational pension scheme, ^{F4}...
- ^{F4}(b)

[^{F5}(2A) Subsection (2) does not apply to pensions which—

- (a) are money purchase benefits, and
- (b) become pensions in payment on or after the commencement day.]

[^{F6}(2AA) In subsection (1) “ relevant percentage increases ” means percentage increases estimated by the Secretary of State from time to time for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.]

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[^{F5}(2B) For the purposes of subsection (1) the “ maximum percentage ” means—

- (a) 5% in a case where—
 - (i) the pension is in payment before the commencement day, or
 - (ii) the pension is not in payment before the commencement day but the entitlement to the relevant pension credit arose before that day, and
- (b) 2.5% in a case where the entitlement to the relevant pension credit arises on or after the commencement day.]

(3) In this section—

[^{F7} “ commencement day ” means the day appointed for the coming into force of section 280 of the Pensions Act 2004 (amendments to section 40);]

“eligible”, in relation to pension credit rights, means of a description prescribed by regulations made by the Secretary of State;

[^{F7} “ money purchase benefit ” has the meaning given by section 181(1) of the Pension Schemes Act 1993;]

“pension credit rights”, in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a credit under section 29(1)(b) or under corresponding Northern Ireland legislation;

“qualifying occupational pension scheme” means an occupational pension scheme which is not a public service pension scheme;

[^{F7} “ relevant pension credit ” means the pension credit to which the eligible pension credit rights ^{F8}... are (directly or indirectly) attributable;]

“safeguarded rights” has the meaning given in section 68A of the ^{M2}Pension Schemes Act 1993.

Textual Amendments

- F1** Words in s. 40(1) substituted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), **ss. 19(10)**, 38(4); S.I. 2011/3034, art. 3(b)
- F2** Words in s. 40(1) substituted (15.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), **ss. 280(2)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7; S.I. 2005/695, art. 2(4)
- F3** Words in s. 40(2) substituted (15.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), **ss. 280(3)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7; S.I. 2005/695, art. 2(4)
- F4** S. 40(2)(b) repealed (6.4.2009) by [Pensions Act 2008 \(c. 30\)](#), s. 149(1), **Sch. 11 Pt. 2**; S.I. 2009/82, art. 2(2)(g)
- F5** S. 40(2A)(2B) inserted (15.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), **ss. 280(4)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7; S.I. 2005/695, art. 2(4)
- F6** S. 40(2AA) inserted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), **ss. 19(11)**, 38(4); S.I. 2011/3034, art. 3(b)
- F7** Words in s. 40(3) inserted (15.3.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), **ss. 280(5)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7; S.I. 2005/695, art. 2(4)
- F8** Words in s. 40(3) repealed (6.4.2009) by [Pensions Act 2008 \(c. 30\)](#), s. 149(1), **Sch. 11 Pt. 2**; S.I. 2009/82, art. 2(2)(g)

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Modifications etc. (not altering text)

- C1** S. 40 modified (30.12.2005) by [Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 16, **Sch. 2 para. 5**
- C2** S. 40(3) modified by SI 2000/1054 reg. 35 (as substituted (6.4.2005) by [Personal and Occupational Pension Schemes \(Indexation and Disclosure of Information\) \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/704\)](#), regs. 1(2), **16**)

Commencement Information

- I2** S. 40 wholly in force at 1.12.2000; s. 40 in force for certain purposes at Royal Assent see s. 89(1); s. 40 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), **Sch. Pt. IV**

Marginal Citations

- M2** 1993 c. 48.

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