



Pensions Act 2007

2007 CHAPTER 22

PART 2

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Contracting-out

14 Conversion of guaranteed minimum pensions

- (1) After section 13(1) of the Pension Schemes Act 1993 (c. 48) (contracted-out scheme: requirement for guaranteed minimum pension) insert—

“(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1)(a) and (b) if the conditions specified in section 24B are satisfied.”

- (2) After section 17(1) of that Act (minimum pension for survivors) insert—

“(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 24B are satisfied.”

- (3) Before section 25 of that Act (before the italic cross-heading) insert—

“24A Conversion of guaranteed minimum pension into other benefits: introduction

In this section and sections 24B to 24H—

- (a) the rules specified in sections 13(1)(a) and (b) and 17(1) are referred to as the “guaranteed minimum pension rules”,
- (b) “GMP conversion” means amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules,
- (c) a “GMP-converted scheme” is a scheme which has been subject to GMP conversion,

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- (d) “the conversion date” means the date on which that amendment takes effect,
- (e) “the pre-conversion benefits” means the benefits provided under the scheme immediately before the conversion date (disregarding money purchase benefits),
- (f) “the post-conversion benefits” means the benefits which are provided under the converted scheme (disregarding money purchase benefits),
- (g) “the converted scheme” means the scheme as it has effect immediately after conversion, and
- (h) “the trustees” in relation to a scheme means the trustees, managers or other persons responsible under the scheme for effecting amendments of it.

24B The conversion conditions

- (1) This section specifies the conditions referred to in sections 13(1A) and 17(1A) (for exemption from the requirement to guarantee a minimum pension).
- (2) Condition 1 is that the post-conversion benefits must be actuarially at least equivalent to the pre-conversion benefits.
- (3) Condition 2 is that if the earner was entitled immediately before the conversion date to the payment of a pension under the scheme, the converted scheme does not provide for a reduction of, or have the effect of reducing, the amount of that pension immediately after conversion.
- (4) Condition 3 is that the post-conversion benefits must not include money purchase benefits, apart from any money purchase benefits provided under the scheme immediately before the conversion date.
- (5) Condition 4 is that the converted scheme provides survivors' benefits in accordance with section 24D in such circumstances, and during such periods, as are prescribed by regulations.
- (6) Condition 5 is that the procedural requirements of section 24E have been complied with.
- (7) In applying these conditions to a scheme in respect of an earner—
 - (a) it is immaterial whether or not on the conversion date the scheme was also converted in respect of other earners, and
 - (b) it is immaterial (except for Condition 2) whether or not on the conversion date the earner was entitled to the payment of a pension under the scheme.

24C Actuarial equivalence

Regulations may make provision for determining actuarial equivalence for the purpose of Condition 1 of section 24B.

24D Survivors' benefits

- (1) This section specifies the benefits mentioned in Condition 4 of section 24B.

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- (2) The first benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widow, she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—
 - (a) beginning with 6th April 1978, and
 - (b) ending with 5th April 1997.
- (3) The second benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widower or surviving civil partner, he or she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—
 - (a) beginning with 6th April 1988, and
 - (b) ending with 5th April 1997.

24E Procedural requirements

- (1) This section specifies the procedural requirements that must be complied with in order to satisfy Condition 5 of section 24B.
- (2) The employer in relation to the scheme must consent to the GMP conversion in advance.
- (3) The trustees must take all reasonable steps to—
 - (a) consult the earner in advance, and
 - (b) notify all members, and survivors, affected by the GMP conversion before, or as soon as is reasonably practicable after, the conversion date.
- (4) The Commissioners for Her Majesty's Revenue and Customs must be notified on or before the conversion date—
 - (a) that the GMP conversion will occur or has occurred, and
 - (b) that it affects the earner.

24F Transfer out

- (1) Regulations may prescribe—
 - (a) restrictions on the transfer of the earner's accrued rights under a GMP-converted scheme;
 - (b) conditions which must be complied with on the transfer of the earner's accrued rights under a GMP-converted scheme.
- (2) Section 20(2) and (5) shall apply to regulations under this section.
- (3) Where a member of a non-GMP-converted scheme makes an application under section 95(1), the trustees may with his consent adjust any guaranteed cash equivalent so as to reflect rights that would have accrued if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.

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24G Powers to amend schemes

- (1) The trustees of an occupational pension scheme may by resolution modify it so as to effect GMP conversion (whether in relation to present earners, pensioners or survivors) in accordance with the conditions in section 24B.
- (2) The subsisting rights provisions within the meaning of section 67 of the Pensions Act 1995 (c. 26) shall not apply to a power conferred by an occupational pension scheme to modify the scheme in so far as the power enables GMP conversion in accordance with the conditions in section 24B.
- (3) Where a scheme is amended to effect GMP conversion the trustees may include other amendments which they think are necessary or desirable as a consequence of, or to facilitate, the GMP conversion.
- (4) Where an occupational pension scheme is being wound up, the trustees may, before the winding up is completed, adjust rights under the scheme so as to reflect what would have happened if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.
- (5) In the application of section 24E by virtue of subsection (1) above, a reference to the earner includes a reference to a pensioner or survivor whose pension is subjected to GMP conversion.

24H Enforcement of GMP conversion conditions

- (1) If the Regulatory Authority thinks that the conditions of section 24B have not been satisfied in relation to an amendment, modification or adjustment effected in accordance with any of sections 13(1A), 17(1A), 24F and 24G, the Regulatory Authority may make an order declaring the amendment, modification or adjustment void—
 - (a) in respect of a specified person or class of person,
 - (b) to a specified extent, and
 - (c) as from a specified time.
- (2) Where the Regulatory Authority makes an order under subsection (1) it may—
 - (a) require the trustees of the scheme concerned to take specified steps;
 - (b) declare that specified action of the trustees shall not be treated as a contravention of the scheme if it would not have been a contravention if the order under subsection (1) had not been made.
- (3) An order may be made under subsection (1) before or after the amendment, modification or adjustment takes effect.
- (4) If the Regulatory Authority thinks that the process of effecting a GMP conversion of a scheme has been commenced and that a relevant condition of section 24B is not being complied with, or may not be complied with, the Regulatory Authority may by order—
 - (a) prohibit the taking of further steps in the GMP conversion (whether generally or in relation to specified steps), and
 - (b) require the trustees of the scheme to take specified steps before resuming the process of GMP conversion.

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- (5) Section 10 of the Pensions Act 1995 (civil penalties) shall apply to a trustee who has failed to take all reasonable steps to secure compliance with the conditions of section 24B in relation to an amendment, modification or adjustment effected in accordance with any of sections 13(1A), 17(1A), 24F and 24G.”
- (4) In section 9(2A) of the Pension Schemes Act 1993 (c. 48) (requirements for certification) for “sections 13 to 23” substitute “sections 13 to 24E”.
- (5) At the end of section 47 of that Act (deductions from social security payments) add—
- “(9) For the purposes of section 46, 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 16(1) after the transfer.
- (11) In making the calculation under subsection (9) the Commissioners shall ignore any effect of the scheme being wound up.”
- (6) In section 97(5) of the Pensions Act 2004 (c. 35) (Pensions Regulator: special procedure) after paragraph (t) insert—
- “(ta) a power under section 24H of the Pension Schemes Act 1993;”.
- (7) At the end of Part 1 of Schedule 2 to that Act (reserved regulatory functions: Pension Schemes Act 1993) add—
- “3A A power under section 24H (compliance with conditions of conversion of guaranteed minimum pension).”
- (8) Subsection (9) applies where—
- (a) a person has been in receipt of a guaranteed minimum pension and a Category A or Category B retirement pension,
- (b) the guaranteed minimum pension has been increased in accordance with section 15(1) of the Pension Schemes Act 1993 (c. 48) or the Category A or Category B retirement pension has been increased in accordance with paragraph 5 of Schedule 5 to the SSCBA (increase of pension where commencement of guaranteed minimum pension postponed),
- (c) the pension scheme under which the guaranteed minimum pension is paid is subject to GMP conversion, and
- (d) an order under section 150(2) of the Administration Act would have applied to the person in respect of the increase mentioned in paragraph (b) above but for the scheme having been subject to GMP conversion.
- (9) The person’s Category A or Category B retirement pension shall be increased by the amount by which it would have increased as a result of the order.
- (10) If paragraph 5 of Schedule 5 to the SSCBA (increase of pension for survivor of “S”) would apply to a person but for the fact that the scheme of which S was a member was subject to GMP conversion before S’s death, the paragraph shall apply to the person (with any necessary modifications) despite that fact.

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- (11) In subsections (8)(c) and (d) and (10) “GMP conversion” has the meaning given by section 24A of the Pension Schemes Act 1993 inserted by subsection (3) above.
- (12) In section 186 of the Pension Schemes Act 1993 (parliamentary control of orders and regulations)—
- (a) before subsection (3)(a) insert—
 - “(a) regulations made under section 24B(5), or”,
 - (b) renumber the existing paragraphs of subsection (3), and
 - (c) in subsection (4) for “(a) or (c)” substitute “(b) or (d)”.

15 Abolition of contracting-out for defined contribution pension schemes

- (1) Any certificate which is either—
- (a) a contracting-out certificate in relation to a money purchase contracted-out scheme, or
 - (b) an appropriate scheme certificate,
- and is in force immediately before the abolition date, ceases to have effect on that date.
- (2) In this section—
- “the abolition date” means the day appointed under section 30 for the coming into force of subsection (1);
- “contracting-out certificate”, “money purchase contracted-out scheme” and “appropriate scheme certificate” have the meanings given by section 181(1) of the Pension Schemes Act 1993 (c. 48) (as in force immediately before that day).
- (3) In Schedule 4—
- (a) Parts 1 and 2 contain amendments which are consequential on, or related to, the provision made by subsection (1), and
 - (b) Part 3 contains savings relating to amendments made by Part 1.
- (4) The amendments made by Part 1 of that Schedule have effect as from the abolition date (but any power to make regulations conferred by those amendments may be exercised at any time so as to make regulations having effect as from the abolition date).
- (5) The Secretary of State may by regulations make—
- (a) such consequential, incidental or supplemental provision, and
 - (b) such transitional, transitory or saving provision,
- as he thinks necessary or expedient in connection with, or in consequence of, the provisions of subsection (1) and Schedule 4.
- (6) Regulations under subsection (5) may in particular amend, repeal or revoke any provision of any Act or subordinate legislation (whenever passed or made).
- (7) No regulations which amend or repeal any provision of an Act may be made under this section unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (8) A statutory instrument containing regulations under this section that do not fall within subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

Dispute resolution

16 Dispute resolution arrangements

- (1) Section 273 of the Pensions Act 2004 (c. 35), which substitutes new sections 50 to 50B for section 50 of the Pensions Act 1995 (c. 26), is amended as follows.
- (2) In subsection (1) of the new section 50 (requirement for dispute resolution arrangements) after “arrangements” insert “complying with the requirements of this section”.
- (3) In subsection (2) of that section, for “such arrangements as are required by this section” substitute “arrangements”.
- (4) After subsection (4) of that section insert—
 - “(4A) The dispute resolution arrangements may make provision for securing that an application for the resolution of a pension dispute may not be made to the trustees or managers unless—
 - (a) the matters in dispute have been previously referred to a person of a description specified in the arrangements (“the specified person”) in order for him to consider those matters, and
 - (b) the specified person has given his decision on those matters, and for enabling the specified person’s decision to be confirmed or replaced by the decision taken by the trustees or managers on the application, after reconsidering those matters.”
- (5) After subsection (5) of that section insert—
 - “(5A) In a case where a reference is made to the specified person in accordance with provision made under subsection (4A), subsection (5) applies in relation to the specified person as it applies in relation to the trustees or managers in a case where an application for the resolution of a pension dispute is made to them.”
- (6) In subsection (6) of that section, after “arrangements” insert “in pursuance of subsection (4)”.
- (7) In subsection (1) of the new section 50B (dispute resolution procedure) for “under section 50 must” substitute “in pursuance of section 50(4) must (in accordance with section 50(6))”.
- (8) For subsection (3) of that section substitute—
 - “(3) The procedure—
 - (a) must include provision requiring an application to which subsection (3A) applies to be made by the end of such reasonable period as is specified;
 - (b) may include provision about the time limits for making such other applications for the resolution of pension disputes as are specified.
 - (3A) This subsection applies to—
 - (a) any application by a person with an interest in a scheme as mentioned in section 50A(1)(e), and

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- (b) any application by a person with an interest in a scheme as mentioned in section 50A(1)(f) who is claiming to be such a person as is mentioned in section 50A(1)(e).”
- (9) In subsection (4) of that section, in paragraph (c), after “required” insert “in relation to such an application”.
- (10) After subsection (4) of that section insert—
 - “(4A) The provision made under subsection (4)(c) may include provision for decisions of the trustees or managers to be taken on their behalf by one or more of their number.”

Actuarial guidance

17 Removal of Secretary of State’s role in approving actuarial guidance

Schedule 5 contains amendments removing requirements for, or powers to require, certain forms of actuarial guidance to be approved by the Secretary of State.

Financial assistance scheme

18 Financial assistance scheme: increased levels of payments

- (1) Section 286 of the Pensions Act 2004 (c. 35) (financial assistance scheme for members of certain pension schemes) is amended as follows.
- (2) After subsection (1) insert—
 - “(1A) The Secretary of State must, in particular, make provision for securing that (subject to any relevant restriction) the aggregate amount of—
 - (a) any annual payment payable to a qualifying member of such a scheme, and
 - (b) the member’s actual pension (if any),
 is not less than 80% of the member’s expected pension, irrespective of the date of his attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).
 - (1B) A “relevant restriction” means any provision of the regulations which—
 - (a) operates to restrict the amount of an annual payment by means of a cap on the product of the calculation of a specified fraction of the member’s expected pension, or
 - (b) provides for an annual payment not to be payable where the member’s actual pension exceeds any specified amount.”
- (3) In subsection (2), before the definition of “qualifying member” insert—
 - ““actual pension” and “expected pension”, in relation to a qualifying member of a qualifying pension scheme, mean the amounts which, in accordance with regulations under subsection (1), are to be taken into account as the member’s actual pension and expected pension, respectively, in determining the amount of any annual payment payable to the member;

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- “annual payment” has the meaning given by regulations under subsection (1);”.
- (4) Subsections (5) and (6) below apply where the scheme manager has determined that an initial payment may be made under the FAS regulations to or in respect of a qualifying member of a qualifying pension scheme, and they so apply whether the determination—
- (a) has been made, or
 - (b) relates to a period beginning, before or after the passing of this Act.
- (5) Subject to any relevant restriction, the amount of any such initial payment payable to the member is to be—
- (a) the amount of the member’s expected pension multiplied by 0.8, less
 - (b) the amount of the member’s interim pension (if any),
- irrespective of the date of the member attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).
- (6) The amount of any such initial payment payable to the survivor of the member is to be—
- (a) whichever is the smaller of—
 - (i) one-half of the product of the calculation in subsection (5)(a), or
 - (ii) one-half of the product of that calculation as reduced by virtue of any relevant restriction,less
 - (b) the amount of the interim pension payable to the survivor (if any),
- irrespective of the date of the member attaining normal retirement age (or the date when he would have attained that age if he dies before attaining it).
- (7) In subsections (5) and (6) “relevant restriction” means any provision of the FAS regulations which—
- (a) operates to restrict the amount of an initial payment by means of a cap on the product of the calculation of a specified fraction of the member’s expected pension, or
 - (b) provides for an initial payment not to be payable where the member’s interim pension exceeds any specified amount;
- but for the purposes of those subsections any such specified fraction is to be taken to be 0.8.
- (8) Any provision of the FAS regulations which is inconsistent with subsection (5) or (6) is of no effect to the extent of the inconsistency.
- (9) The Secretary of State may by regulations—
- (a) amend subsection (5) so as to substitute for the fraction for the time being specified there such fraction as is specified in the regulations, and
 - (b) make a corresponding amendment in subsection (7).
- (10) No regulations may be made under subsection (9) unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (11) In this section—

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“expected pension” and “interim pension”, in relation to a qualifying member of a qualifying pension scheme, mean the amounts which, in accordance with the FAS regulations, are to be taken into account as the member’s expected pension and interim pension, respectively, in determining the amount of any initial payment payable to, or in respect of, the member;

“the FAS regulations” means regulations under section 286(1) of the Pensions Act 2004 (c. 35);

“initial payment” has the meaning given by the FAS regulations;

“interim pension”, in relation to the survivor of a qualifying member of a qualifying pension scheme, means the amount which, in accordance with the FAS regulations, is to be taken into account as the interim pension payable to the survivor in determining the amount of any initial payment payable to the survivor;

“qualifying member”, “qualifying pension scheme” and “scheme manager” have the same meanings as in section 286 of the Pensions Act 2004 (c. 35);

“survivor” has the meaning given by the FAS regulations.

19 Temporary restriction on purchase of annuities

- (1) The Secretary of State must by regulations make provision for securing that, during the period of 9 months beginning with the date on which the regulations come into force, the trustees of relevant pension schemes are prohibited from purchasing, or agreeing to purchase, annuities on behalf of qualifying members, unless—
 - (a) before that date they have entered into a binding commitment to purchase the annuities, or
 - (b) the purchase of the annuities is approved in pursuance of subsection (2).
- (2) The regulations must make provision—
 - (a) for enabling the trustees of a relevant pension scheme to apply to the scheme manager for approval of the purchase of annuities on behalf of qualifying members;
 - (b) for authorising the scheme manager to approve the purchase of any such annuities if the scheme manager thinks it appropriate to do so.
- (3) For the purposes of this section an occupational pension scheme is a “relevant pension scheme” at any time during the period mentioned in subsection (1) if at that time the scheme is a qualifying pension scheme which has not been fully wound up.
- (4) Regulations under this section—
 - (a) must be made as soon as is reasonably practicable after the passing of this Act;
 - (b) may make such consequential, incidental, supplemental or transitional provision as the Secretary of State considers appropriate.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “occupational pension scheme”, “qualifying member”, “qualifying pension scheme” and “scheme manager” have the same meanings as in section 286 of the Pensions Act 2004.