
Changes to legislation: There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2008, PART 1. (See end of Document for details)

SCHEDULES

SCHEDULE 4

ABOLITION OF CONTRACTING-OUT FOR DEFINED CONTRIBUTION PENSION SCHEMES

PART 1

AMENDMENTS HAVING EFFECT AS FROM ABOLITION DATE

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

- 1 The Pension Schemes Act has effect subject to the following amendments.
- 2.—(1) Section 3 (issue of contracting-out and appropriate scheme certificates) is amended as follows.
 - (2) For subsection (1) substitute—

“(1) Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme.

(1A) In this Act such a certificate is referred to as “a contracting-out certificate”.”.
 - (3) Omit subsections (4) to (6) (provisions relating to appropriate scheme certificates in respect of personal pension schemes).
 - (4) In subsection (7) (no certificate to have effect from a date earlier than its issue) omit “or appropriate scheme certificate”.
 - (5) After that subsection add—

“(8) References in this Act to a contracting-out certificate, a contracted-out scheme and to contracting-out in a context relating to a money purchase contracted-out scheme are to be construed in accordance with section 176A.”.
 - (6) In the sidenote omit “and appropriate scheme”.
- 3.—(1) Section 4 (definitions of certain terms) is amended as follows.
 - (2) In subsection (1) (definition of “contracted-out employment”) for the words from “he is under pensionable age” to the end of paragraph (a) substitute “—

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- (a) he is under pensionable age;
- (aa) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 5(2) (in this Act referred to as “a salary related contracted-out scheme”);”.
- (3) After subsection (1) insert—
 - “(1A) In addition, in relation to any period before the abolition date, the employment of an earner in employed earner's employment was “contracted-out employment” in relation to him during that period if—
 - (a) he was under pensionable age;
 - (b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and
 - (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.”.
- (4) In subsection (2) for “for the purposes of section 38A” substitute “ for the tax year in which the week falls as specified in an order made under section 38B (as it had effect before the abolition date) ”.

4.—(1) Section 5 (general requirements for certification of schemes) is amended as follows.

- (2) In subsection (1) (requirements for occupational pension schemes) omit “or (3)”.
- (3) Omit subsections (3) and (5) (requirements for money purchase occupational pension schemes and personal pension schemes).
- (4) In subsection (6) (meaning of “relevant requirements”)—
 - (a) in paragraph (a) omit “or, as the case may be, appropriate”;
 - (b) in paragraph (b) omit “or, as the case may be, of being an appropriate scheme,”.

^{F1}5

Textual Amendments

F1 Sch. 4 para. 5 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 10 Pt. 3](#); S.R. 2012/119, art. 2(c)

6 Omit section 8 (determination of basis on which scheme is contracted-out).

^{F2}7

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Textual Amendments

- F2** Sch. 4 para. 7 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

F3**8**

Textual Amendments

- F3** Sch. 4 paras. 8-10 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

F3**9**

Textual Amendments

- F3** Sch. 4 paras. 8-10 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

F3**10**

Textual Amendments

- F3** Sch. 4 paras. 8-10 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

11 Omit sections 24 to 25 (ways of giving effect to protected rights etc.).

F4**12**

Textual Amendments

- F4** Sch. 4 paras. 12-14 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

F4**13**

Textual Amendments

- F4** Sch. 4 paras. 12-14 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 3**; S.R. 2012/119, art. 2(c)

F4**14**

Textual Amendments

F4 Sch. 4 paras. 12-14 repealed (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 10 Pt. 3](#); S.R. 2012/119, art. 2(c)

15.—(1) Section 30 (cancellation, variation, surrender and refusal of certificates) is amended as follows.

(2) For subsection (1) (regulations to provide for cancellation etc. of contracting-out or appropriate scheme certificates) substitute—

“(1) Regulations shall provide for the cancellation, variation or surrender of a contracting-out certificate, or the issue of a new certificate—

(a) on any change of circumstances affecting the treatment of an employment as contracted-out employment; or

(b) where the certificate was issued on or after the principal appointed day, if any employer of persons in the description of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide HMRC, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 5(2B) are satisfied.”.

(3) In subsection (3) (continued contracting-out of scheme dependent on conditions for contracting-out remaining satisfied)—

(a) for paragraphs (a) and (b) substitute “ by or by virtue of any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, ”;

(b) omit “or, as the case may be, the scheme's continuing to be an appropriate scheme”;

(c) omit “or appropriate scheme”.

(4) Omit subsection (5) (circumstances in which HMRC can withhold etc. appropriate scheme certificate).

(5) In subsection (8) (cancellation etc. of certificates not to have effect from a time earlier than when cancellation etc. made) omit “or appropriate scheme certificate”.

(6) After subsection (8) add—

“(9) A reference in this section to a contracting-out certificate does not include a reference to a contracting-out certificate issued in respect of a money purchase contracted-out scheme.”.

F5¹⁶

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Textual Amendments

- F5** Sch. 4 para. 16 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

17 In section 38A (reduced rates of Class 1 contributions, and rebates) at the end add—

“(9) For the purposes of this section “the appropriate age-related percentage” and “the appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 38B (as it had effect prior to that date).”.

18 Omit section 38B (determination and alteration of rates of contributions, and rebates, applicable under section 38A).

19 In section 39 (payment of minimum contributions to personal pension schemes) at the end add—

“(8) In this section “the earner's chosen scheme” means the scheme which was immediately before the abolition date the earner's chosen scheme in accordance with section 40 (as it had effect prior to that date).”.

20 Omit section 40 (earner's chosen scheme).

21 In section 41 (amount of minimum contributions) at the end add—

“(5) For the purposes of this section “the appropriate age-related percentage”, in relation to a tax year beginning before the abolition date, is the percentage (or percentages) specified as such for that tax year in an order made under section 41A (as it had effect prior to that date).”.

22 Omit section 41A (alteration of rates of minimum contributions under section 41).

23.—(1) Section 44A (additional pension and other benefits) is amended as follows.

(2) In subsection (1) (effect of reductions and payments for contracted-out schemes on earnings factors) in paragraph (a) for “or 38A” substitute “ or, in the case of a week falling before the abolition date, under section 38A (as it then had effect) ”.

(3) In paragraph (b) of that subsection for “an amount is paid under section 41(1)” substitute “ in the case of a week falling before the abolition date, an amount is paid under section 41(1) (as it then had effect) ”.

F6²⁴

Textual Amendments

- F6** Sch. 4 para. 24 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

F7 **25**

Textual Amendments

- F7** Sch. 4 para. 25 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

26 In section 51 (payment of state scheme premiums on termination of certified status) in subsection (2) (prescribed person to pay contributions equivalent premium) in paragraph (a) omit “(other than a money purchase contracted-out scheme)”.

27 ^{F8}

Textual Amendments

- F8** [Sch. 4 para. 27](#) repealed (6.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), ss. 116, 118(1), [Sch. 10 Pt. 2](#); S.R. 2009/22, [art. 2\(2\)\(d\)](#)

28 In section 83 (general protection principle) in subsection (1) (when subsection applies) in paragraph (a)(i), for “which is not a money purchase contracted-out scheme” substitute “ that satisfies the requirements of section 5(2) ”.

29 In section 92 (further provisions concerning exercise of option to take cash equivalent under section 91) in subsection (2) (circumstances in which option must be exercised in relation to balance of cash equivalent after deducting amount sufficient to meet certain liabilities of trustees etc.) in paragraph (a)(ii) omit “which is not an appropriate scheme”.

^{F9} **30**

Textual Amendments

- F9** Sch. 4 para. 30 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

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31 In section 159 (exemption of certain schemes from rule against perpetuities) in subsection (2) (schemes to which the exemption applies) omit paragraph (c) (appropriate schemes).

^{F10}**32**

Textual Amendments

F10 Sch. 4 para. 32 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

^{F11}**33**

Textual Amendments

F11 Sch. 4 para. 33 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

34.—(1) Section 176 (general interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the appropriate places insert—

““abolition date” means the day appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008;”;

““HMRC” means the Commissioners for Her Majesty's Revenue and Customs;”;

(b) for the definition of “appropriate scheme certificate” and references to an appropriate scheme substitute—

““appropriate scheme” and “appropriate scheme certificate” are to be construed in accordance with section 176A;”;

(c) in the definition of “contracting-out certificate” and references to a contracted-out scheme and to contracting-out at the end add “ and section 176A ”;

(d) for the definition of “money purchase contracted-out scheme” substitute—

““money purchase contracted-out scheme” is to be construed in accordance with section 176A;”.

(3) In subsection (4) (regulations may prescribe the persons who are to be regarded as members or prospective members of an occupational scheme etc.) omit “, 40”.

35 After section 176 insert—

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“176A Interpretation of references to money purchase contracted-out schemes or appropriate schemes after abolition date

(1) This section applies for the interpretation of this Act on and after the abolition date.

(2) An occupational pension scheme was a money purchase contracted-out scheme at a time before the abolition date if, at that time, the scheme was contracted-out by virtue of satisfying section 5(3) (as it then had effect).

(3) A money purchase contracted-out scheme was, at a time before the abolition date, a contracted-out scheme in relation to an earner's employment if it was, at that time, specified in a contracting-out certificate in relation to that employment; and references to the contracting-out of a scheme are, in relation to a money purchase contracted-out scheme, references to its inclusion in such a certificate.

(4) Any reference to a contracting-out certificate is, in relation to a money purchase contracted-out scheme, a reference to a certificate issued by virtue of section 3, as it had effect before the abolition date, in relation to the employment of an earner in employed earner's employment which was contracted-out by reference to that scheme.

(5) Any certificate so issued that was, at a time before the abolition date, in force in respect of an employed earner's employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.

(6) A personal pension scheme was an appropriate scheme at a time before the abolition date if, at that time, there was in force a certificate issued under section 3(1)(b) (as it then had effect) stating that the scheme was an appropriate scheme; and “appropriate scheme certificate” means such a certificate.

(7) Any appropriate scheme certificate in force in relation to a scheme at any time before the abolition date is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”.

The Pensions (Northern Ireland) Order 1995 (NI 22)

^{F12}**36**

Textual Amendments

F12 Sch. 4 para. 36 omitted (6.4.2012 coming into operation in accordance with art. 1(a)) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **7(2)**

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The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)

37 In Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (meaning of “stakeholder pension scheme”)—

- (a) in paragraph (1) in sub-paragraph (a) for “to (10)” substitute “ to (9) ”;
- (b) omit paragraph (10) (stakeholder pension scheme must be contracted-out).

38 In Article 4 of that Order (registration of stakeholder pension schemes) in paragraph (2) (when Authority to register schemes) in sub-paragraph (b)(i), for “to (10)” substitute “ to (9) ”.

39 ^{F13}

Textual Amendments

F13 Sch. 4 para. 39 repealed (6.4.2009) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 116, 118(1), Sch. 10 Pt. 2; S.R. 2009/22, art. 2(2)(d)

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

40 In Article 234 of the Pensions (Northern Ireland) Order 2005 (conditions for pension protection on transfer of employment) omit paragraph (7) (minimum payments made under contracted-out money purchase scheme to be disregarded).

Changes to legislation:

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