

SCHEDULES

SCHEDULE 13

Section 24.

ABOLITION OF CONTRACTING- OUT FOR SALARY RELATED SCHEMES

PART 1

PENSION SCHEMES (NORTHERN IRELAND) ACT 1993: AMENDMENTS

1. The Pension Schemes Act is amended as follows.
2. For “the abolition date” (in each place) substitute “the first abolition date”.
3. In the heading for Part 3 of the Act—
 - (a) for “Certification of pension schemes” substitute “Schemes that were contracted-out etc.”;
 - (b) omit “and duties”.
4. For the heading to Chapter 1 of Part 3 substitute “Schemes that were contracted-out: guaranteed minimum pensions and alteration of scheme rules etc.”.
5. Section 3 (issue of contracting-out certificates) is repealed (and accordingly, any certificates in force under that section immediately before this paragraph comes into operation cease to have effect).
6. After section 3 insert—

“Meaning of the first abolition date” and the second abolition date”

3A. In this Act—

“the first abolition date” means 6 April 2012 (the date appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008 (abolition of contracting-out for defined contribution pension schemes));

“the second abolition date” means 6 April 2016 (the date on which section 53(3) of the Pensions Act (Northern Ireland) 2015 provides for the commencement of section 24(1) of that Act (abolition of contracting-out for salary related schemes)).

Meaning of “contracted-out scheme” and “appropriate scheme” etc.

3B.—(1) This section applies for the interpretation of this Act.

(2) An occupational pension scheme was “contracted-out” at a time if, at that time, there was in force a certificate under section 3 (as it then had effect) stating that the employment of an earner in employed earner’s employment was contracted-out employment by reference to the scheme.

(3) “Contracting-out certificate” means a certificate of the kind mentioned in subsection (2).

(4) An occupational pension scheme was a “salary related contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 5(2) (as it then had effect).

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

(6) A personal pension scheme was an “appropriate scheme” at a time 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.

(7) “Appropriate scheme certificate” means a certificate of the kind mentioned in subsection (6).

(8) An appropriate scheme certificate that was in force in relation to a scheme is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”.

7.—(1) Section 4 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”) is amended as follows.

(2) For subsection (1) substitute—

“(1) In relation to any period before the second abolition date, the employment of an earner in employed earner’s employment was “contracted-out employment” in relation to the earner during that period if

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- (a) the earner was under pensionable age;
- (b) the earner’s service in the employment was service which qualified the earner for a pension provided by a salary related 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.”.

(3) After subsection (1A) insert—

“(1B) In the following provisions of this Act “earner”, in relation to a scheme, means a person who was an earner in contracted-out employment by reference to the scheme.”.

(4) In subsection (2), in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “, by a scheme that was a salary related contracted-out scheme,”.

(5) For subsection (4) substitute—

“(4) A contracting-out certificate that was 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.”.

8. The italic heading above section 5 is repealed.

9. Sections 5 and 7 (requirements for certification of schemes: general) are repealed.

10. The italic heading above section 8A is repealed.

11. Sections 8A to 8D (requirements for certification applying to employment from 6 April 1997) are repealed.

12. For the italic heading above section 9 substitute “Guaranteed minimum pensions”.

13.—(1) Before section 9 insert—

“Former salary related contracted-out schemes to comply with GMP requirements

8E.—(1) A scheme that was a salary related contracted-out scheme is to be treated as including whatever provision it needs to contain to comply with the GMP requirements.

(2) A scheme complies with the GMP requirements if, in relation to any earner’s service before the principal appointed day, it complies in all respects with sections 9 to 20E.

(3) Where—

(a) a scheme is permitted by any of those sections to include provision subject to certain requirements, and

(b) the scheme includes the provision but not the requirements,

the scheme is to be treated by subsection (1) as including the requirements.

(4) This section overrides any provision of a scheme to the extent that the provision of the scheme conflicts with it.”.

(2) For the purposes of section 8E it does not matter whether the scheme ceased to be contracted-out when the amendment made by paragraph 5 of this Schedule came into operation or before that time.

(3) But section 8E does not treat a scheme as having included any provision before this paragraph comes into operation.

14. In section 9 (minimum pensions for earners), in subsection (2)—

- (a) for “is a married woman or widow who is liable” substitute “was a married woman or widow who was liable”;
- (b) after “Act 1992” insert “at a time during a relevant year when she was in contracted-out employment by reference to the scheme”;
- (c) at the end of that subsection insert—

““Relevant year” has the meaning given by section 10(8).”.

15.—(1) Section 10 (earner’s guaranteed minimum) is amended as follows.

(2) For subsection (1) substitute—

“(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year—

- (a) earnings were paid to or for the earner’s benefit in respect of employment which was contracted-out by reference to the scheme; and
- (b) those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).”.

(3) In subsection (2), for “earnings such as are mentioned in subsection (1)” substitute “excess earnings mentioned in subsection (1)(b)”.

16. In section 12 (revaluation of earnings factors for the purposes of section 10: early leavers etc.), for subsection (2) substitute—

“(2) The scheme may provide that in a case where—

- (a) an earner was, before the second abolition date, in contracted-out employment by reference to a scheme, and
- (b) the earner ceases to be in pensionable service under the scheme before the final relevant year,

the earnings factors for that person shall be determined for the purposes of section 10(2) by reference to the last such order to come into operation before the end of the tax year in which the earner ceases to be in pensionable service under the scheme (“the last service tax year”).”.

17.—(1) Section 13 (minimum pensions for widows, widowers and surviving civil partners) is amended as follows.

(2) In subsection (4A), after paragraph (a) insert—

“(aa) for life, in a case where—

(i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and

(ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;

(ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where—

(i) the earner died before the widow, widower or surviving civil partner attained state pension age,

(ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and

(iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;”.

(3) After subsection (9) add—

“(10) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995.”.

18. In section 16 (transfer of accrued rights), in subsection (1)(a)—

(a) in sub-paragraph (i), after “under a” insert “scheme that was a”;

(b) in sub-paragraph (ii)—

(i) omit “which is not contracted-out;”;

(ii) after “under a” insert “scheme that was a”.

19. In section 19 (securing of benefits), in subsection (2), omit paragraph (d).

20. In section 20A—

(a) the existing text becomes subsection (1), and

(b) after that subsection add—

“(2) The Department must give such guidance (if any) as it thinks appropriate about GMP conversion.”.

21. In section 21 (power for HMRC to impose conditions as to investments and resources), in subsection (2), after “A” insert “scheme that was a”.

22. Sections 30 to 32 (cancellation, variation, surrender and refusal of certificates) are repealed.

23. In the italic heading above section 33, for “scheme rules after certification” substitute “rules by former salary related contracted-out schemes”.

24. In section 33 (alteration of rules of contracted-out schemes) for subsections (1) to (3) substitute—

“(1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

(2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

(3) Subsection (1) does not apply to a scheme if no person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.”.

25. After section 33 insert—

“Transfer of liabilities etc.: schemes contracted-out on or after 6 April 1997

33A.—(1) Regulations may prohibit or restrict—

- (a) the transfer of any liability—
 - (i) for the payment of pensions under a relevant scheme, or
 - (ii) in respect of accrued rights to such pensions,
- (b) the discharge of any liability to provide pensions under a relevant scheme, or
- (c) the payment of a lump sum instead of a pension payable under a relevant scheme,

except in prescribed circumstances or on prescribed conditions.

(2) In this section “relevant scheme” means a scheme that was a salary related contracted-out scheme by virtue of section 5(2B) and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day (including, in a case where there has been a transfer payment, any pensions or rights deriving (directly or indirectly) from—

- (a) an earner’s service on or after the principal appointed day in employment that was contracted-out employment by reference to another scheme, or
- (b) in a case where the transfer payment was made before the first abolition date, protected rights under another occupational pension scheme or under a personal pension scheme which derive from

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

payments or contributions in respect of employment on or after the principal appointed day).

(3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.”.

26. For the heading to Chapter 2 of Part 3 substitute “Reduction in social security benefits for members of schemes that were contracted-out”.

27. In section 36 (scope of Chapter 2)—

- (a) omit paragraph (a);
- (b) in paragraph (c) for “such schemes” substitute “schemes that were contracted-out pension schemes”.

28. The italic heading above section 37 is repealed.

29. Section 37 (reduced rates of Class 1 contributions) is repealed.

30. Section 38 (review and alteration of reduced rates of Class 1 contributions) is repealed.

31. In section 44A (additional pension and other benefits), in subsection (1), for the words from the beginning to the end of paragraph (b) substitute “In relation to—

- (a) any tax week falling before the first abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 38A of this Act (as it then had effect),
- (b) any tax week falling before the second abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 37 of this Act (as it then had effect), or
- (c) any tax week falling before the first abolition date where an amount was paid under section 41(1) of this Act (as it then had effect) in respect of the earnings paid to or for the benefit of an earner.”.

32. Section 45 (women, married women and widows) is repealed.

33. Section 46 (powers of HMRC to approve arrangements for scheme ceasing to be certified) is repealed.

34. In section 47 (calculation of guaranteed minimum pensions under approved arrangements), in subsection (1)(b), for “ceases” substitute “ceased”

35. For section 48 substitute—

“Supervision of former salary related contracted-out schemes

48. Section 49 shall apply for the purpose of making provision for securing the continued supervision of any scheme that was a salary related contracted-out scheme, other than a public service pension scheme, if any person is entitled to receive or has accrued rights to—

- (a) a guaranteed minimum pension under the scheme, or
- (b) a pension under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out.”.

36. In section 49 (supervision: former contracted-out schemes), omit subsection (3).

37. Sections 51 to 64 (state scheme premiums) are repealed.

38. In section 83 (general protection principle), in subsection (1)(a), for subparagraph (i) substitute—

“(i) the date (“the cessation date”) which is the earlier of—

- (a) the date on which an earner ceases to be in pensionable service under a scheme that was, before the second abolition date, a salary related contracted-out scheme; and
- (b) the date on which the earner attains pensionable age;”.

39. In section 92 (further provisions concerning exercise of option to take cash equivalent in a particular way), in subsection (2), in paragraph (a)(i) omit “which is not a contracted-out scheme”.

40. In section 166 (questions arising in proceedings), in subsection (1), omit paragraph (b) and the “or” before it.

41. In section 173 (trustees and managers of schemes), in paragraph (a) omit “or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000”.

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

(2) In the appropriate places insert—

““the first abolition date” has the meaning given by section 3A;”

““the second abolition date” has the meaning given by section 3A;”

““salary related contracted-out scheme” is to be construed in accordance with section 3B;”.

(3) Omit the definition of “abolition date”.

(4) In the definition of “appropriate scheme” and “appropriate scheme certificate”, for “section 176A” substitute “section 3B”.

(5) In the definition of “contracting-out certificate”, for “section 3 and section 176A” substitute “section 3B”.

(6) In the definition of “contributions equivalent premium”, for “has the meaning given in” substitute “means a premium that was paid under”.

(7) In the definition of “earner” and “earnings”, after “in accordance with” insert “section 4(1B) of this Act and”.

(8) In the definition of “money purchase contracted-out scheme”, for “section 176A” substitute “section 3B”.

(9) For the definition of “the principal appointed day” substitute—

““the principal appointed day” means 6 April 1997 (which is the day designated as the principal appointed day for the purposes of Part 4 of the Pensions (Northern Ireland) Order 1995);”.

43. Section 176A (interpretation of references to money purchase contracted-out schemes or appropriate schemes after first abolition date) is repealed.

44. In section 180 (consultation about other regulations), omit subsection (2).

45.—(1) Schedule 1 (certification regulations) is amended as follows.

(2) Omit paragraphs 1 to 4.

(3) In paragraph 5(3A), for “a contracted-out occupational pension scheme which is being wound up” substitute “a scheme which was a contracted-out occupational pension scheme and which was being wound up before the second abolition date”.

(4) Omit paragraphs 6 to 8.

46.—(1) Schedule 3 (priority in bankruptcy) is amended as follows.

(2) Omit paragraphs 2, 3 and 4(2).

PART 2

OTHER STATUTORY PROVISIONS: AMENDMENTS

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

47. The Contributions and Benefits Act is amended as follows.

48. In section 1 (outline of contributory system), in subsection (3), omit the words after paragraph (b).

49. In section 4C (power to make provision in consequence of provision made by virtue of section 4B(2) etc.), in subsection (5), in each of paragraphs (a) and (b) omit the words from “, including” to the end.

50. In section 8 (calculation of primary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.

51. In section 9 (calculation of secondary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.

52. In section 20 (descriptions of contributory benefits), in subsection (3), for “(reduction in state scheme contributions and social security benefits for members of certified schemes)” substitute “(reduction in benefits for members of schemes that were contracted-out)”.

53. In Schedule 1 (supplementary provisions relating to national insurance contributions), in paragraph 1, omit sub-paragraphs (2), (3), (6) and (9) to (11).

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

54. The Administration Act is amended as follows.

55. In section 132 (annual up-rating of benefits), in subsection (3A), for “the abolition date (as defined in section 176(1) of the Pensions Act)” substitute “7 June 2012 (the date appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008)”.

56. In section 167 (interpretation - general)—

- (a) in the definition of “money purchase contracted-out scheme”, for “section 176A” substitute “section 3B”;
- (b) in the definition of “personal pension scheme” for “section 176A(6)” substitute “section 3B(6)”.

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

57. The 1995 Order is amended as follows.

58.—(1) Article 51 (annual increase in rate of pension) is amended as follows.

(2) For “the appointed day” (in each place) substitute “6 April 1997”.

(3) For paragraph (8) substitute—

“(8) An occupational pension scheme is a “relevant occupational pension scheme” if—

- (a) it has not, at any time on or after 6 April 1997, been a salary related contracted-out scheme (see section 3B of the Pension Schemes Act), or
- (b) it has, at any time on or after 6 April 1997, been a salary related contracted-out scheme but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to a period on or after that day when it was such a scheme.”.

59. In Article 54 (Articles 51 to 53: supplementary), in paragraph (3), omit the definition of “the appointed day”.

60. For Article 69 substitute—

“Grounds for applying for modifications: winding up registered schemes

69.—(1) The Authority may, on an application made to them by the trustees of a registered pension scheme which is being wound up, make an order—

- (a) modifying the scheme for the purpose of enabling assets remaining after the liabilities of the scheme have been fully discharged to be distributed to the employer, or
- (b) authorising the trustees to modify the scheme for that purpose.

(2) But the Authority may act under paragraph (1) only if prescribed requirements in relation to the distribution are satisfied.

(3) Regulations may make provision requiring applications under paragraph (1) to meet prescribed requirements.

(4) Regulations may provide that in prescribed circumstances this Article does not apply to schemes falling within a prescribed class or description or applies to them with prescribed modifications.

(5) In this Article “registered pension scheme” means an occupational pension scheme registered under section 153 of the Finance Act 2004 (other than a public service pension scheme).”.

61. In Article 70 (Article 69: supplementary), omit paragraph (3).

62. In Article 71 (effect of orders under Article 69), in paragraph (1)—

- (a) for “sub-paragraph (a)” substitute “sub-paragraph (b)”;
- (b) for “sub-paragraph (b)” substitute “sub-paragraph (a)”.

63. In Article 72 (modification of public service pension schemes), in paragraph (1), for “Article 69(1)(b)” substitute “Article 69(1)(a)”.

64. Articles 133(1), (3) and (5), 134(3) and (4) and 145 (amendments to do with contracting-out) are repealed.

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

65. The Employment Rights (Northern Ireland) Order 1996 is amended as follows.

66. In Article 35 (note to be included in statement of initial employment particulars), omit paragraph (5).

67. In Article 43 (references to industrial tribunals), in paragraph (3), omit subparagraph (a) (including the “and” at the end of it).

The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

68. The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 is amended as follows.

69.—(1) Section 38 (disclosure of state pension information) is amended as follows.

(2) In subsection (3)(d), omit “which is not contracted-out employment”.

(3) In subsection (11), omit the definition of “contracted-out employment”.

70. Part 2 of Schedule 5 (alternative to anti-franking rules) is repealed.

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

71. In Article 235 of the 2005 Order (pension protection on transfer of employment: form of protection) in paragraph (2)(c), for the words from “time” to the end substitute “time the scheme complies with prescribed requirements”.

The Companies Act 2006 (c. 46)

72. The Companies Act 2006 is amended as follows.

73. In section 140 (interests to be disregarded: employer’s rights of recovery under pension scheme or employee’s share scheme), omit subsection (2).

74. In section 673 (interests to be disregarded in determining whether company has beneficial interest: employer’s charges and other rights of recovery), omit subsection (1)(b).

The Pensions Act (Northern Ireland) 2008 (c. 1)

75. The Pensions Act (Northern Ireland) 2008 is amended as follows.

76.—(1) Section 13 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In subsection (1), for “the abolition date” substitute “6 April 2012”.

(3) In subsection (2), omit the definition of “the abolition date”.

(4) In subsection (4), for “the abolition date” (in each place) substitute “6 April 2012”.

77. In section 19 (consequential provision, repeals and revocations), in subsection (5), for “the abolition date (within the meaning of section 13)” substitute “6 April 2012”.

78.—(1) Schedule 4 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In paragraphs 60, 61(1), (2)(a) and (b)(i) and (3), 64 and 65(2) for “the abolition date” (in each place) substitute “6 April 2012”.

(3) In paragraph 66 omit the definition of “the abolition date”.

The Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)

79. The Pensions (No2) Act is amended as follows.

80. For section 21 substitute—

“Quality requirement: UK defined benefits schemes

21. A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if it satisfies the test scheme standard in relation to that jobholder”.

81. In section 22 (test scheme standard), for subsection (2) substitute—

“(2) Subject to subsection (3), the relevant members are J and all active members who are jobholders of the same employer as J.”.