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STATUTORY INSTRUMENTS

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**1995 No. 3213**

**The Pensions (Northern Ireland) Order 1995**

**PART IV**

**CERTIFICATION OF PENSION SCHEMES AND EFFECTS  
ON MEMBERS' STATE SCHEME RIGHTS AND DUTIES**

*Introductory*

**The “principal appointed day” for Part IV**

**132.** An order under Article 1 appointing a day for the coming into operation of any provisions of this Part, being 6th April in any year, may designate that day as the principal appointed day for the purposes of this Part.

*New certification requirements applying as from the principal appointed day*

**New requirements for contracted-out schemes**

**133.—**(1) In section 3 of the Pension Schemes Act (issue of contracting-out, etc. certificates), after subsection (2) insert—

“(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—

- (a) at the end of a prescribed period beginning with (and including) that day, or
- (b) if prescribed conditions are not satisfied at any time in that period.

but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.

(2B) In this Act “the principal appointed day” means the day designated by an order under Article 1 of the Pensions (Northern Ireland) Order 1995 as the principal appointed day for the purposes of Part IV of that Order.”.

(2) In section 4 of that Act (definition of terms), for subsection (1)(a)(i) substitute—

“(i) 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) In section 5 of that Act (requirements for certification of schemes: general), for subsection (2) (requirement for guaranteed minimum pension) substitute—

“(2) An occupational pension scheme satisfies this subsection only if—

- (a) in relation to any earner’s service before the principal appointed day, it satisfies the conditions of subsection (2A); and

(b) in relation to any earner's service on or after that day, it satisfies the conditions of subsection (2B).

(2A) The conditions of this subsection are that—

- (a) the scheme complies in all respects with sections 9 to 19 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations; and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.

(2B) The conditions of this subsection are that the Department is satisfied that—

- (a) the scheme complies with section 8A;
- (b) restrictions imposed under Article 40 of the Pensions (Northern Ireland) Order 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions;
- (c) the scheme satisfies such other requirements as may be prescribed (which—
  - (i) must include requirements as to the amount of the resources of the scheme, and
  - (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 8A), and
- (d) the scheme does not fall within a prescribed class or description;

and is satisfied that the rules of the scheme are framed so as to comply with the relevant requirements.

(2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.”

(4) In subsection (3) of that section (requirement for protected rights, etc.), in paragraph (a), after “case;” insert—

“(aa) the Department is satisfied that the scheme does not fall within a prescribed class or description;”.

(5) After section 8 of that Act insert—

*“Requirements for certification of occupational pension schemes applying from the principal appointed day*

**The statutory standard.**

**8A.—**(1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their widows or widowers, satisfy the statutory standard.

(2) Subject to regulations made by virtue of section 5(2B)(c)(ii), in applying this section regard must only be had to—

- (a) earners in employed earner's employment, or
- (b) their widows or widowers,

collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.

(3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.

(4) Regulations may provided for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.

(5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared by a prescribed body and approved by the Department.

(6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of Article 47 of the Pensions (Northern Ireland) Order 1995) so certifies.

### **Reference scheme.**

**8B.**—(1) This section applies for the purposes of section 8A.

(2) A reference scheme is an occupational pension scheme which—

- (a) complies with each of subsections (3) and (4), and
- (b) complies with any prescribed requirements.

(3) In relation to earners employed in employed earner's employment, a reference scheme is one which provides—

- (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and
- (b) for the annual rate of the pension at that age to be—

- (i) 1/80th of average qualifying earning in the last three tax years preceding the end of service,

multiplied by

- (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.

(4) In relation to widows or widowers, a reference scheme is one which provides—

- (a) for the widows or widowers of earners employed in employed earner's employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme; and
- (b) except in prescribed circumstances, for the annual rate of the pensions, at the time when the widows or widowers first become entitled to them, to be—
  - (i) in the case of widows or widowers of persons whose age when they died was, or was greater than, normal pension age, 50 per cent. of the annual rate which a reference scheme is required to provide for persons of that age, and
  - (ii) in the case of widows or widowers of other persons, 50 per cent. of the annual rate which a reference scheme would have been required to provide in respect of the persons' actual periods of service if those persons had attained that age.

(5) For the purposes of this section, an earner's qualifying earnings in any tax year are 90 per cent. of the amount by which the earner's earnings—

- (a) exceed the qualifying earnings factor for that year; and
- (b) do not exceed the upper earnings limit for that year multiplied by fifty-three.

(6) Regulations may modify subsections (2) to (5).

(7) In this section—

“normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),

“qualifying earnings factor”, in relation to a tax year, has the meaning given by section 121(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, and

“upper earnings limit”, in relation to a tax year, means the amount specified for that year by regulations made by virtue of section 5(3) of that Act as the upper earnings limit for Class 1 contributions.

#### **Transfer, commutation, etc.**

**8C.**—(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 contracted out 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.

(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.

#### **Entitlement to benefit.**

**8D.** In the case of a scheme contracted out by virtue of section 5(2B), regulations may make provision as to the ages by reference to which benefits under the scheme are to be paid.”.

#### *Reduction in State scheme contributions, payment of rebates and reduction in State scheme benefits*

#### **State scheme contributions and rebates**

**134.**—(1) In section 36 of the Pension Schemes Act (scope of Chapter II of Part III), in paragraph (b), after “members of” insert “money purchase contracted-out schemes and members of”.

(2) For section 37(1) of that Act (reduced rates of Class 1 contributions for earners in contracted-out employment), including the sidenote and the preceding heading, substitute—

*“Reduced rates of contributions for members of salary related contracted-out schemes*

#### **Reduced rates of Class 1 contributions.**

**37.**—(1) Where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and

- (b) the earners's service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme,
- the amount of a Class 1 contribution in respect of so much of the earnings paid in that week as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced by the following amount.
- (1A) The amount is—
- (a) in the case of a primary Class 1 contribution, an amount equal to 1.8 per cent. of that part of those earnings, and
- (b) in the case of a secondary Class 1 contribution, an amount equal to 3 per cent. of that part of those earnings.”.
- (3) For section 38(1) of the Pension Schemes Act (alteration of rates of contributions under section 37) substitute—
- “(1) Whenever the Secretary of State makes an order under section 42 of the Pension Schemes Act 1993 (determination of reduced rates of Class 1 contributions for members of salary related contracted-out schemes), the Department may make a corresponding order for Northern Ireland.”.
- (4) After that section insert—

*“Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes*

**Reduced rates of Class 1 contributions and rebates.**

- 38A.**—(1) Subsections (2) and (3) apply where—
- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme.
- (2) The amount of a Class 1 contribution in respect of so much of the earnings paid in that week in respect of that employment as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced by an amount equal to the appropriate flat-rate percentage of that part of those earnings.
- (3) The Department shall, except in prescribed circumstances or in respect of prescribed periods, pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person, the amount by which—
- (a) the appropriate age-related percentage of that part of those earnings, exceeds
- (b) the appropriate flat-rate percentage of that part of those earnings.
- (4) Regulations may make provisions—
- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
- (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,

- (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.

(5) If the Department pays an amount under subsection (3) which it is not required to pay or is not required to pay to the person to whom, or in respect of whom, the Department pays it, the Department may recover it from any person to whom, or in respect of whom, the Department paid it.

(6) Where—

- (a) an earner has ceased to be employed in an employment, and
- (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(7) Subsection (3) of section 37 applies for the purposes of this section as it applies for the purposes of that.

**Determination and alteration of rates of contributions, and rebates, applicable under section 38A.**

**38B.** Whenever the Secretary of State makes an order under section 42B of the Pension Schemes Act 1993, (determination and alteration of reduced rates of primary and secondary Class 1 contributions for members of money purchase contracted-out schemes), the Department may make a corresponding order for Northern Ireland.”

- (5) In Schedule 3 to that Act (priority in bankruptcy, etc), in paragraph 2(3)—
  - (a) in paragraph (a), for “4.8 per cent.” substitute “the percentage for non-contributing earners”,
  - (b) in paragraph (b), for “3 per cent.” substitute “the percentage for contributing earners”.
- (6) In paragraph 2(5) of that Schedule—
  - (a) before the definition of “employer” insert—
    - ““appropriate flat-rate percentage” means the appropriate flat rate percentage for the purposes of section 38A(2);” and
  - (b) after that definition insert—
    - ““the percentage for contributing earners”
    - (a) in relation to a salary related contracted-out scheme, 3 per cent, and
    - (b) in relation to a money purchase contracted-out scheme, the percentage which is the appropriate flat-rate percentage for secondary Class 1 contributions,
    - “the percentage for non-contributing earners” means—
    - (a) in relation to a salary related contracted-out scheme, 4.8 per cent, and
    - (b) in relation to a money purchase contracted-out scheme, a percentage equal to the sum of the appropriate flat-rate percentages for primary and secondary Class 1 contributions;”.

### **Minimum contributions towards appropriate personal pension schemes**

**135.**—(1) Section 41 of the Pension Schemes Act (minimum contribution to personal pension schemes) is amended as set out in paragraphs (2) to (4).

(2) For subsection (1) substitute—

“(1) In relation to any tax week falling within a period for which the Department is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly).”.

(3) Subsection (2) is omitted.

(4) In subsection (3)(e), the words following “prescribed period” are omitted.

(5) After that section insert—

#### **“Alteration of rates of minimum contributions under section 41.**

**41A.** Whenever the Secretary of State makes an order under section 45A of the Pension Schemes Act 1993 (determination and alteration of rates of contributions to personal pension schemes) the Department may make a corresponding order for Northern Ireland.”.

### **Money purchase and personal pension schemes: verification of ages.**

**136.** After section 41A of the Pension Schemes Act (inserted by Article 135) insert—

#### **“Money purchase and personal pension schemes: verification of ages**

**41B.**—(1) Regulations may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of section 38A and 41(1).

(2) Information held by the Department as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Department—

(a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and

(b) to such other persons as may be prescribed,

in connection with the making of payments under section 38A(3) or the payment of minimum contributions.”.

### **Reduction in benefits for members of certified schemes**

**137.**—(1) After section 44 of the Pension Schemes Act insert—

*“Effect of reduced contributions and rebates on social security benefits*

#### **Additional pension and other benefits.**

**44A.**—(1) In relation to any tax week there—

(a) the amount of a Class 1 contribution in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 37 or 38A, or

- (b) an amount is paid under section 41(1) in respect of the earnings paid to or for the benefit of an earner,

section 44(6) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).

(2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Department may make a determination reducing or eliminating the application of subsection (1).

(3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 1.

(4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) but to the extent only that amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).

(5) In relation to earners where, by virtue of subsection (1), section 44(6) of Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) of that Act.”

(2) In section 44 of the Pension Schemes Act (effect of membership of money purchase contracted-out scheme or appropriate scheme on payment of social security benefits), in subsection (2), paragraph (b) is omitted and, in paragraph (c), “if the earner dies before reaching pensionable age” is omitted.

(3) Section 44 of that Act shall cease to have effect in relation to minimum payments made, or minimum contributions paid, on or after the principal appointed day.

#### *Premiums and return to State scheme*

#### **State scheme, etc. premiums and buyback into State scheme**

**138.**—(1) In section 51 of the Pension Schemes Act (payment of state scheme premiums on termination of certified status), for subsection (2) substitute—

“(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme (other than a money purchase contracted-out scheme),
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has served for less than two years in the employment,

the prescribed person may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

(2A) The circumstances referred to in subsection (2) are that—

- (a) the earner’s service in the employment ceases otherwise than on the earner’s death,



- (b) the earner ceases to be a member of the scheme otherwise than on the earner's death,
- (c) the earner's service in the employment ceases on the earner's death and the earner dies leaving a widow or widower,
- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pension scheme;

but paragraph (a), (b), (d) or (e) does not apply if the earner has an accrued right to short service benefit.”.

(2) In Schedule 1 to that Act, in paragraph 5 (state scheme premiums)—

(a) in sub-paragraph (3)—

- (i) omit “, in relation to state scheme premiums,”,
- (ii) omit paragraph (b), and
- (iii) at the end add— “and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium”,

(b) after sub-paragraph (3) insert—

“(3A) Sub-paragraph (3B) applies in relation to a member of a contracted-out occupational pension scheme which is being wound up if, in the opinion of the Department—

- (a) the resources of the scheme are insufficient to meet the whole of the liability for the cash equivalent of the member's rights under the scheme, and
- (b) if the resources of the scheme are sufficient to meet a part of that liability, that part is less than the amount required for restoring his State scheme rights.

(3B) Where this sub-paragraph applies—

- (a) regulations may provide for treating the member as if sections 42 to 44 or, as the case may be, section 44A(1) did not apply, or applied only to such extent as is determined in accordance with the regulations, and
- (b) the amount required for restoring the member's State scheme rights, or a prescribed part of that amount, shall be a debt due from the trustees or managers of the scheme to the Department.

(3C) Regulations may make provision—

- (a) for determining the cash equivalent of a member's rights under a scheme and the extent (if any) to which the resources of the scheme are insufficient to meet the liability for that cash equivalent,
- (b) for the recovery of any debt due under sub-paragraph (3B)(b), and
- (c) for determining the amount required for restoring a member's State scheme rights including provision requiring the Department to apply whichever prescribed actuarial table in force at the appropriate time is applicable.

(3D) Section 151 shall apply as if sub-paragraphs (3A) and (3B), and regulations made by virtue of those sub-paragraphs, were included among the provisions there referred to.

(3E) In sub-paragraphs (3A) and (3B), “State scheme rights”, in relation to a member of a scheme, are the rights for which, if the scheme had not been a contracted-out scheme, the member would have been eligible by virtue of section 44(6) of Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings factors for additional pension.”, and

- (c) omit sub-paragraph (5).

*Protected rights*

**Interim arrangements for giving effect to protected rights**

**139.**—(1) Section 24 of the Pension Schemes Act (ways of giving effect to protected rights) is amended as follows.

- (2) In subsection (1), after paragraph (a) insert—

“(aa) in any case where subsection (1A) so requires, by the making of such payments as are mentioned in that subsection.”.

- (3) After that subsection insert—

“(1A) In the case of a personal pension scheme, where the member so elects, effect shall be given to his protected rights—

- (a) during the interim period, by the making of payments under an interim arrangement which—

- (i) complies with section 24A,  
(ii) satisfies such conditions as may be prescribed, and

- (b) at the end of the interim period in such of the ways permitted by the following subsections as the rules of the scheme may specify.”.

- (4) In subsection (3)—

- (a) in paragraph (b), after “the member” insert “or, where section 24A(2) applies, the member’s widow or widower”, and

- (b) in the words following that paragraph, after “subsection” insert “(1A)(a) or”.

- (5) In subsection (4)(a), for the words from “65” to the end substitute—

“65 or such later date as has been agreed by him, or

- (ii) in the case of a personal pension scheme, where the member has elected to receive payments under an interim arrangement, the date by reference to which the member elects to terminate that arrangement, and otherwise such date as has been agreed by him and is not earlier than his 60th birthday nor later than his 75th birthday.”

- (6) In subsection (5), after “subsection” insert “(1A)”.

- (7) After subsection (7) add—

“(8) In this section and sections 24A, 24B and 25—

“the interim period” means the period beginning with (and including) the starting date in relation to the member in question and ending with the termination date;

“the starting date” means the date, which must not be earlier than the member’s 60th birthday, by reference to which the member elects to begin to receive payments under the interim arrangement;”

“the termination date” means the date by reference to which the member (or, where section 24A(2) applies, the member’s widow or widower) elects to terminate the interim arrangement, and that date must be not later than—

- (a) the member’s 75th birthday, or  
(b) where section 24A(2) applies, the earlier of the member’s widow or widower’s 75th birthday and the 75th anniversary of the member’s birth.”

## Requirements for interim arrangements

140. After section 24 of the Pension Schemes Act insert—

### **“Requirements for interim arrangements.**

**24A.**—(1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member’s widow or widower, throughout the interim period, at intervals not exceeding twelve months.

(2) This subsection applies where the member dies during the interim period and is survived by a widow or widower who at the date of the member’s death has not yet attained the age of 75 years.

(3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be—

- (a) greater than the annual amount of the annuity which would have been purchasable by him on the relevant reference date, or
- (b) less than the prescribed percentage of that amount

(4) The percentage prescribed under subsection (3)(b) may be zero.

(5) For the purposes of this section—

- (a) the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner by reference to—
  - (i) the value on that date, determined by or on behalf of the trustees or managers of the scheme, of the person’s protected rights, and
  - (ii) the current published tables of rates of annuities prepared by the Government Actuary for the purposes of section 28A of the Pension Schemes Act 1993, and
- (b) the relevant reference date is—
  - (i) in relation to payments made to the member during the three years beginning with (and including) the member’s starting date, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question, or
  - (ii) where subsection (2) applies, in relation to payments made to the member’s widow or widower during the three years beginning with (and including) the date of the member’s death, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question.

### **Information about interim arrangements.**

**24B.**—(1) The trustees or managers of a personal pension scheme must, if required to do so by the Department, produce any document relevant to—

- (a) the level of payments made under any interim arrangement, or
- (b) the value of protected rights to which such an arrangement gives effect,

or otherwise connected with the making of payments under such an arrangement.

(2) In this section, “document” includes information recorded in any form, and the reference to the production of a document, in relation to information recorded otherwise than in legible form, is a reference to producing a copy of the information in legible form.”.

**Interim arrangements: supplementary**

**141.**—(1) Section 25 of the Pension Schemes Act (the pension and annuity requirements) is amended as follows.

(2) In subsection (1) for paragraph (a) substitute—

“(a) in the case of an occupational pension scheme it commences on a date—

(i) not earlier than the member’s 60th birthday, and

(ii) not later than his 65th birthday,

or on such later date as has been agreed by him, and continues until the date of his death,  
or

(aa) in the case of a personal pension scheme—

(i) where the member has elected under section 24(1A) to receive payments under an interim arrangement, it commences on the termination date, and continues until the date of the member’s death or, where section 24A(2) applies, until the death of the member’s widow or widower, or

(ii) otherwise, it commences on such a date as had been agreed by the member and is not earlier than his 60th birthday nor later than his 75th birthday, and continues until the date of his death;”.

(3) In subsection (3)(b)(iii), after “member” insert “or, where section 24A(2) applies, the member’s widow or widower.”

(4) In subsection (4), after “member” insert “(or a member’s widow or widower)”.

**Extension of interim arrangements to occupational pension schemes**

**142.** Regulations made by the Department may provide that Articles 139 to 141 shall have effect, subject to prescribed modifications, in relation to protected rights under an occupational pension scheme as they have effect in relation to protected rights under a personal pension scheme.

**Discharge of protected rights on winding up: insurance policies**

**143.**—(1) After section 28 of the Pension Schemes Act insert—

**“Discharge of protected rights on winding up: insurance policies.**

**28A.**—(1) Where an occupational pension scheme is being wound up and such conditions as may be prescribed are satisfied, effect may be given to the protected rights of a member of the scheme (in spite of section 24) by—

(a) taking out an appropriate policy of insurance, or a number of such policies, under which the member is the beneficiary, or

(b) assuring the benefits of a policy of insurance, or a number of such policies, to the member, where the policy assured is an appropriate policy.

(2) A policy of insurance is appropriate for the purposes of this section if—

(a) the insurance company with which it is or was taken out or entered into—

(i) is, or was at the time when the policy was taken out or (as the case may be) the benefit of it was assured, carrying on ordinary long-term insurance business (within the meaning of the Insurance Companies Act 1982) in the United Kingdom or any other member State, and

(ii) satisfies, or at that time satisfied, prescribed requirements, and

- (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed,
- (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed, and
- (d) it satisfies such other requirements as may be prescribed.”.

(2) At the end of section 24 of that Act, as amended by this Order (ways of giving effect to protected rights), insert—

“(2) This section is subject to section 28A.”.

### *Miscellaneous*

#### **Monitoring personal pension schemes**

144. After section 29 of the Pension Schemes Act insert—

“**Appropriate schemes: “Blowing the whistle”.**

**29A.**—(1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—

- (a) any requirement which, in the case of the scheme, is required by section 5(5)(a) to be satisfied is not satisfied, and
- (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the Department of any of its functions relating to appropriate schemes,

that person must immediately give a written report of the matter to the Department.

(2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.”.

#### **Earners employed in more than one employment**

145.—(1) Paragraph 1 of Schedule 1 to the Contributions and Benefits Act (Class 1 contributions where earner in more than one employment) is amended as follows.

(2) For sub-paragraph (3) substitute—

“(3) The amount of the primary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)

- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 39(1) of the Pensions Act (contributions to personal pension schemes), the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings so attributable as does not exceed the current upper earnings limit (referred to in this paragraph as “the APPS earnings”);
- (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service—

- (i) to such part of the aggregated earnings attributable to COMPS service as does not exceed the current upper earnings limit; or
    - (ii) if paragraph (a) applies, to such part of the earnings attributable to COMPS service as, when added to the APPS earnings, does not exceed the current upper earnings limit;
  - (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service—
    - (i) to such part of the aggregated earnings attributable to COSRS service as does not exceed the current upper earnings limit; or
    - (ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), does not exceed the current upper earnings limit;
  - (d) the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, does not exceed the current upper earnings limit.”.
- (3) For sub-paragraph (6) substitute—

“(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—

  - (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 39(1) of the Pensions Act, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to the APPS earnings;
  - (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service to the part of the aggregated earnings attributable to such service;
  - (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to the part of the aggregated earnings attributable to such service;
  - (d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to the remainder of the aggregated earnings.”.
- (4) At the end of that paragraph add—

“(9) In this paragraph—

“COMPS service” means service in employment in respect of which minimum payments are made to a money purchase contracted-out scheme;

“COSRS service” means service in employment which qualifies the earner for a pension provided by a salary related contracted-out scheme.”.
- (5) Until the principal appointed day, that paragraph, as amended by this Article, shall have effect as if—

- (a) for sub-paragraph (3)(b) there were substituted—
  - “(b) if some of the aggregated earnings are attributable to service in contracted-out employment, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to such service—
    - (i) to such part of the aggregated earnings attributable to such service as does not exceed the current upper earnings limit, or
    - (ii) if paragraph (a) applies, to such part of the earnings attributable to such service as, when added to the APPS earnings, does not exceed the current upper earnings limit;”
- (b) sub-paragraph (3)(c) were omitted,
- (c) in sub-paragraph (3)(d), for “COMPS or COSRS service” there were substituted “service in contracted-out employment”,
- (d) for sub-paragraph (6)(b) there were substituted—
  - “(b) if some of the aggregated earnings are attributable to service in contracted-out employment, the amount obtained by applying the rate on secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to such service to the part of the aggregated earnings attributable to such service;”
- (e) sub-paragraph (6)(c) were omitted, and
- (f) in sub-paragraph (9) the definitions of “COMPS service” and “COSRS service” were omitted.

### **Hybrid occupational pension schemes**

**146.**—(1) In spite of anything in sections 5 and 8 of the Pension Schemes Act (requirements for certification and determination of basis on which scheme is contracted-out), the Department may by regulations provide, where the pensions provided by an occupational pension scheme include both—

- (a) such pensions that, if the scheme provided only those pensions, it would satisfy section 5(2) of that Act, and
- (b) such other pensions that, if the scheme provided only those other pensions, it would satisfy section 5(3) of that Act,

for Part III of that Act to have effect as if the scheme were two separate schemes providing, respectively, the pensions referred to in paragraphs (a) and (b).

(2) Regulations made by the Department may, in connection with any provision made by virtue of paragraph (1), make such modifications of the following enactments, and the instruments made or having effect as if made under them, as appear to the Department desirable—

- the Contributions and Benefits Act,
- the Pension Schemes Act, and
- Part II.

### *Minor and consequential amendments*

### **Minor and consequential amendments related to Articles 133 to 146**

**147.** Schedule 3 (which makes amendments related to Articles 133 to 146 and the dissolution of the Occupational Pensions Board) has effect.