

SCHEDULES

SCHEDULE 3

AMENDMENTS RELATING TO PART IV, ETC.

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

- 13.** The Pension Schemes Act is amended as follows.
- 14.** In the provisions listed in the first column of the table—
- (a) in each place where the word appears, for “Board” substitute “Department”, and
 - (b) the additional amendment listed in the second column of the table in relation to those provisions have effect.

TABLE

Provision	Additional amendments
Section 4 (meaning of terms).	—
Section 5 (requirements for certification)	In subsection (4), for “they think” substitute “it thinks”.
Section 7 (employer’s right to elect as to contracting-out).	In subsection (4), for “consider” and “they” substitute, respectively, “considers” and “it”. In subsection (5)(d), for “they are” substitute “it is”.
Section 26 (protected rights).	—
Section 30 (cancellation, etc. of certificates)	In subsection (2)(a), for “they have” substitute “it has”. In subsections (4) and (5), for “they consider” and “they” substitute, respectively, “it considers” and “it”.
Section 46 (schemes ceasing to be certified).	In subsection (2), for “have” (in both places) and “their” substitute, respectively, “has” and “its”. In subsection (3), for “they subsequently approve” substitute “it subsequently approves”. In subsection (4), for the first “have” substitute “has”.

Provision	Additional amendments
Section 53 (contribution equivalent premiums).	In subsection (4) for “consider” and “they” substitute, respectively, “considers” and “it”.
Section 159 (rule against perpetuities).	In subsection (6), for “consider” substitute “considers”.

- 15.** In section 3 (issue of certificates)—
- in subsections (1) and (6), for “Board” substitute “Department”, and
 - in subsection (4), omit “by the Board”.
- 16.** In section 4 (definition of terms)—
- in subsection (2), for the words following the definition of “minimum payment” substitute
—
“and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage for the purposes of section 38A(2)”, and
 - omit subsection (5).
- 17.** In section 5 (requirements for certification), in subsection (3), omit “18 and”.
- 18.** In section 6 (protected rights), in subsection (2)(a), after “minimum payments” insert “and payments under section 38A(3)”.
- 19.** In section 9 (minimum pensions for earners), in subsection (2)(a), omit from “and does” to the end.
- 20.** In section 10 (earner’s guaranteed minimum)—
- omit subsection (3),
 - in subsection (8) after “1978-79” insert “or later than tax year ending immediately before the principal appointed day”.
- 21.** In section 12 (revaluation of earnings factors)—
- in subsection (3), for the words following “at least” substitute “the prescribed percentage for each relevant year after the last service tax year; and the provisions included by virtue of this subsection may also conform with such additional requirements as may be prescribed”, and
 - for the definition of “final relevant year” in subsection (5) substitute—
““final relevant year” means the last tax year in the earner’s working life.”
- 22.** In section 13 (minimum pensions for widows and widowers), at the end of subsection (7) add “or widows”.
- 23.** Section 18 (financing of benefits) is repealed.
- 24.** In section 19 (securing of benefits)—
- omit subsections (1) and (5),
 - in subsection (4), for “(1 to (3)” substitute “(2) and (3)”;
- and subsection (2) and (3) of that section do not apply where the winding up is begun on or after the principal appointed day.
- 25.** Section 20 (sufficiency of resources) is repealed.
- 26.** In section 21 (conditions as to investments, etc.)—

- (a) omit subsection (1) and (3), and
- (b) for subsection (2) substitute—

“(2) A salary related contracted-out scheme must, in relation to any earner’s service before the principal appointed day, comply with any requirements prescribed for the purpose of securing that—

- (a) the Department is kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme, and
- (b) the resources of the scheme are brought to and are maintained at a level satisfactory to the Department.”.

27. In section 24 (ways of giving effect to protected rights)—

- (a) in subsection (3), for “subsections (5) and (7)” substitute “subsection (5)”,
- (b) in subsection (4)(d), for “a manner satisfactory to the Board” substitute “the prescribed manner”, and
- (c) omit subsection (7).

28. In section 25 (the pension and annuity requirements), in subsection (1)(b)(ii), for “a manner satisfactory to the Board” substitute “the prescribed manner”.

29. In section 27 (investment and resources of schemes)—

- (a) omit subsection (1),
- (b) in subsection (3)(a), after “minimum payments” insert “and payments under section 38A(3)”, and
- (c) at the end of that section add—

“(5) Any minimum contributions required by reason of this section to be applied so as to provide money purchase benefits for or in respect of a member of a scheme must be so applied in the prescribed manner and within the prescribed period.”.

30. In section 30 (cancellation, etc., of certificates)—

- (a) for subsection (1)(a) substitute—

“(a) in the case of a contracting-out certificate—

- (i) on any change of circumstances affecting the treatment of an employment as contracted-out employment or
- (ii) where the scheme is a salary related contracted-out scheme and the certificate was issued on or after the principal appointed day, if any employer of persons in the description or category of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide the Department, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 5(2B) are satisfied; and”

- (b) omit subsection (6), and
- (c) for subsection (7) substitute—

“(4) Without prejudice to the preceding provisions of this section, failure of a scheme to comply with any requirements prescribed by virtue of section 21(2) shall be a ground on which the Department may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate.”.

31. Sections 31 (surrender, etc: issue of further certificates) and 32 (surrender, etc: cancellation of further certificates) are repealed.

32. For section 33 substitute—

“Alteration of rules of contracted-out schemes.

33.—(1) Except in prescribed circumstances, the rules of a 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) References in this section to a contracted-out scheme include a scheme which has ceased to be contracted-out so long as any 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.

(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed.”.

33. In section 34 (alteration of rules of appropriate schemes)—

- (a) in subsection (1), omit from “, unless” to the end,
- (b) in subsection (3), omit from “if” to the end,
- (c) in subsection (4), for the words from the beginning to “direct,” substitute “Regulations made by virtue of subsection (2) may”, and
- (d) omit subsection (7).

34. In section 39 (payment of minimum contributions), in subsection (1), after “circumstances” insert “or in respect of such periods”.

35. In section 41 (minimum contributions towards personal pension schemes), omit subsection (3)(d).

36. In section 42(1) (effect of entitlement to guaranteed minimum pensions on payment of social security benefits), for paragraph (i) substitute—

“(i) to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day.”.

37. In section 46 (powers to approve arrangements for scheme ceasing to be certified)—

- (a) in subsection (1)(a)—
 - (i) at the end of sub-paragraph (i), insert “or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day”, and
 - (ii) in sub-paragraph (ii), for “guaranteed minimum pensions under the scheme” substitute “such pensions”,
- (b) after subsection (1), insert—
 - “(1A) The power of the Department to approve arrangements under this section—
 - (a) includes power to approve arrangements subject to conditions, and
 - (b) may be exercised either generally or in relation to a particular scheme.
 - (1B) Arrangements may not be approved under this section unless any prescribed conditions are met.”, and
- (c) omit subsection (7).

38. In section 47 (calculation of GMPs preserved under approved arrangements), in subsection (1)(a), for “are subject to approved arrangements” substitute “satisfy prescribed conditions”.

39. In section 48 (supervision of schemes which have ceased to be certified)—

(a) for subsection (2)(a) and (b) substitute—

“(a) the scheme has ceased to be a contracted-out scheme, and

(b) any persons remain who fall within any of the following categories.

(2A) Those categories are—

(a) any persons entitled to receive, or having accrued rights to—

(i) guaranteed minimum pensions, or

(ii) pensions under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out,

(b) any persons who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it.”,

(b) for subsection (3)(a) and (b) substitute—

“(a) the scheme has ceased to be an appropriate scheme, and

(b) any persons remain who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it.”, and

(c) omit subsections (4) to (6).

40. In section 49 (supervision: former contracted-out schemes)—

(a) for subsection (1) substitute—

“(1) The Department may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the Department may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable as if it were an order of the county court.”,

(b) omit subsection (2),

(c) for subsection (3) substitute—

“(4) If a certificate has been issued under subsection (2) of section 46 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 48(2A)(a) or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the Department may allow.”, and

(d) omit subsections (4) and (5).

41. In section 50 (supervision: former appropriate personal pension schemes)—

(a) for subsections (1) and (2) substitute—

“(1) The Department may direct the trustees or managers of the scheme to take or refrain from taking such steps as the Department may specify in writing; and such a

direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable as if it were an order of the county court.

(2) If a certificate has been issued under subsection (2) of section not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 48(3)(b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the Department may allow.”,

(b) omit subsection (3).

42. scheme premiums), omit subsections (1) and (3) to (6).

43. In Section 52 (provisions supplementary to section 51)—

(a) omit subsection (1), in subsection (2) the words following “the prescribed period” and subsection (3), and

(b) for subsections (5) and (b) substitute—

“(5) The reference in section 51(2A) to an accrued right to short service benefit includes an accrued right to any provision which, under the preservation requirements, is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).

(6) Subject to regulations under paragraph 1 of Schedule 1, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 51(2A) as ceasing immediately before the death”.

44. In section 54 (amount of premiums under section 51), omit subsections (1) to (3), (5) and (6).

45. Section 55 (alternative basis for revaluation) is repealed.

46. In section 56 (effect of payment of premiums on rights)—

(a) omit subsections (1) to (3).

(b) in subsection (4)—

(i) for “51(2)(i)” substitute “51(2A)(a) and (b), (d) and (e)”, and

(ii) at the end add “or (in relation to service on or after the principal appointed day(rights to pensions under the scheme so far as attributable to the amount of the premium”, and

(c) in subsection (5), for “51(2)(ii)” substitute “51(2A)(c)” and after “widow” add “or widower”, and

(d) omit subsections (6) to (10).

47. In section 57 (deduction of contributions equivalent premium from refund of scheme contributions)—

(a) for subsection (1)(a) substitute—

“(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and”,

(b) in subsection (8)—

(i) for paragraph (a) substitute—

- (i) for “,the Inland Revenue and the Board”, substitute “and the Inland Revenue”,
 - (ii) after paragraph (a), insert “or”, and
 - (iii) omit paragraph (c) and the preceding “or”, and
 - (e) omit subsection (8).
- 57.** In section 160 (Crown employment)—
- (a) in subsection (1)(b)(i), omit “167, 168”
 - (b) in subsection (2), omit from “sections 51” to “premiums”
- 58.** In section 161 (application of certain provisions to cases with foreign element), in subsection (2)(a), for from “sections 3” to “premiums” substitute “Part III”.
- 59.** In section 162(5) (reciprocity with other countries), omit “167, 168”.
- 60.** In section 165 (determinations by the Department)—
- (a) in subsection (1)—
 - (i) in paragraph (b) for “state scheme” (in both places) substitute “contributions equivalent”,
 - (ii) omit “and” at the end of paragraph (c), and
 - (iii) for the words following paragraph (d) substitute—
 - “and
 - (e) any question whether an employment is, or is to be treated, for the purposes of this Act as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is, or is to be treated, for the purposes of this Act as such employment”,
 - (b) omit subsections (3) and (4), and
 - (c) at the end of that section add—
 - “(7) Sections 16 and 17 of the Social Security Administration (Northern Ireland) Act 1992 (appeals and reviews) shall have effect as if the questions mentioned in subsection (1) of section 15 of that Act included—
 - (a) any question arising in connection with the issue, cancellation or variation of contracting-out certificates or appropriate scheme certificates, not being a question mentioned in subsection (1)(e) above, and
 - (b) any other question arising under this Act which falls to be determined by the Department, not being a question mentioned in that subsection.
 - (8) Regulations may make provision with respect to the procedure to be adopted on any application for a review made under section 17 of that Act by virtue of subsection (7) above and generally with respect to such applications and reviews, but may not prevent such a review being entered upon without an application being made.”.
- 61.** In section 166 (questions arising in proceedings), in subsection (1)(b), for “state scheme” substitute “contributions equivalent”.
- 62.** Sections 167 and 168 (reviews and appeals) are repealed.
- 63.** In section 169 (grants), for “Board” (in both places) substitute “Regulatory Authority”.
- 64.** In section 171 (fees), for “either by the Department or by the Board on its behalf” substitute “by the Department”.
- 65.** In section 172 (general financial arrangements)—

- (a) in subsection 2(b)—
 - (i) in sub-paragraph (i), omit “167, 168”, and
 - (ii) in sub-paragraph (ii), omit from “sections 51” to “premiums),”, and
 - (b) omit subsection (7)(b).
- 66.** In section 176 (general interpretation)—
- (a) in subsection (1)—
 - (i) omit the definitions of “accrued rights premium”, “the Board”, “contracted-out protected rights premium”, “limited revaluation premium”, “pensioners’s rights premium”, “personal pension protected rights premium”, “state scheme premium” and “transfer premium”,
 - (ii) in the definition of “contributions equivalent premium” for “51(6)(e)” substitute “51(2)”, and
 - (iii) insert the following after the definition of “the preservation requirements” —
 - ““the principal appointed day” has the meaning assigned by section 3(2B);”,
 - and
 - (b) in subsection (3), omit “,167, 168”.
- 67.** In section 177 (orders and regulations)—
- (a) in subsection (1), omit “Board or”;
 - (b) in subsection (5)(a), omit “,167, 168”.
- 68.** In section 178 (sub-delegation), omit “,167, 168” in subsection (1), and subsection (2).
- 69.** Section 179 (consultation about regulations) is repealed.
- 70.** In Schedule 1 (certification regulations)—
- (a) in paragraph 2(1), for “Board” substitute “Department”.
 - (b) in paragraph 4(3), for from “does not cease” to the end substitute “which, apart from the regulations, would not be contracted-out employment is treated as contracted-out employment where any benefits provided under the scheme are attributable to a period when the scheme was contracted-out”,
 - (c) in paragraph 5(1)—
 - (i) omit “or the Board” and “or, as the case may be, the Board”, and
 - (ii) for “61” substitute “59”,
 - (d) in paragraph 5(2) omit “to 61” and
 - (e) in paragraph 9(3) to (5) substitute— “(2A) Sub-paragraphs (3) and (4) shall be omitted.”.
- 71.** In Schedule 3 (Priority in bankruptcy)—
- (a) in paragraph 3(1), for “state scheme” substitute “contributions equivalent”, and
 - (b) in paragraph 4(2), for “, contracting-out employment and a state scheme premium” (where first occurring) substitute “and contracted-out employment” and for from “, contracted-out employment” (where next occurring) to “premium)” substitute “and contracted-out employment”.
- 72.** In Schedule 5 (transitional provisions and savings), omit paragraph 11.