



Social Security Act 1973

1973 CHAPTER 38

PART II

OCCUPATIONAL PENSION SCHEMES

Recognition

51 Recognised pensionable employment.

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment shall be recognised pensionable employment in relation to him during any period in which he is of requisite age and—
 - (a) his service in the employment is for the time being service which qualifies him (on the assumption that it continues for the appropriate period) for the minimum benefits of an occupational pension scheme ; and
 - (b) the scheme is a recognised scheme in relation to that employment; and
 - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a " recognition certificate ", that the employment is recognised pensionable employment by reference to the scheme.
- (2) For the purposes of this section, an earner is of requisite age at any time after the end of the income tax year in which he attained the age of 21 and before the beginning of the income tax year in which he will attain pensionable age.
- (3) In this Act—
 - (a) " occupational pension scheme " means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and

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- (b) " public service pension scheme " means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—
- (i) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or
 - (ii) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,
- and includes any occupational pension scheme prescribed by regulations made by the Secretary of State and the Minister for the Civil Service jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Part of this Act.
- (4) An occupational pension scheme can be a recognised scheme in relation to an earner's employment only if—
- (a) the resources of the scheme are derived (in whole or in part) either—
 - (i) from payments made or to be made (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money) by one or more employers of earners to whom the scheme applies, or
 - (ii) from such other payments by the earner or his employer, or both, as may be prescribed for different categories of schemes ; and
 - (b) it complies in all respects with sections 53 to 60 of this Act in respect of minimum personal and death benefits, and of the other matters mentioned in those sections, or, in such cases or classes of cases as may be prescribed, with those sections as modified by regulations; and
 - (c) it neither contains any provision (operating in relation to minimum benefits, their allowance or computation, or to any rights available in connection with minimum benefits) which by any of those sections is stated to be inadmissible in relation to the minimum benefits of a recognised scheme, nor is subject to the terms of any instrument or agreement containing or implying such a provision; and
 - (d) the rules of the scheme applying to minimum benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of recognised schemes, and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Board as a condition of recognition, either generally or in relation to a particular scheme ; and
 - (e) either it is a public service pension scheme or the Board are satisfied that it complies with regulations prescribing—
 - (i) the means by which the minimum benefits of occupational pension schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means), and
 - (ii) the conditions which are required by the regulations to be satisfied in relation to any means adopted.
- (5) References in subsection (4)(a) above and in the following provisions of this Part of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for

its benefits, as including references to persons who in relation to them and their employments are treated by regulations as being employers for the purposes of this Part of this Act.

- (6) It is hereby declared that nothing in this section is to be taken—
- (a) to preclude an occupational pension scheme from being so framed as to provide benefits on any ampler scale, or payable at any earlier time, or otherwise more favourable to beneficiaries, than is required for recognition "purposes ;
 - (b) to require a scheme, or any rule contained in a scheme, to comply for recognition purposes with any provision in sections 53 to 60 of this Act by adopting the particular words of that provision, subject to any requirements of regulations, or of the Board, under subsection (4)(d) above, so long as the Board are satisfied that the provision is complied with in spirit and intent.
- (7) The Secretary of State may make such regulations as he thinks appropriate for securing that earners, notwithstanding their terms of employment, are freed from any liability to be or become members of, or to contribute to, an occupational pension scheme—
- (a) which is not for the time being recognised in relation to any employment; and
 - (b) in whose case the Board are satisfied that the benefits of the scheme are not adequately secured, or that it is otherwise unsound in respect of its management or financing.
- (8) In this Act any reference to the minimum benefits of an occupational pension scheme includes both minimum personal pension and minimum death benefit (except where the context otherwise requires) and is to be taken as referring only to benefit provided by the scheme in respect of employed earner's employment in accordance with such minimum requirements as must be complied with for recognition purposes.
- (9) Where by any provision in this Part of this Act recognition of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued recognition of the scheme shall be dependent on continued satisfaction of the condition ; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for cancellation of the recognition certificate.
- (10) Regulations may, for any purpose of this Part of this Act, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which, and the circumstances in which, a person is to be treated as becoming, or as ceasing to be, a member or prospective member.

52 Certification of employments.

- (1) Regulations shall provide—
- (a) for the issue by the Occupational Pensions Board to employers of recognition certificates specifying the employments which are to be treated, either generally or in relation to any specified category or description of earners, as recognised pensionable employments; and
 - (b) for the cancellation, variation or surrender of any certificate, or the issue of an amended certificate on any change of circumstances affecting the treatment of an employment as recognised pensionable employment;
- and (subject to the exclusion by section 51 of this Act of earners not of requisite age) any recognition certificate for the time being in force in respect of an employed earner's

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employment shall be conclusive that the employment is recognised pensionable employment.

- (2) Subject to the provisions of this Act, an employment otherwise satisfying the conditions for inclusion in a recognition certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to any prescribed restrictions an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (3) Except in prescribed circumstances, no recognition certificate, and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (4) A recognition certificate in respect of any employment—
 - (a) subject to subsection (5) below, may be issued by the Board notwithstanding that in respect of some earners in that employment the relevant scheme satisfies some, but not all the requirements of sections 53 to 58 of this Act (but only if the Board think it expedient to issue the certificate in particular circumstances where the number of earners in respect of whom the scheme fails to satisfy any particular requirement appears to them to be insignificant in relation to the number of those in respect of whom all the requirements of those sections are satisfied); and
 - (b) may be withheld or cancelled by the Board (notwithstanding that the scheme is one which they would otherwise treat as proper to be recognised in relation to all earners in that employment) if there appear to the Board to be circumstances relating to the scheme or its management which make it inexpedient that the employment should be or, as the case may be, continue to be recognised pensionable employment by reference to the scheme.
- (5) A recognition certificate may be issued by virtue of subsection (4)(a) above only if the Board are satisfied that, in the case of the earners in respect of whom the relevant scheme does not satisfy all the requirements of sections 53 to 58 of this Act and whose employments are to be included in the certificate, written consent to the exercise of the Board's powers under that paragraph has been given by or on behalf of those earners.
- (6) Where in relation to an earner's employment there are in force two or more occupational pension schemes, no one of which can by itself be a recognised scheme, the Board may if they think fit (but subject to section 51 of this Act and the foregoing provisions of this section) treat them for recognition purposes as one single scheme.
- (7) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as recognised pensionable employment, or as to the persons in relation to whom, or the period for which, an employment is to be so treated.
- (8) Regulations may for the purposes of recognition, and for any other purposes of this Part of this Act, prescribe persons who, in the case of a scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
- (9) The provisions of Schedule 15 to this Act shall have effect with respect to recognised pensionable employments, recognition certificates and recognised occupational pension schemes.

53 Minimum personal pension (entitlement).

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must, in accordance with this section, provide him with minimum personal pension on termination of recognised pensionable employment otherwise than by his death.
- (2) Subject to the provisions of this Part of this Act, minimum personal pension must be provided for an earner in any case in which, on termination of a period of service in recognised pensionable employment—
 - (a) he qualifies for a pension immediately payable under the scheme; or
 - (b) he is then no longer of requisite age for the purposes of section 51 of this Act; or
 - (c) he has attained the age of 26 and has at least 5 years' qualifying service accrued since the appointed day; or
 - (d) the period of service terminated is one in respect of which the scheme either—
 - (i) conforms with the preservation requirements (section 63 of this Act and Schedule 16), so as to entitle the earner to short service benefit within the meaning of those requirements ; or
 - (ii) makes any provision which under those requirements is permitted as an alternative to short service benefit (other than, in such cases as may be prescribed, provision for return of contributions or benefit in the form of a lump sum).
- (3) In subsection (2)(c) above, " 5 years' qualifying service " means 5 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 5 years) in which the earner was at all times employed either—
 - (a) in pensionable service under the scheme within the meaning of the preservation requirements ; or
 - (b) in service in recognised pensionable employment, by reference to the scheme ; or
 - (c) in service under another scheme, being linked qualifying service within the meaning of section 58 of this Act,no regard being had to whether or not it was the same description of service in the whole of the 5 years, but excluding, in the case of service specified in paragraph (a) or (b), any period of service in the same employment which has been previously terminated.
- (4) Minimum personal pension must be in the form either—
 - (a) of a pension payable as from termination of the relevant employment or from when the earner attains pensionable age, whichever is the later; or
 - (b) of a deferred pension, coming into payment when he attains that age or (with his consent in writing) at some later time.
- (5) The pension must, in either of the cases referred to in subsection (4) above, be a pension payable out of the resources of the scheme or secured by such means as may be prescribed (whether policy of insurance, annuity contract or other means), the security satisfying such conditions as may be prescribed in relation to the means adopted.
- (6) The scheme must conform with any regulations prescribing the time from which minimum personal pension (immediate or deferred) is to become payable.

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- (7) Any provision which has for its effect that qualification for minimum personal pension is conditional upon retirement being postponed beyond a certain time shall be inadmissible in relation to the minimum benefits of a recognised scheme, if that time is more than 6 months after pensionable age.
- (8) The scheme must so provide that minimum personal pension, as and from the time when it comes into payment, is payable for life, subject only to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in such circumstances as may be prescribed.
- (9) Subject to the approval of the Occupational Pensions Board, the scheme may provide, in the case of an earner who is a woman, for minimum personal pension to be at a lower rate where provision is made for the payment of benefit to dependants on her death.

54 Rate of minimum personal pension.

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must comply with the requirements of this section as respects the rate of minimum personal pension.
- (2) Subject to the following subsections, minimum personal pension must be at an annual rate equal to the following percentage of the earner's reckonable earnings from an employment to which the scheme applies—
- | | |
|----------------------------------------------------------------------------------|-------------------|
| (a) for a man— | |
| (i) if the pension is subject to increases complying with section 57 of this Act | 1.00 per cent. 1. |
| (ii) if not | 1.25 per cent. |
| (b) for a woman— | |
| (i) if the pension is so subject | 0.70 per cent. |
| (ii) if not | 0.90 per cent. |
- (3) In this Part of this Act, references to an earner's reckonable earnings from any employment are to his earnings from that employment so far as comprised in any payment of earnings made to him or for his benefit (at a time when the employment was recognised pensionable employment) where the payment either—
- (a) gave rise to liability under Part I of this Act for a primary Class 1 contribution ;
or
- (b) was made in such circumstances that regulations require it to be treated (for the purposes of this subsection only) as giving rise to such liability.
- (4) If regulations so permit, but subject to subsection (5) below and to any prescribed conditions, the rate of minimum personal pension may be calculated—
- (a) by reference to contributions paid from time to time by the earner, or by the employer in respect of him, and the earner's age at the time when contributions were paid; or
- (b) as a prescribed fraction or percentage of—
- (i) the annual rate of the earner's reckonable earnings in any prescribed period of 12 months before termination of service, or

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- (ii) his average annual reckonable earnings in any prescribed period before termination of service,
the fraction or percentage being determined by reference to the period (expressed as a number of years or of months, or a combination of years and months) of the earner's service in recognised pensionable employment and varying (to any extent required by the regulations) by reference to the duration of any period of such service.
- (5) Regulations shall enable the rate of minimum personal pension to be calculated in accordance with paragraph (a) of subsection (4) above only if the scheme so provides that—
- (a) the contributions of the earner and those of the employer together, or those of the employer alone, amount to, or to the equivalent of, at least 5 per cent, of the earner's reckonable earnings ; and
 - (b) the contributions of the employer alone amount to, or to the equivalent of, at least 2-5 per cent, of those earnings.
- (6) Regulations—
- (a) may enable the basis of calculating the rate of minimum personal pension to be varied (subject to any prescribed conditions) where the rules of the scheme require an earner who is a man and is married when he attains pensionable age to surrender part of his minimum personal pension in order to provide minimum death benefit for his widow or other dependants;
 - (b) so far as made for the purposes of subsection (4) above, may prescribe different bases of calculation according to whether minimum personal pension is or is not subject to increases complying with section 57 of this Act.
- (7) Where minimum personal pension is subject to increases complying with section 57 of this Act, but does not come into payment at its full rate until after pensionable age, the scheme must make such provision as is necessary to secure that its full rate when it comes into payment is not less than what would have been the increased rate if it had come into payment at its full rate at that age.
- (8) Without prejudice to subsection (7) above, the scheme must provide, in the case of minimum personal pension not coming into payment at its full rate until after pensionable age (where the earner remains in the relevant employment after attaining that age, or consents in writing to postponement), for the pension to be adjusted so as to take into account any period between pensionable age and the time when the pension comes into payment at its full rate ; and—
- (a) this provision must be made in such a way as to satisfy the Occupational Pensions Board as to its adequacy; and
 - (b) recognition of the scheme may be made subject to prescribed conditions as to the adjustment of benefit in such cases.

55 Minimum death benefit (entitlement).

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, it must provide for minimum death benefit to be payable on his death in the cases specified in subsection (2) below, if at his death he leaves a widow.
- (2) The cases above referred to are the following—
- (a) where the earner at the time of his death was in recognised pensionable employment by reference to the scheme;

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- (b) where the earner at his death had ceased to be in recognised pensionable employment by reference to the scheme and had become entitled thereunder to minimum personal pension (whether deferred or in payment) and either—
 - (i) he had not surrendered his entitlement in exchange for recognition credits allowed under another scheme, or by way of commutation, or
 - (ii) he had so surrendered it, but the surrender extended only to minimum personal pension and not to minimum death benefit.
- (3) Regulations may provide for the requirements of this section and section 56 of this Act to apply with prescribed modifications in relation to an earner whose marriage takes place after the termination of his service in recognised pensionable employment by reference to the scheme, and may restrict their application to cases where the marriage takes place not less than a prescribed period before the earner's death.
- (4) For the purposes of subsection (2)(a) above the length of the earner's period of service in recognised pensionable employment must be treated as immaterial.
- (5) In any of the cases specified in subsection (2) above the scheme may, with the approval of the Occupational Pensions Board, exclude minimum death benefit where the deceased earner had on the appointed day attained an age within 5 years of pensionable age or (if earlier) an age within 5 years of whatever age was for him normal pension age under the scheme.
- (6) Minimum death benefit must be payable to the widow, except that the scheme may, with the approval of the Board, confer on the trustees or managers discretion to direct that the benefit be paid instead to any dependant of the deceased earner, or be apportioned between the widow and one or more dependants, or between dependants other than the widow.
- (7) Minimum death benefit must—
 - (a) in a case where at his death the earner had attained pensionable age, be in the form of a pension; and
 - (b) in any other case, be in the form either of a pension or of a lump sum ;
 but subject to the foregoing paragraphs the scheme may deal differently, as respects the form of the benefit, with different cases and classes of cases.
- (8) The scheme must so provide that minimum death benefit must be payable as from the earner's death and, in the case of benefit in pension form, be payable for the pensioner's life, subject only—
 - (a) to regulations prescribing the provision which may or must be included in the scheme with respect to the time when the benefit (whether in pension form or otherwise) is to become payable ;
 - (b) to such provision (if any) as may be made by the scheme for the pension to be terminated or suspended in prescribed circumstances.

56 Rate or amount of minimum death benefit.

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment it must comply with the requirements of this section as respects the rate or amount of minimum death benefit.
- (2) Subject to the provisions of this section, minimum death benefit, if in the form of a pension, must be at an annual rate not less than one half that of the deceased earner's own pension; and if in the form of a lump sum, it must be either—

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- (a) an amount not less than 14 times that rate if the pension was subject to increases complying with section 57 of this Act and 11 times that rate if it was not so subject; or
 - (b) an amount not less than 1.5 times—
 - (i) the annual rate of the deceased's reckonable earnings in any prescribed period of not more than 12 months before his death, or
 - (ii) his average annual reckonable earnings in any prescribed longer period before his death, (which period need not in either case be a period ending with the death).
- (3) Where the scheme provides for the earner's minimum personal pension to be subject to increases complying with section 57 of this Act, minimum death benefit in pension form must be also subject to increases complying with that section.
- (4) Where minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a), the rate or amount of minimum death benefit must be not less than a rate or amount calculated on any basis prescribed for the purposes of this section.
- (5) In subsection (2) above, references to the deceased earner's own pension are—
- (a) in a case where he died in service in recognised pensionable employment, to the minimum personal pension for which he would have qualified had he at his death attained pensionable age ; and
 - (b) in any other case, to the minimum personal pension (whether immediate or deferred) for which he qualified at any time before his death,
- allowing in the last-mentioned case for increases of pension (being increases complying with section 57 of this Act) which were or would have been payable between pensionable age and death.
- (6) Subsection (5) of section 53 of this Act shall apply in relation to minimum death benefit as it applies in relation to minimum personal pension.
- (7) To such extent, and in such cases, as may be authorised by regulations, a scheme may provide—
- (a) for excluding minimum death benefit where the rate or amount of benefit would be less than a prescribed rate or amount;
 - (b) for less than the rate specified in subsection (2) above, or prescribed under subsection (4), to be payable where the deceased earner's widow or, in a case to which section 55(6) of this Act applies, any dependant of his, was more than a prescribed number of years younger than he was.

57 Increase of pension after it comes into payment.

- (1) For an occupational pension scheme to be recognised in relation to an earner's employment, in so far as recognition depends on provisions of the scheme relating to pension-increases complying with this section, the scheme must (subject to subsection (2) below) by its rules provide such increases of minimum pension (whether personal pension or death benefit in pension form) as to satisfy the Occupational Pensions Board—
- (a) that the first increase after the pension comes into payment is payable after a period which is reasonable, and that the increase is of an adequate amount;

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- (b) that increases thereafter will be payable at not more than yearly intervals and will be calculated on a basis which either—
 - (i) appears to the Board to correspond with that adopted in relation to official pensions under section 2 of the Pensions (Increase) Act 1971 (increase by reference to rise in cost of living), or
 - (ii) provides increases at a rate of not less than 3 per cent, a year compound;

and, where the scheme's rules provide for the increase of any year (computed on either of the alternative bases specified in paragraph (b) above) to be withheld if it is of less than a prescribed amount, the rules must provide for that year's increase to be carried forward and brought into computation in calculating the increases of subsequent years.

- (2) The scheme may be recognised in relation to the employment in question (if otherwise qualifying for recognition) in any case where the Board, having regard—
 - (a) to the nature and scope of the provision made by the scheme's rules for increasing pensions after they come into payment;
 - (b) to the means adopted, or to be adopted, for financing the scheme; and
 - (c) to any increases which have been made of pensions already in payment under the scheme,

are satisfied that, taking one year with another, present and future pensioners under the scheme are likely to be protected to the same extent as they would have been if subsection (1)(b)(ii) above were complied with.

- (3) Subject to the foregoing provisions of this section, the scheme may in respect of pension-increases deal differently with different categories of pensioners.
- (4) The scheme may include provision enabling the basis of calculating pension-increases to be altered from time to time, whether in relation to all pensioners present and future, or to any particular category or categories of pensioners; but a scheme rule to this effect must provide for the alteration to be made only with the Board's approval.

58 Transfer of benefit between schemes: linked qualifying service.

- (1) In this Act-
 - (a) " transfer credits " means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme ;
 - (b) " accrued rights ", in relation to a scheme, includes any transfer credits allowed under that scheme; and
 - (c) " recognition credits " means transfer credits allowed to an earner under the rules of a scheme in respect of—
 - (i) minimum benefits (whether minimum personal pension or minimum death benefit, or both) accrued under, and transferred from, another scheme by reference to which the earner has previously been in recognised pensionable employment, or benefits which include minimum benefits so accrued, or
 - (ii) transfer credits previously allowed under any scheme, so far as representing or replacing, or otherwise allowed in respect of, minimum benefits so accrued (or benefits including them),

and in this subsection " rights " includes rights to benefit and also options to have benefit paid in a particular form or at a particular time.

- (2) For the purposes of this Act, any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—
- (a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service ; and
 - (b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,
- except that, for any service to be taken into account as linked qualifying service, it must be actual service, no regard being had to any scheme rule which provides for service to be treated, for any purposes of benefit or otherwise, as longer or shorter than it actually is.
- (3) Where in relation to any employment the rules of a scheme allow for the transfer of accrued rights to another scheme, then for the scheme to be recognised in relation to that employment it must so provide that any transfer of minimum benefits (or benefits including them) or recognition credits can be made only to a scheme which—
- (a) is recognised in relation to any employment; or
 - (b) falls within some category or description of schemes prescribed for the purpose of this subsection.
- (4) Where the rules of a scheme provide for the allowance of transfer credits, then for the scheme to be recognised in relation to any employment it must provide for them, if and so far as they consist of recognition credits, to be in such form, and subject to such conditions, as may be prescribed.
- (5) Any provision which has for its effect that a transfer of accrued rights can be made otherwise than with the earner's consent shall be inadmissible in relation to the minimum benefits of an occupational pension scheme, except in such cases as may be prescribed.

59 Financing and security of minimum benefits.

- (1) For the purposes of this Part of this Act, the resources of an occupational pension scheme are the funds out of which the benefits provided by the scheme (whether minimum or other benefits) are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme.
- (2) For a scheme (other than a public service pension scheme) to be recognised in relation to an earner's employment, the Occupational Pensions Board must be satisfied—
- (a) that the resources of the scheme are sufficient for all claims in respect of the minimum benefits of the scheme (so far as falling to be met out of those resources) to be met from time to time having regard to the anticipated extent of the scheme's resources, and to its other liabilities, at any time when claims may be expected to arise; and
 - (b) generally as to the arrangements in force or to be in force from time to time for securing the minimum benefits of the scheme.
- (3) If the scheme contains a rule as to the priority of claims on a winding up, and the rule is so framed as to accord priority, in the event of a winding up, to particular liabilities, and those liabilities consist of or include—

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- (a) pensions and other benefits in respect of which entitlement to payment has arisen ;
 - (b) prospective minimum benefits; and
 - (c) equivalent pension benefits under Part III of the former principal Act or the corresponding Northern Ireland legislation,
- (with or without priority as between particular liabilities), over all other liabilities under the scheme except any arising in respect of the expenses of administration (so far as those expenses are payable out of the resources of the scheme), then, subject to the following subsection, the Board must be satisfied that, in the event of an immediate winding up, those resources would be sufficient for the particular liabilities accorded priority, and also liabilities in respect of the expenses of administration (so far as so payable), to be met.
- (4) In applying subsection (3) above, the Board may disregard liabilities with priority, in so far as their priority ranks lower than that of the liabilities specified in paragraphs (a) to (c) of the subsection and lower also than liabilities in respect of the expenses of administration.
 - (5) References in subsections (2) and (3) above to the minimum benefits of the scheme are to be taken as including references to recognition credits.
 - (6) If the scheme contains no such rule as is referred to in subsection (3) above the Board must be satisfied that the resources of the scheme would be sufficient, in the event of an immediate winding-up, to meet in full all the liabilities falling to be discharged out of those resources.
 - (7) Where recognition or continued recognition depends on the Board being satisfied as mentioned in subsection (2), (3) or (6) above, the scheme may be recognised or continue to be recognised (as the case may be) in relation to any employment subject to such conditions as the Board think fit to impose for securing that the resources of the scheme are brought to, and maintained at, a level satisfactory to them (including conditions requiring steps to be taken, at the instance of the Board, to increase those resources at any time after recognition, including a time when the scheme has ceased to be recognised); and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a recognition certificate issued in respect of any employment within the application of the scheme.
 - (8) In considering a scheme by reference to the considerations of subsections (2), (3) or (6) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of recognition (or continued recognition) that—
 - (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;
 - (b) there shall be realised, before the expiration of a specific period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;
 and in the event of any such condition not being complied with, this shall be a ground on which the Board may withhold recognition or cancel a recognition certificate issued in respect of any employment within the application of the scheme.
 - (9) Any provision which permits the payment out, otherwise than in prescribed circumstances, of any sum representing the surrender value of a policy of insurance

taken out for the purposes of the scheme shall be inadmissible in relation to the minimum benefits of a recognised scheme.

60 Provisions barring commutation, surrender or forfeiture of minimum benefit.

- (1) Except as provided by the following subsections, any provision having effect so as to enable the whole or part of any minimum benefit to be commuted or surrendered, or to be subject to any charge, hen or set-off, shall be inadmissible in relation to the minimum benefits of a recognised scheme.
- (2) Subsection (1) above shall not prevent a scheme qualifying for recognition with any of the following provisions—
 - (a) provisions enabling an earner (subject to section 58 of this Act) to surrender his accrued minimum benefits in exchange for recognition credits allowed under another scheme;
 - (b) provisions enabling minimum benefit in the form of a pension (whether personal benefit alone, or death benefit alone, or both benefits together) to be commuted, in prescribed circumstances, where the annual rate would not exceed a prescribed amount; or
 - (c) provisions approved by the Occupational Pensions Board and permitting an earner to commute his mini-mum personal pension in exceptional circumstances of serious ill-health;nor shall that subsection prevent a scheme qualifying for recognition with provisions whereby minimum personal pension is calculated on any basis prescribed under section 54(4) of this Act or varied under section 54(6)(a).
- (3) Any provision having effect so as to involve the forfeiture of any minimum benefit, otherwise than in such circumstances as may be prescribed, shall be inadmissible in relation to the minimum benefits of a recognised scheme.

61 Minimum benefit to be inalienable.

- (1) Where a person is entitled or prospectively entitled to minimum benefit under an occupational pension scheme, and the person's entitlement is in respect of his or another person's service in recognised pensionable employment by reference to that scheme, every assignment of, or charge on, that benefit, and every agreement to assign or charge the benefit (whether or not made at a time when the employment was recognised pensionable employment or the scheme a recognised scheme in relation to that employment) shall be void.
- (2) On the bankruptcy of a person who is entitled, or prospectively entitled, as mentioned in subsection (1) above, minimum benefit the assignment of which is or would be made void by that subsection shall not pass to any trustee or other person acting on behalf of his creditors.
- (3) The foregoing subsections apply to recognition credits as they apply to minimum benefits.
- (4) In the application of this section to Scotland—
 - (a) the reference to assignment of benefit shall be read as a reference to its assignation, " assign " being construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor

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

under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958,

and in its application to Northern Ireland the reference to a person's bankruptcy shall be read as including the vesting of a person's estate and effects in the official assignee under section 349 of the Irish Bankrupt and Insolvent Act 1857.

62 Supervision of schemes after withdrawal of recognition.

- (1) Where a recognition certificate in respect of any employment is cancelled or surrendered, the following provisions of this section shall apply in respect of any occupational pension scheme (not being a public service pension scheme) by reference to which that employment was recognised pensionable employment ; and those provisions shall continue so to apply for as long as any person qualifies (immediately or prospectively) for any of the minimum benefits of the scheme.
- (2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—
 - (a) the matters in respect of which they are required to be satisfied for recognition purposes under section 59 of this Act (that is to say, the matters dealt with in subsection (2) of that section and those dealt with in subsection (3) or (6), whichever is applicable); and
 - (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of those subsections);

and where the scheme was recognised subject to such conditions as are referred to in section 59(7) or (8), those conditions shall continue to be binding notwithstanding that there is no recognition certificate in force.
- (3) For the purposes of subsection (2) (a) above the Board may (either by way of enforcement of such conditions as are referred to in section 59(7), or otherwise) by order require employers to make such payments to increase the resources of the scheme or for any other purpose as the Board think expedient for securing the minimum benefits of the scheme; and in the case of an employer failing to make any payment required by such an order—
 - (a) the Board may make a further order declaring the amount which the employer has failed to pay to be a debt due from him to the Board and may recover it from him accordingly; and
 - (b) any amount so recovered shall be paid over by the Board (on the employer's behalf) in accordance with the terms of the original order.
- (4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the minimum benefits of the scheme are adequately secured to its beneficiaries, both present and future.
- (5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 53 to 60 of this Act, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.

- (6) Where the Board are satisfied that the minimum benefits of the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—
- (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or
 - (b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;
- and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.
- (7) References in this section to the minimum benefits of a scheme—
- (a) include references to recognition credits ; but
 - (b) subject to paragraph (a) above, are only to benefits to which immediate or prospective entitlement arises by virtue of service in employment which has been recognised pensionable employment by reference to the scheme;
- and, in relation to a scheme of any prescribed category, the reference in subsection (3) above to employers shall include such persons as may be prescribed as among those to whom an order of the Board under that subsection may be directed in the case of a scheme of that category after it has ceased to be recognised.