



Social Security Act 1986

1986 CHAPTER 50

PART I

PENSIONS

Provisions applying to personal and occupational pension schemes

12 Voluntary contributions

- (1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that a personal or occupational pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—
- (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
 - (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
 - (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him ; and
 - (d) must secure that the value of the additional benefits is reasonable, having regard—
 - (i) to the amount of the voluntary contributions; and
 - (ii) to the value of the other benefits under the scheme;and the requirements specified in this subsection may be referred to as " the voluntary contributions requirements " .
- (2) Where the rules of a personal or occupational pension scheme do not comply with the voluntary contributions requirements it shall be the responsibility of—
- (a) the trustees and managers of the scheme; or
 - (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration,

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to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

- (3) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in subsection (2) above, advise whether the rules of a scheme do or do not in the Board's opinion conform with the voluntary contributions requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.
- (4) On application made to them in respect of a personal or occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the voluntary contributions requirements.
- (5) The persons competent to make an application under this section in respect of a scheme are—
 - (a) the trustees or managers of the scheme ;
 - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
 - (c) in the case of an occupational pension scheme, any person who is an employer of persons in service in an employment to which the scheme applies;
 - (d) any member or prospective member of the scheme ;
 - (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.
- (6) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application made to them under subsection (4) above.
- (7) If the Occupational Pensions Board determine under subsection (4) or (6) above that the rules of a scheme do not conform with the voluntary contributions requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
 - (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (5)(b) above, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
 - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who in relation to an occupational pension scheme may in particular include such an employer as is specified in subsection (5)(c) above), to make that modification; or
 - (c) themselves by order modify the scheme with a view to achieving the purpose above-mentioned.
- (8) The Board may exercise their powers under subsection (7) above from time to time in relation to any scheme in respect of which they have issued a determination under subsection (4) or (6) above, and may exercise the powers together or separately.

- (9) Any modification of a scheme made in pursuance of an order of the Board under subsection (7)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme ; and such an order may be made and complied with in relation to a scheme—
- (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
 - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or of the obtaining of any consent, with a view to the making of the modification.
- (10) An order of the Board under subsection (7)(a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (7)(b) or (c) above may operate retrospectively ; and in this subsection " retrospectively " means with effect from the date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this section.
- (11) In section 64(3) of the Social Security Act 1973 (modification and winding up by order of Occupational Pensions Board) the following paragraph shall be inserted after paragraph (f)—
- “(g) to comply with the voluntary contributions requirements specified in subsection (1) of section 12 of the Social Security Act 1986, but without prejudice to anything in subsections (2) to (10) of that section.”.

13 Regulations as to form and content of advertisements

Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

14 Information

Regulations may require the furnishing by prescribed persons to the Secretary of State or the Occupational Pensions Board of such information as he or they require for the purposes of the preceding provisions of this Part of this Act.

15 Terms of contracts of service or schemes restricting choice to be void

- (1) Subject to such exceptions as may be prescribed—
- (a) any term of a contract of a service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member of a personal or occupational pension scheme, of a particular personal or occupational pension scheme or of one or other of a number of particular personal or occupational pension schemes shall be void ; and
 - (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner to a particular personal or occupational pension scheme of which the earner is not a member, or to one or other of a number of personal or occupational pension schemes of none of which he is a member,

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shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.

- (2) Subsection (1) above shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
- (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

16 Actuarial tables

- (1) Regulations prescribing actuarial tables for the purposes of any of the provisions to which this section applies—
- (a) shall be made only after consultation with the Government Actuary; and
 - (b) shall not be made unless a draft of them has been laid before Parliament and approved by a resolution of each House.
- (2) This section applies—
- (a) to sections 44, 44ZA, 44A and 45 of the Social Security Pensions Act 1975 ; and
 - (b) to section 5 above.
- (3) The tables—
- (a) shall embody whatever appears to the Secretary of State to be the best practical estimate of the average cost, expressed in actuarial terms and relative to a given period, of making such provision as is mentioned in section 44(5)(a) or (b), 44ZA(9)(b), 44A(3) or 45(2) of the Social Security Pensions Act 1975 or in section 5(10)(b) above, as the case may be; and
 - (b) shall assume for any period an average yield on investments which is not less than the average increase during that period in the general level of earnings obtaining in Great Britain,
- but the regulations may provide for them to be adjusted according to whatever is from time to time the actual yield on prescribed investments or the average yield, as shown in prescribed published indices, on prescribed classes of investments.
- (4) The Secretary of State may from time to time, and shall when required by subsection (6) below, lay before each House of Parliament—
- (a) a report by the Government Actuary on any changes in the factors affecting any of the actuarial tables prescribed for the purposes of any of the provisions to which this section applies (including changes affecting adjustments under the regulations); and
 - (b) a report by the Secretary of State stating whether he considers that the regulations ought to be altered in view of the Government Actuary's report and, if so, what alterations he proposes.
- (5) The changes referred to in subsection (4) (a) above are, in the case of the first report under that paragraph, changes since the last report under section 46(3)(a) of the Social Security Pensions Act 1975 and, in the case of a subsequent report under this section, changes since the preparation of the last such report.
- (6) The Secretary of State shall lay the first report under this section not later than 6th April 1987 and subsequent reports at intervals of not more than five years.

- (7) If in a report under this section the Secretary of State proposes alterations in the regulations, he shall prepare and lay before each House of Parliament with the report draft regulations giving effect to the regulations and to be in force—
- (a) from the beginning of such tax year as may be specified in the regulations not earlier than the second tax year after that in which the regulations are made ; or
 - (b) where it appears to him to be expedient for reasons of urgency, an earlier date not earlier than the date on which the regulations are made.
- (8) If the draft regulations are approved by resolution of each House, the Secretary of State shall make the regulations in the form of the draft.

17 General power to modify statutory provisions

- (1) Regulations may provide that any provision which is contained in the Social Security Act 1973 or the Social Security Acts 1975 to 1986, other than a provision contained in this Part of this Act, and which relates to occupational pension schemes—
- (a) shall have effect in relation to personal pension schemes subject to prescribed modifications;
 - (b) shall have effect subject to such other modifications as the Secretary of State may consider necessary or expedient in consequence of this Part of this Act.
- (2) Regulations may provide that any provision contained in an Act to which this subsection applies shall have effect subject to such modifications as the Secretary of State may consider necessary or expedient in consequence of this Part of this Act or in consequence of any corresponding enactment extending to Northern Ireland.
- (3) The Acts to which subsection (2) above applies are—
- (a) the Fire Services Act 1947;
 - (b) the Sheriffs' Pensions (Scotland) Act 1961;
 - (c) the Superannuation Act 1972;
 - (d) the Parliamentary and other Pensions Act 1972;
 - (e) the Police Pensions Act 1976 ;
 - (f) the Parliamentary Pensions Act 1978 ;
 - (g) the Judicial Pensions Act 1981.