



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,

Status: This is the original version (as it was originally enacted).

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.”.