



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART III

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

### CHAPTER I

#### CERTIFICATION

##### *Alteration of scheme rules after certification*

#### **37 Alteration of rules of contracted-out schemes**

- (1) Subject to subsection (2), where a contracting-out certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as to affect any of the matters dealt with in this Part (other than sections 18, 19 and 43 to 45, and sections 26 to 33 so far as they apply to personal pension schemes) or Chapter III of Part IV or Chapter II of Part V without the consent of the Board.
- (2) Subsection (1) does not apply—
  - (a) to an alteration consequential on a provision of the Health and Social Security Act 1984, the Social Security Act 1985 or the Social Security Act 1986 (or any provision of this Act derived from any such provision); or
  - (b) to an alteration of a prescribed description.
- (3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void if it is made without the consent of the Board.
- (4) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

- (5) This section shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as—
  - (a) any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme, or
  - (b) any person has protected rights under it or is entitled to any benefit giving effect to protected rights under it.
- (6) The reference in subsection (5) to a person entitled to receive a guaranteed minimum pension includes a reference to a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed.

### **38 Alteration of rules of appropriate schemes**

- (1) Where an appropriate scheme certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as—
  - (a) to affect any of the matters dealt with in sections 26 to 33; or
  - (b) to cause the scheme to take a different permitted form from that previously taken,
 unless—
  - (i) the Board have given their consent to the alteration; and
  - (ii) notice of intention to apply for their consent was given in accordance with the requirements mentioned in subsection (7) or was so given except in so far as the Board dispenses with the necessity for such a notice.
- (2) Subsection (1) does not apply to an alteration of a prescribed description.
- (3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void if it is made without the conditions mentioned in subsection (1) being satisfied.
- (4) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (5) This section shall continue in force in relation to a scheme after it has ceased to be an appropriate scheme so long as any person has protected rights under the scheme.
- (6) The reference in subsection (1)(b) to a permitted form is to one of the following forms, namely—
  - (a) an arrangement for the issue of insurance policies or annuity contracts;
  - (b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which has been authorised under section 78(1) of or by virtue of paragraph 9 of Schedule 15 to the Financial Services Act 1986;
  - (c) an arrangement for the investment of contributions in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the Building Societies Act 1986)).
- (7) The requirements referred to in subsection (1)(ii) are—
  - (a) that the notice is given in writing—
    - (i) to any member of the scheme who has protected rights under it; and

- (ii) to any earner who has given a notice under section 44(1) jointly with the managers or trustees of the scheme, being a notice which has not been cancelled,  
by sending it to his last known address; and
- (b) that the notice specifies—
  - (i) the name of the scheme,
  - (ii) the nature of the proposed alteration and its effect on the persons to whom the notice is given, and
  - (iii) the date on which it is proposed that the alteration should take effect (which must not be less than 3 months after that on which the notice is given).