Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

[F1PART 4ZA

TRANSFERS AND CONTRIBUTION REFUNDS]

[F1[F1CHAPTER 2

EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS]

[F1 97AI Rights under section 97AB: further provisions

(1) A member of an occupational pension scheme loses any right acquired by him under section 97AB—

(a) if the scheme is wound up, or

(b) subject to subsection (2), if he fails to exercise the right on or before the reply date.

(2) If the member has failed to exercise any such right on or before the reply date, the trustees or managers of the scheme may allow him to exercise it on or before such later date as they may determine on the application of the member.

(3) Where the trustees or managers determine a later date under subsection (2)—

(a) they must give a notice in writing to that effect to the member, and

(b) subsection (1)(b) applies in relation to the member as if the reference to the reply date were a reference to the later date.

(4) For the purposes of section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents) in its application to this section and sections 97AC(2) and 97AD(2)—

(a) omit the word “registering”, and

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(b) the last known address of any person is his latest address known to the trustees or managers of the scheme.

(5) This Chapter is subject to any provision made by or under section 57 (deduction of contributions equivalent premium from refund of scheme contributions)—

(a) permitting any amount to be deducted from any payment of a contribution refund, or

(b) requiring the payment of a contribution refund to be delayed.

(6) In this Chapter, except where the context otherwise requires, the following expressions have the following meanings—

"the applicable rules" means—

(a) the rules of the scheme, except so far as overridden by a relevant legislative provision,

(b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and

(c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1;

"member" has the meaning given in section 97AA(5);

"permitted way", in relation to a cash transfer sum, means any of the ways specified in section 97AE(2) in which the sum may be used;

"relevant benefits" means benefits which are not attributable (directly or indirectly) to a pension credit;

"reply date", in relation to a member whose pensionable service has terminated, has the meaning given in section 97AC(3)(c).

(7) For the purposes of subsection (6)—

(a) "relevant legislative provision" means any provision contained in any of the following provisions—

(i) Schedule 5 to the Social Security (Northern Ireland) Order 1989 (equal treatment for men and women);

(ii) this Chapter or Chapter 2, 3 or 4 or regulations made under this Chapter or any of those Chapters;

(iii) Part IVA or regulations made under that Part;

(iv) section 106(1);

(v) Part II of the Pensions (Northern Ireland) Order 1995 (occupational pensions) or orders or regulations made or having effect as if made under that Part;

(vi) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (pension debits: reduction of benefit);

(vii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;

[F2] **[** (viii) section 61 of the Pension Schemes Act 2015;

(ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;**]**

[F3] **[** (xi) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015;**]**

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[sections 21, 23, 26, 28, 29 and 33 of and Schedule 1 to the Pension [F4](xia) Schemes Act (Northern Ireland) 2021;**]**

[regulations made under section 69(4) of or paragraph 1(6) of [F5](xii) Schedule 5 to the Pension Schemes Act 2021;

(xiii) sections 85, 90, 92, 93 and 96 of the Pension Schemes Act 2021;**]**

(b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—

(i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;

(ii) section 125(1);

(iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;

(iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

(v) Article 279(1) of the Pensions (Northern Ireland) Order 2005.**]**

[[F6](vi) section 61(3) of the Pension Schemes Act 2015;

(vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.**]**

[[F7](ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.**]**

[[F8](ixa) sections 21(7), 23(7), 26(9), 28(6), 29(2) and 33(5) of and paragraph 1(7) of Schedule 1 to the Pension Schemes Act (Northern Ireland) 2021.**]**

[[F9](x) sections 69(7)(b), 85(5), 90(6), 92(6), 93(2) and 96(5) of and paragraph 1(7) of Schedule 5 to the Pension Schemes Act 2021.**]**

Textual Amendments

F1 Pt. 4 Ch. 5 inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), arts. 1(2), **241** (with art. 285(5)); S.R. 2005/543, art. 2(5), Sch. Pt. 5

F2 S. 97AI(7)(a)(ix)(viii) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 66(1)(a)**, 89(3)(b) (with s. 87)

F3 S. 97AI(7)(a)(ix) inserted (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 18 para. 9(4)(b)**; S.R. 2015/307, art. 2(1)(n)

F4 S. 97AI(7)(a)(xia) inserted (10.8.2021) by Pension Schemes Act (Northern Ireland) 2021 (c. 6), s. 44(1)(c), **Sch. 3 para. 3(a)**

F5 S. 97AI(7)(a)(xii)(xiii) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 6 para. 3(a)**; S.R. 2022/197, art. 3(a)

F6 S. 97AI(7)(b)(vi)(vii) inserted (6.4.2015) by Pension Schemes Act 2015 (c. 8), **ss. 66(1)(b)**, 89(3)(b) (with s. 87)

F7 S. 97AI(7)(a)(xi) inserted (16.7.2015) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), **Sch. 18 para. 9(4)(a)**; S.R. 2015/307, art. 2(1)(n)

F8 S. 97AI(7)(b)(ixa) inserted (10.8.2021) by Pension Schemes Act (Northern Ireland) 2021 (c. 6), s. 44(1)(c), **Sch. 3 para. 3(b)**

F9 S. 97AI(7)(b)(x) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 6 para. 3(b)**; S.R. 2022/197, art. 3(a)

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Modifications etc. (not altering text)

C1 Pt. 4ZA Ch. 2: power to modify conferred (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), s. 131(1)(3)(a), **Sch. 5 para. 1(6)(b)**; S.R. 2022/197, art. 3(a)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to savings in S.R. 2016/106 for effects of 2015 c. 5 (N.I.), Sch. 13 by S.R. 2016/162 art. 5
- specified provision(s) savings for effects of 2015 c. 5 (N.I.), Sch. 13 by S.R. 2016/106 art. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to modify conferred by S.I. 2005/255 (N.I.) art. 281(3)(a)(i)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21A inserted by 2008 c. 1 (N.I.) Sch. 4 para. 9 (This amendment not applied to legislation.gov.uk. Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 21A repealed by 2008 c. 13 (N.I.) s. 85(2)(b)Sch. 10 Pt. 3 (This amendment not applied to legislation.gov.uk. This amendment not applied to legislation.gov.uk. Sch. 4 para. 9 together with the inserted s. 21A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A inserted by 2008 c. 1 (N.I.) Sch. 4 para. 10 (This amendment not applied to legislation.gov.uk. Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 23A repealed by 2008 c. 13 (N.I.) s. 85(2)(b)Sch. 10 Pt. 3 (This amendment not applied to legislation.gov.uk. Sch. 4 para. 10 together with the inserted s. 23A were repealed (6.4.2012) by 2008 c. 13 (N.I.), ss. 85(2)(b), 118(1), Sch. 10 Pt. 3 (with s. 73); S.R. 2012/119, art. 2(a)(c))
- s. 42(1A)(1B) inserted by 2008 c. 13 (N.I.) s. 82(2)
- s. 42(1A) words substituted by 2012 c. 3 (N.I.) Sch. 3 para. 7
- s. 42A inserted by 2008 c. 13 (N.I.) s. 82(3)
- s. 42A repealed by 2015 c. 5 (N.I.) Sch. 12 para. 79
- s. 42A heading words substituted by 2012 c. 3 (N.I.) Sch. 3 para. 8(b)
- s. 42A(1)(c) words substituted by 2012 c. 3 (N.I.) Sch. 3 para. 8(a)
- s. 67(1A) inserted by 2016 c. 1 (N.I.) s. 39(2)(b)
- s. 78A inserted by 2016 c. 1 (N.I.) Sch. 1 para. 2
- s. 79(1A)-(1AC) substituted for s. 79(1A) by 2016 c. 1 (N.I.) Sch. 1 para. 3
- s. 80-80F substituted for s. 80 by 2016 c. 1 (N.I.) Sch. 1 para. 4
- s. 81A inserted by 2016 c. 1 (N.I.) Sch. 1 para. 5
- s. 82A82B inserted by 2016 c. 1 (N.I.) Sch. 1 para. 6
- s. 90(2A)(a)(viii) inserted by 2015 c. 5 (N.I.) Sch. 17 para. 19(2)(a) (This amendment not applied to legislation.gov.uk. S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(a)(ix) inserted by 2015 c. 5 (N.I.) Sch. 18 para. 9(2)(a) (This amendment not applied to legislation.gov.uk. S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 90(2A)(b)(vi) inserted by 2015 c. 5 (N.I.) Sch. 17 para. 19(2)(b) (This amendment not applied to legislation.gov.uk. S. 90 already substituted (3.3.2015 for specified

purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))

- s. 90(2A)(b)(vii) inserted by 2015 c. 5 (N.I.) Sch. 18 para. 9(2)(b) (This amendment not applied to legislation.gov.uk. S. 90 already substituted (3.3.2015 for specified purposes, 6.4.2015 in so far as not already in force) by Pension Schemes Act 2015 (c. 8), s. 89(1)(b)(3)(b), Sch. 4 para. 54 (with s. 87))
- s. 97AI(7)(a)(x) inserted by 2015 c. 5 (N.I.) Sch. 17 para. 19(4)(a)
- s. 97AI(7)(b)(viii) inserted by 2015 c. 5 (N.I.) Sch. 17 para. 19(4)(b)
- s. 109(4)(4A) substituted for s. 109(4) by 2016 c. 1 (N.I.) s. 38(5)
- s. 141(4)(5) added by S.I. 2005/255 (N.I.) art. 251
- s. 142(6A) inserted by S.I. 2005/255 (N.I.) Sch. 10 para. 19(b)
- s. 170A inserted by 2008 c. 13 (N.I.) Sch. 9 para. 1
- s. 172(2)(b)(ii)-(ix) substituted for s. 172(2)(b)(ii) by 2008 c. 1 (N.I.) Sch. 4 para. 33 (This amendment not applied to legislation.gov.uk. Sch. 4 para. 33 repealed immediately before the "abolition date" (see 2008 c. 1 (N.I.), s. 13) by S.R. 2012/124, art. 7(2))
- Sch. 2 para. A1 inserted by 2016 c. 1 (N.I.) Sch. 1 para. 8
- Sch. 2 para. 3A omitted by 2016 c. 1 (N.I.) Sch. 1 para. 9