



Pensions Act 1995

1995 CHAPTER 26

PART III

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

Reduction in State scheme contributions, payment of rebates and reduction in State scheme benefits

137 State scheme contributions and rebates

- (1) In section 40 of the Pension Schemes Act 1993 (scope of Chapter II of Part III), in paragraph (b), after “members of” there is inserted “money purchase contracted-out schemes and members of”.
- (2) For section 41(1) of that Act (reduced rates of Class 1 contributions for earners in contracted-out employment), including the sidenote and the preceding heading, there is substituted—

“Reduced rates of contributions for members of salary related contracted-out schemes

41 Reduced rates of Class 1 contributions

(1) Where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner’s service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme,

the amount of a Class 1 contribution in respect of so much of the earnings paid in that week as exceeds the current lower earnings limit but not the current

upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced by the following amount.

(1A) The amount is—

- (a) in the case of a primary Class 1 contribution, an amount equal to 1.8 per cent. of that part of those earnings, and
- (b) in the case of a secondary Class 1 contribution, an amount equal to 3 per cent. of that part of those earnings”.

(3) In section 42 of that Act (review and alteration of rates of contributions applicable under section 41), for subsection (1)(a) there is substituted—

“(a) a report by the Government Actuary or the Deputy Government Actuary on—

- (i) the percentages for the time being applying under section 41(1A)(a) and (b), and
- (ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of salary related contracted-out schemes”.

(4) In relation to the first report under section 42(1)(a) of that Act laid after the passing of this Act, that section shall have effect as if—

- (a) in subsection (1)(a), sub-paragraph (i) and, in sub-paragraph (ii), “any changes since the preparation of the last report under this paragraph in” were omitted,
- (b) for subsection (1)(b) there were substituted—

“(b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers the percentages under section 41(1A)(a) should be”,

- (c) for subsections (3) and (4) there were substituted—

“(3) The Secretary of State shall prepare and lay before each House of Parliament with the report the draft of an order specifying the percentages; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of the tax year which begins with the principal appointed day, not being a tax year earlier than the second after that in which the order is made”,

- (d) in subsection (5), for “alteration” there were substituted “determination”, and
- (e) in subsection (6), for “an order making alterations in either or both of those percentages” there were substituted “such an order”.

(5) After that section there is inserted—

*“Reduced rates of contributions, and rebates, for
members of money purchase contracted-out schemes*

42A Reduced rates of Class 1 contributions, and rebates

(1) Subsections (2) and (3) apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
 - (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme.
- (2) The amount of a Class 1 contribution in respect of so much of the earnings paid in that week in respect of that employment as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced by an amount equal to the appropriate flat-rate percentage of that part of those earnings.
- (3) The Secretary of State shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—
 - (a) the appropriate age-related percentage of that part of those earnings, exceeds
 - (b) the appropriate flat-rate percentage of that part of those earnings.
- (4) Regulations may make provision—
 - (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
 - (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,
 - (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.
- (5) If the Secretary of State pays an amount under subsection (3) which he is not required to pay or is not required to pay to the person to whom, or in respect of whom, he pays it, he may recover it from any person to whom, or in respect of whom, he paid it.
- (6) Where—
 - (a) an earner has ceased to be employed in an employment, and
 - (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased,that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.

42B Determination and alteration of rates of contributions, and rebates, applicable under section 42A

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—

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

- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of money purchase contracted-out schemes,
 - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
 - (c) a draft of an order under subsection (2).
- (2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—
 - (a) specify different percentages for primary and secondary Class 1 contributions, and
 - (b) for each of the tax years for which it has effect—
 - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
 - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i)) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182”.
- (6) In Schedule 4 to that Act (priority in bankruptcy, etc.), in paragraph 2(3)—
 - (a) in paragraph (a), for “4.8 per cent.” there is substituted “the percentage for non-contributing earners”,
 - (b) in paragraph (b), for “3 per cent.” there is substituted “the percentage for contributing earners”.
- (7) In paragraph 2(5) of that Schedule—
 - (a) before the definition of “employer” there is inserted—
 - ““appropriate flat-rate percentage” has the same meaning as in section 42A”, and
 - (b) after the definition there is inserted—
 - ““the percentage for contributing earners” means—
 - (a) in relation to a salary related contracted-out scheme, 3 per cent, and

- (b) in relation to a money purchase contracted-out scheme, the percentage which is the appropriate flat-rate percentage for secondary Class 1 contributions,

“the percentage for non-contributing earners” means—

- (a) in relation to a salary related contracted-out scheme, 4.8 per cent, and
- (b) in relation to a money purchase contracted-out scheme, a percentage equal to the sum of the appropriate flat-rate percentages for primary and secondary Class 1 contributions”.

138 Minimum contributions towards appropriate personal pension schemes

- (1) Section 45 of the Pension Schemes Act 1993 (minimum contributions to personal pension schemes) is amended as follows.

- (2) For subsection (1) there is substituted—

“(1) In relation to any tax week falling within a period for which the Secretary of State is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly)”.

- (3) Subsection (2) is omitted.

- (4) In subsection (3)(e), the words following “prescribed period” are omitted.

- (5) After that section there is inserted—

“45A Determination and alteration of rates of minimum contributions under section 45

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—

- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of appropriate personal pension schemes,
- (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
- (c) a draft of an order under subsection (2).

- (2) An order under this subsection—

- (a) shall have effect in relation to a period of tax years (not exceeding five), and
- (b) may, for each of the tax years for which it has effect, specify different percentages in respect of earners by reference to their ages on the last

day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 45).

- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182”.

139 Money purchase and personal pension schemes: verification of ages

After section 45A of the Pension Schemes Act 1993 (inserted by section 138) there is inserted—

“45B Money purchase and personal pension schemes: verification of ages

- (1) Regulations may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).
- (2) Information held by the Secretary of State as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State—
 - (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
 - (b) to such other persons as may be prescribed,
 in connection with the making of payments under section 42A(3) or the payment of minimum contributions.”

140 Reduction in benefits for members of certified schemes

- (1) After section 48 of the Pension Schemes Act 1993 there is inserted—

“Effect of reduced contributions and rebates on social security benefits

48A Additional pension and other benefits

- (1) In relation to any tax week where—
 - (a) the amount of a Class 1 contribution in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 or 42A, or
 - (b) an amount is paid under section 45(1) in respect of the earnings paid to or for the benefit of an earner,
 section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no primary Class 1 contributions had been paid or treated

as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).

- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).
 - (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.
 - (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
 - (5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) of that Act.”
- (2) In section 48 of the Pension Schemes Act 1993 (effect of membership of money purchase contracted-out scheme or appropriate scheme on payment of social security benefits) in subsection (2), paragraph (b) is omitted and, in paragraph (c), “if the earner dies before reaching pensionable age” is omitted.
 - (3) Section 48 of that Act shall cease to have effect in relation to minimum payments made, or minimum contributions paid, on or after the principal appointed day.