



Pensions Act 1995

1995 CHAPTER 26

PART III

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

Introductory

135 The “principal appointed day” for Part III

An order under section 180 of this Act appointing a day for the coming into force of any provisions of this Part, being 6th April in any year, may designate that day as the principal appointed day for the purposes of this Part.

New certification requirements applying as from the principal appointed day

136 New requirements for contracted-out schemes

(1) In section 7 of the Pension Schemes Act 1993 (issue of contracting-out etc. certificates), after subsection (2) there is inserted—

“(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—

- (a) at the end of a prescribed period beginning with that day, or
- (b) if prescribed conditions are not satisfied at any time in that period,

but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.

- (2B) In this Part, “the principal appointed day” means the day designated by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act”.
- (2) In section 8 of that Act (definition of terms), for subsection (1)(a)(i) there is substituted—
- “(i) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out scheme”)”.
- (3) In section 9 of that Act (requirements for certification of schemes: general), for subsection (2) (requirement for guaranteed minimum pension) there is substituted—
- “(2) An occupational pension scheme satisfies this subsection only if—
- (a) in relation to any earner’s service before the principal appointed day, it satisfies the conditions of subsection (2A), and
- (b) in relation to any earner’s service on or after that day, it satisfies the conditions of subsection (2B).
- (2A) The conditions of this subsection are that—
- (a) the scheme complies in all respects with sections 13 to 23 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.
- (2B) The conditions of this subsection are that the Secretary of State is satisfied that—
- (a) the scheme complies with section 12A,
- (b) restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,
- (c) the scheme satisfies such other requirements as may be prescribed (which—
- (i) must include requirements as to the amount of the resources of the scheme and,
- (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and
- (d) the scheme does not fall within a prescribed class or description,
- and is satisfied that the rules of the scheme are framed so as to comply with the relevant requirements.
- (2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.”
- (4) In subsection (3) of that section (requirement for protected rights, etc.) after “case” in paragraph (a) there is inserted—

“(aa) the Secretary of State is satisfied that the scheme does not fall within a prescribed class or description”.

(5) After section 12 of that Act there is inserted—

*“Requirements for certification of occupational pension schemes
applying from the principal appointed day of the Pensions Act 1995*

12A The statutory standard

- (1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their widows or widowers, satisfy the statutory standard.
- (2) Subject to regulations made by virtue of section 9(2B)(c)(ii), in applying this section regard must only be had to—
 - (a) earners in employed earner's employment, or
 - (b) their widows or widowers,collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.
- (3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.
- (4) Regulations may provide for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.
- (5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared from time to time by a prescribed body and approved by the Secretary of State.
- (6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of section 47 of the Pensions Act 1995) so certifies.

12B Reference scheme

- (1) This section applies for the purposes of section 12A.
- (2) A reference scheme is an occupational pension scheme which—
 - (a) complies with each of subsections (3) and (4), and
 - (b) complies with any prescribed requirements.
- (3) In relation to earners employed in employed earner's employment, a reference scheme is one which provides—
 - (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and

- (b) for the annual rate of the pension at that age to be—
 - (i) $\frac{1}{80}$ th of average qualifying earnings in the last three tax years preceding the end of service,
 multiplied by
 - (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.
- (4) In relation to widows or widowers, a reference scheme is one which provides—
 - (a) for the widows or widowers of earners employed in employed earner's employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme, and
 - (b) except in prescribed circumstances, for the annual rate of the pensions, at the time when the widows or widowers first become entitled to them, to be—
 - (i) in the case of widows or widowers of persons whose age when they died was, or was greater than, normal pension age, 50 per cent. of the annual rate which a reference scheme is required to provide for persons of that age, and
 - (ii) in the case of widows or widowers of other persons, 50 per cent. of the annual rate which a reference scheme would have been required to provide in respect of the persons' actual periods of service if those persons had attained that age.
- (5) For the purposes of this section, an earner's qualifying earnings in any tax year are 90 per cent. of the amount by which the earner's earnings—
 - (a) exceed the qualifying earnings factor for that year, and
 - (b) do not exceed the upper earnings limit for that year multiplied by fifty-three.
- (6) Regulations may modify subsections (2) to (5).
- (7) In this section—
 - “normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),
 - “qualifying earnings factor”, in relation to a tax year, has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992, and
 - “upper earnings limit”, in relation to a tax year, means the amount specified for that year by regulations made by virtue of section 5(3) of that Act as the upper earnings limit for Class 1 contributions.

12C Transfer, commutation, etc

- (1) Regulations may prohibit or restrict—
 - (a) the transfer of any liability—
 - (i) for the payment of pensions under a relevant scheme, or

- (ii) in respect of accrued rights to such pensions,
 - (b) the discharge of any liability to provide pensions under a relevant scheme, or
 - (c) the payment of a lump sum instead of a pension payable under a relevant scheme,
- except in prescribed circumstances or on prescribed conditions.
- (2) In this section “relevant scheme” means a scheme contracted out by virtue of section 9(2B) of this Act and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day.
- (3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.

12D Entitlement to benefit

In the case of a scheme contracted out by virtue of section 9(2B) of this Act, regulations may make provision as to the ages by reference to which benefits under the scheme are to be paid”.

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—

- (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.

Premiums and return to State scheme

141 State scheme etc. premiums and buyback into State scheme

- (1) In section 55 of the Pension Schemes Act 1993 (payment of state scheme premiums on termination of certified status), for subsection (2) there is substituted—

“(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme (other than a money purchase contracted-out scheme),
 - (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
 - (c) the earner has served for less than two years in the employment,
- the prescribed person may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

- (2A) The circumstances referred to in subsection (2) are that—

- (a) the earner’s service in the employment ceases otherwise than on the earner’s death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner’s death,

- (c) the earner's service in the employment ceases on the earner's death and the earner dies leaving a widow or widower,
- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pension scheme;

but paragraph (a), (b), (d) or (e) does not apply if the earner has an accrued right to short service benefit”.

(2) In Schedule 2 to that Act, in paragraph 5 (state scheme premiums)—

(a) in sub-paragraph (3)—

- (i) “in relation to state scheme premiums” is omitted,
- (ii) paragraph (b) is omitted, and
- (iii) at the end there is added—

“and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium”,

(b) after sub-paragraph (3) there is inserted—

“(3A) Sub-paragraph (3B) applies in relation to a member of a contracted-out occupational pension scheme which is being wound up if, in the opinion of the Secretary of State—

- (a) the resources of the scheme are insufficient to meet the whole of the liability for the cash equivalent of the member's rights under the scheme, and
- (b) if the resources of the scheme are sufficient to meet a part of that liability, that part is less than the amount required for restoring his State scheme rights.

(3B) Where this sub-paragraph applies—

- (a) regulations may provide for treating the member as if sections 46 to 48 or, as the case may be, section 48A(1) did not apply, or applied only to such extent as is determined in accordance with the regulations, and
- (b) the amount required for restoring the member's State scheme rights, or a prescribed part of that amount, shall be a debt due from the trustees or managers of the scheme to the Secretary of State.

(3C) Regulations may make provision—

- (a) for determining the cash equivalent of a member's rights under a scheme and the extent (if any) to which the resources of the scheme are insufficient to meet the liability for that cash equivalent,
- (b) for the recovery of any debt due under sub-paragraph (3B) (b), and
- (c) for determining the amount required for restoring a member's State scheme rights including provision requiring the Secretary of State to apply whichever prescribed actuarial table in force at the appropriate time is applicable.

(3D) Section 155 shall apply as if sub-paragraphs (3A) and (3B)(a), and regulations made by virtue of this sub-paragraph and sub-paragraph (3B)(b), were included among the provisions there referred to.

(3E) In sub-paragraphs (3A) and (3B), “State scheme rights”, in relation to a member of a scheme, are the rights for which, if the scheme had not been a contracted-out scheme, the member would have been eligible by virtue of section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension).”, and

(c) sub-paragraph (5) is omitted.

Protected rights

142 Interim arrangements for giving effect to protected rights

(1) Section 28 of the Pension Schemes Act 1993 (ways of giving effect to protected rights) is amended as follows.

(2) In subsection (1), after paragraph (a) there is inserted—

“(aa) in any case where subsection (1A) so requires, by the making of such payments as are mentioned in that subsection.”.

(3) After that subsection there is inserted—

“(1A) In the case of a personal pension scheme, where the member so elects, effect shall be given to his protected rights—

(a) during the interim period, by the making of payments under an interim arrangement which—

(i) complies with section 28A,

(ii) satisfies such conditions as may be prescribed, and

(b) at the end of the interim period, in such of the ways permitted by the following subsections as the rules of the scheme may specify.”

(4) In subsection (3)—

(a) in paragraph (b), after “the member” there is inserted “or, where section 28A(2) applies, the member’s widow or widower”, and

(b) in the words following that paragraph, after “subsection” there is inserted “(1A)(a) or”.

(5) In subsection (4)(a), for the words from “65” to the end there is substituted—

“65 or such later date as has been agreed by him, or

(ii) in the case of a personal pension scheme, where the member has elected to receive payments under an interim arrangement, the date by reference to which the member elects to terminate that arrangement, and otherwise such date as has been agreed by him and is not earlier than his 60th birthday nor later than his 75th birthday.”

(6) In subsection (5), after “subsection” there is inserted “(1A)”.

(7) After subsection (7) there is added—

“(8) In this section and sections 28A, 28B and 29—

“the interim period” means the period beginning with the starting date in relation to the member in question and ending with the termination date;

“the starting date” means the date, which must not be earlier than the member’s 60th birthday, by reference to which the member elects to begin to receive payments under the interim arrangement;

“the termination date” means the date by reference to which the member (or, where section 28A(2) applies, the member’s widow or widower) elects to terminate the interim arrangement, and that date must be not later than—

- (i) the member’s 75th birthday, or
- (ii) where section 28A(2) applies, the earlier of the member’s widow or widower’s 75th birthday and the 75th anniversary of the member’s birth.”

143 Requirements for interim arrangements

After section 28 of the Pension Schemes Act 1993 there is inserted—

“28A Requirements for interim arrangements

- (1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member’s widow or widower, throughout the interim period, at intervals not exceeding twelve months.
- (2) This subsection applies where the member dies during the interim period and is survived by a widow or widower who at the date of the member’s death has not yet attained the age of 75 years.
- (3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be—
 - (a) greater than the annual amount of the annuity which would have been purchasable by him on the relevant reference date, or
 - (b) less than the prescribed percentage of that amount.
- (4) The percentage prescribed under subsection (3)(b) may be zero.
- (5) For the purposes of this section—
 - (a) the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner by reference to—
 - (i) the value on that date, determined by or on behalf of the trustees or managers of the scheme, of the person’s protected rights, and
 - (ii) the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary for the purposes of this section, and
 - (b) the relevant reference date is—

- (i) in relation to payments made to the member during the three years beginning with the member's starting date, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question, or
- (ii) where subsection (2) applies, in relation to payments made to the member's widow or widower during the three years beginning with the date of the member's death, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question.

28B Information about interim arrangements

- (1) The trustees or managers of a personal pension scheme must, if required to do so by the Secretary of State, produce any document relevant to—
 - (a) the level of payments made under any interim arrangement, or
 - (b) the value of protected rights to which such an arrangement gives effect, or otherwise connected with the making of payments under such an arrangement.
- (2) In this section, “document” includes information recorded in any form, and the reference to the production of a document, in relation to information recorded otherwise than in legible form, is a reference to producing a copy of the information in legible form.”

144 Interim arrangements: supplementary

- (1) Section 29 of the Pension Schemes Act 1993 (the pension and annuity requirements) is amended as follows.
- (2) In subsection (1) for paragraph (a) there is substituted—
 - “(a) in the case of an occupational pension scheme it commences on a date—
 - (i) not earlier than the member's 60th birthday, and
 - (ii) not later than his 65th birthday,
 or on such later date as has been agreed by him, and continues until the date of his death, or
 - (aa) in the case of a personal pension scheme—
 - (i) where the member has elected under section 28(1A) to receive payments under an interim arrangement, it commences on the termination date, and continues until the date of the member's death or, where section 28A(2) applies, until the death of the member's widow or widower, or
 - (ii) otherwise, it commences on such a date as has been agreed by the member and is not earlier than his 60th birthday nor later than his 75th birthday, and continues until the date of his death;”.
- (3) In subsection (3)(b)(iii), after “member” there is inserted “or, where section 28A(2) applies, the member's widow or widower”.

- (4) In subsection (4), after “member” there is inserted “(or a member’s widow or widower)”.

145 Extension of interim arrangements to occupational pension schemes

Regulations made by the Secretary of State may provide that sections 141 to 143 shall have effect, subject to prescribed modifications, in relation to protected rights under an occupational pension scheme as they have effect in relation to protected rights under a personal pension scheme.

146 Discharge of protected rights on winding up: insurance policies

- (1) After section 32 of the Pension Schemes Act 1993 there is inserted—

“32A Discharge of protected rights on winding up: insurance policies

- (1) Where an occupational pension scheme is being wound up and such conditions as may be prescribed are satisfied, effect may be given to the protected rights of a member of the scheme (in spite of section 28) by—
 - (a) taking out an appropriate policy of insurance, or a number of such policies, under which the member is the beneficiary, or
 - (b) assuring the benefits of a policy of insurance, or a number of such policies, to the member, where the policy assured is an appropriate policy.
- (2) A policy of insurance is appropriate for the purposes of this section if—
 - (a) the insurance company with which it is or was taken out or entered into—
 - (i) is, or was at the time when the policy was taken out or (as the case may be) the benefit of it was assured, carrying on ordinary long-term insurance business (within the meaning of the Insurance Companies Act 1982) in the United Kingdom or any other Member State, and
 - (ii) satisfies, or at that time satisfied, prescribed requirements, and
 - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed, and
 - (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed, and
 - (d) it satisfies such other requirements as may be prescribed”.
- (2) At the end of section 28 of that Act, as amended by this Act, (ways of giving effect to protected rights) there is inserted—

“(9) This section is subject to section 32A”.

*Miscellaneous***147 Monitoring personal pension schemes**

After section 33 of the Pension Schemes Act 1993 there is inserted—

“33A Appropriate schemes: “Blowing the whistle”

- (1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—
 - (a) any requirement which, in the case of the scheme, is required by section 9(5)(a) to be satisfied is not satisfied, and
 - (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the Secretary of State of any of his functions relating to appropriate schemes,
 that person must immediately give a written report of the matter to the Secretary of State.
- (2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.”

148 Earner employed in more than one employment

- (1) Paragraph 1 of Schedule 1 to the Social Security Contributions and Benefits Act 1992 (Class 1 contributions where earner in more than one employment) is amended as follows.
- (2) For sub-paragraph (3) there is substituted—
 - “(3) The amount of the primary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—
 - (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the Pension Schemes Act 1993 (contributions to personal pension schemes), the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings so attributable as does not exceed the current upper earnings limit (referred to in this paragraph as “the APPS earnings”),
 - (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service—
 - (i) to such part of the aggregated earnings attributable to COMPS service as does not exceed the current upper earnings limit, or
 - (ii) if paragraph (a) applies, to such part of the earnings attributable to COMPS service as, when added to the

APPS earnings, does not exceed the current upper earnings limit,

- (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service—
 - (i) to such part of the aggregated earnings attributable to COSRS service as does not exceed the current upper earnings limit, or
 - (ii) if paragraph (a) or (b) applies, to such part of the earnings attributable to COSRS service as, when added to the APPS earnings or the part attributable to COMPS service (or both), does not exceed the current upper earnings limit,
- (d) the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to such part of the aggregated earnings as, when added to the part or parts attributable to COMPS or COSRS service, does not exceed the current upper earnings limit”.

(3) For sub-paragraph (6) there is substituted—

“(6) The amount of the secondary Class 1 contribution shall be the aggregate of the amounts determined under the following paragraphs (applying earlier paragraphs before later ones)—

- (a) if the aggregated earnings are paid to or for the benefit of an earner in respect of whom minimum contributions are payable under section 43(1) of the Pension Schemes Act 1993, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to the APPS earnings,
- (b) if some of the aggregated earnings are attributable to COMPS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COMPS service to the part of the aggregated earnings attributable to such service,
- (c) if some of the aggregated earnings are attributable to COSRS service, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to COSRS service to the part of the aggregated earnings attributable to such service,
- (d) the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to employments which are not contracted-out to the remainder of the aggregated earnings”.

(4) At the end of that paragraph there is added—

“(9) In this paragraph—

“COMPS service” means service in employment in respect of which minimum payments are made to a money purchase contracted-out scheme,

“COSRS service” means service in employment which qualifies the earner for a pension provided by a salary related contracted-out scheme”.

(5) Until the principal appointed day, that paragraph, as amended by this section, shall have effect as if—

(a) for sub-paragraph (3)(b) there were substituted—

“(b) if some of the aggregated earnings are attributable to service in contracted-out employment, the amount obtained by applying the rate of primary Class 1 contributions that would apply if all the aggregated earnings were attributable to such service—

(i) to such part of the aggregated earnings attributable to such service as does not exceed the current upper earnings limit, or

(ii) if paragraph (a) applies, to such part of the earnings attributable to such service as, when added to the APPS earnings, does not exceed the current upper earnings limit”,

(b) sub-paragraph (3)(c) were omitted,

(c) in sub-paragraph (3)(d), for “COMPS or COSRS service” there were substituted “service in contracted-out employment”,

(d) for sub-paragraph (6)(b) there were substituted—

“(b) if some of the aggregated earnings are attributable to service in contracted-out employment, the amount obtained by applying the rate of secondary Class 1 contributions that would apply if all the aggregated earnings were attributable to such service to the part of the aggregated earnings attributable to such service”,

(e) sub-paragraph (6)(c) were omitted, and

(f) in sub-paragraph (9) the definitions of “COMPS service” and “COSRS service” were omitted.

149 Hybrid occupational pension schemes

(1) In spite of anything in sections 9 and 12 of the Pension Schemes Act 1993 (requirements for certification and determination of basis on which scheme is contracted-out), the Secretary of State may by regulations provide, where the pensions provided by an occupational pension scheme include both—

(a) such pensions that, if the scheme provided only those pensions, it would satisfy section 9(2) of that Act, and

(b) such other pensions that, if the scheme provided only those other pensions, it would satisfy section 9(3) of that Act,

for Part III of that Act to have effect as if the scheme were two separate schemes providing, respectively, the pensions referred to in paragraphs (a) and (b).

(2) Regulations made by the Secretary of State may, in connection with any provision made by virtue of subsection (1), make such modifications of the following Acts, and the instruments made or having effect as if made under them, as appear to the Secretary of State desirable: the Social Security Contributions and Benefits Act 1992, the Pension Schemes Act 1993 and Part I of this Act.

150 Dissolution of Occupational Pensions Board

- (1) The Occupational Pensions Board (referred to in this section as “the Board”) is hereby dissolved.
- (2) An order under section 180 appointing the day on which subsection (1) is to come into force may provide—
 - (a) for all property, rights and liabilities to which the Board is entitled or subject immediately before that day to become property, rights and liabilities of the Authority or the Secretary of State, and
 - (b) for any function of the Board falling to be exercised on or after that day, or which fell to be exercised before that day but has not been exercised, to be exercised by the Authority, the Secretary of State or the Department of Health and Social Services for Northern Ireland.

Minor and consequential amendments

151 Minor and consequential amendments related to sections 136 to 150

Schedule 5 (which makes amendments related to sections 136 to 150) shall have effect.