



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Assignment, forfeiture, bankruptcy etc.

91 Inalienability of occupational pension

- (1) Subject to subsection (5), where a person is entitled, or has an accrued right, to a pension under an occupational pension scheme—
 - (a) the entitlement or right cannot be assigned, commuted or surrendered,
 - (b) the entitlement or right cannot be charged or a lien exercised in respect of it, and
 - (c) no set-off can be exercised in respect of it,and an agreement to effect any of those things is unenforceable.
- (2) Where by virtue of this section a person's entitlement, or accrued right, to a pension under an occupational pension scheme cannot, apart from subsection (5), be assigned, no order can be made by any court the effect of which would be that he would be restrained from receiving that pension.
- (3) Where a bankruptcy order is made against a person, any entitlement or right of his which by virtue of this section cannot, apart from subsection (5), be assigned is excluded from his estate for the purposes of Parts VIII to XI of the Insolvency Act 1986 or the Bankruptcy (Scotland) Act 1985.
- (4) Subsection (2) does not prevent the making of—
 - (a) an attachment of earnings order under the Attachment of Earnings Act 1971, or
 - (b) an income payments order under the Insolvency Act 1986.

Status: This is the original version (as it was originally enacted).

- (5) In the case of a person (“the person in question”) who is entitled, or has an accrued right, to a pension under an occupational pension scheme, subsection (1) does not apply to any of the following, or any agreement to effect any of the following—
- (a) an assignment in favour of the person in question’s widow, widower or dependant,
 - (b) a surrender, at the option of the person in question, for the purpose of—
 - (i) providing benefits for that person’s widow, widower or dependant, or
 - (ii) acquiring for the person in question entitlement to further benefits under the scheme,
 - (c) a commutation—
 - (i) of the person in question’s benefit on or after retirement or in exceptional circumstances of serious ill health,
 - (ii) in prescribed circumstances, of any benefit for that person’s widow, widower or dependant, or
 - (iii) in other prescribed circumstances,
 - (d) subject to subsection (6), a charge or lien on, or set-off against, the person in question’s entitlement, or accrued right, to pension (except to the extent that it includes transfer credits other than prescribed transfer credits) for the purpose of enabling the employer to obtain the discharge by him of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by him,
 - (e) subject to subsection (6), except in prescribed circumstances a charge or lien on, or set-off against, the person in question’s entitlement, or accrued right, to pension, for the purpose of discharging some monetary obligation due from the person in question to the scheme and—
 - (i) arising out of a criminal, negligent or fraudulent act or omission by him, or
 - (ii) in the case of a trust scheme of which the person in question is a trustee, arising out of a breach of trust by him.
- (6) Where a charge, lien or set-off is exercisable by virtue of subsection (5)(d) or (e)—
- (a) its amount must not exceed the amount of the monetary obligation in question, or (if less) the value (determined in the prescribed manner) of the person in question’s entitlement or accrued right, and
 - (b) the person in question must be given a certificate showing the amount of the charge, lien or set-off and its effect on his benefits under the scheme,
- and where there is a dispute as to its amount, the charge, lien or set-off must not be exercised unless the obligation in question has become enforceable under an order of a competent court or in consequence of an award of an arbitrator or, in Scotland, an arbiter to be appointed (failing agreement between the parties) by the sheriff.
- (7) This section is subject to section 159 of the Pension Schemes Act 1993 (inalienability of guaranteed minimum pension and protected rights payments).