



Welfare Reform and Pensions Act 1999

1999 CHAPTER 30

PART I

STAKEHOLDER PENSION SCHEMES

1 Meaning of “stakeholder pension scheme”

- (1) A pension scheme is a stakeholder pension scheme for the purposes of this Part if it is registered as such a scheme under section 2 and each of the following is fulfilled, namely—
 - (a) the conditions set out in subsections (2) to (9); and
 - (b) such other conditions as may be prescribed.
- (2) The first condition is that the scheme is established under a trust or in such other way as may be prescribed.
- (3) The second condition is that the provisions made by the instruments establishing the scheme comply with such requirements as may be prescribed.
- (4) The third condition is that, subject to such exceptions as may be prescribed, the benefits provided by the scheme are money purchase benefits within the meaning given by section 181 of the Pension Schemes Act 1993 (“the 1993 Act”).
- (5) The fourth condition is that the scheme complies with such requirements as may be prescribed as regards the extent to which, and the circumstances in which—
 - (a) any payment made to the scheme by or on behalf of a member of the scheme,
 - (b) any income or capital gain arising from the investment of such a payment, or
 - (c) the value of rights under the scheme,may be used to defray the administrative expenses of the scheme, to pay commission or in any other way which does not result in the provision of benefits for or in respect of members.
- (6) The fifth condition is that the scheme complies with such of the requirements of regulations under section 113 of the 1993 Act (disclosure of information about schemes to members etc.) as are applicable to it.

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- (7) The sixth condition is that, subject to such minimum contribution levels and other restrictions as may be prescribed, members of the scheme may make such contributions to the scheme as they think appropriate.
- (8) The seventh condition is that, except in so far as is necessary to ensure that the scheme has tax-exemption or tax-approval (within the meaning of the 1993 Act), the scheme accepts transfer payments in respect of members' rights under—
- (a) other pension schemes;
 - (b) contracts and schemes approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (retirement annuity contracts);
 - (c) annuities and insurance policies purchased or transferred for the purpose of giving effect to rights under pension schemes; and
 - (d) annuities purchased or entered into for the purpose of discharging liability in respect of pension credits under section 29(1)(b) or under corresponding Northern Ireland legislation.
- (9) The eighth condition is that the scheme has such exemption or approval as is mentioned in subsection (8).

2 Registration of stakeholder pension schemes

- (1) The Occupational Pensions Regulatory Authority (“the Authority”) shall keep a register of stakeholder pension schemes.
- (2) Subject to subsection (3), the Authority shall register a pension scheme under this section if the trustees of the scheme, or any person or persons prescribed in relation to the scheme—
- (a) make an application for the purpose and pay such fee as the Authority may determine; and
 - (b) declare that each of the following is fulfilled in relation to the scheme, namely—
 - (i) the conditions set out in subsections (2) to (9) of section 1; and
 - (ii) such other conditions as may be prescribed under subsection (1) of that section.
- (3) Where the Authority are satisfied on reasonable grounds that any of those conditions is not fulfilled in relation to a pension scheme, the Authority may—
- (a) refuse to register the scheme; or
 - (b) where the scheme is registered under this section, remove it from the register.
- (4) Section 3 (prohibition orders) and section 10 (civil penalties) of the Pensions Act 1995 (“the 1995 Act”) apply to any trustee of a pension scheme which is or has been registered under this section, and section 10 of that Act applies to any person prescribed in relation to such a scheme, if—
- (a) he fails to take all such steps as are reasonable to secure that each of those conditions is fulfilled in relation to the scheme or (as the case may be) while the scheme was so registered he failed to take all such steps as were reasonable to secure that each of those conditions was so fulfilled; or
 - (b) where the scheme was registered on his application, any of those conditions was not fulfilled in relation to the scheme at the time of the application.

- (5) Any person who, in applying for registration of a pension scheme under this section, knowingly or recklessly provides the Authority with information which is false or misleading in a material particular shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment or a fine or both.
- (6) Section 115 of the 1995 Act (offences by bodies corporate or Scottish partnerships) applies in relation to an offence under subsection (5) as it applies in relation to an offence under Part I of that Act.
- (7) The Secretary of State may by regulations make provision—
 - (a) for the register, or extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and
 - (b) for copies of the register, or of extracts from it, to be supplied to, such persons, in such manner, at such times, on payment of such fees, and subject to such other terms and conditions, as may be prescribed.

3 Duty of employers to facilitate access to stakeholder pension schemes

- (1) Except in so far as regulations otherwise provide, it shall be the duty of an employer of relevant employees to comply with the requirements set out below.
- (2) The first requirement is that the employer shall ensure that at all times there is at least one scheme designated by him for the purposes of this subsection which is registered under section 2 and offers membership to all his relevant employees (whether or not any other scheme registered under that section which does not offer membership to all those employees is for the time being designated by him for those purposes).

Before designating a scheme for the purposes of this subsection the employer shall consult with his relevant employees and any organisations representing them.
- (3) The second requirement is that the employer shall supply his relevant employees with—
 - (a) the name and address of the designated scheme or, as the case may be, of each of the designated schemes; and
 - (b) such other information as may be prescribed.
- (4) The third requirement is that the employer shall allow representatives of the designated scheme or schemes reasonable access to his relevant employees for the purpose of supplying them with information about the scheme or schemes.
- (5) The fourth requirement is that, subject to such exceptions and qualifications as may be prescribed, the employer shall, if he is requested to do so by a relevant employee of his who is a member of a qualifying scheme—
 - (a) deduct the employee's contributions to the scheme from his remuneration; and
 - (b) pay them to the trustees or managers of the scheme or, if regulations so provide, to a prescribed person.
- (6) The fifth requirement is that the employer shall, if any scheme designated by him for the purposes of subsection (2) ceases to be registered under section 2, withdraw his designation of the scheme (but this requirement is not to be taken as implying that he cannot withdraw his designation of a scheme in other circumstances).

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- (7) Section 10 of the 1995 Act (civil penalties) applies to an employer who fails to comply with any of the requirements set out above.
- (8) An employer is not, whether before designating a scheme for the purposes of subsection (2) or at any time while a scheme is designated by him for those purposes, under any duty—
- (a) to make any enquiries, or act on any information, about the scheme for any purpose not connected with—
 - (i) ascertaining whether the scheme is for the time being registered under section 2,
 - (ii) ascertaining the persons to whom it offers membership, or
 - (iii) enabling him to comply with subsection (3), or
 - (b) in particular, to investigate or monitor, or make any judgment as to, the past, present or future performance of the scheme.
- (9) In this section—
- “employer” means any employer, whether or not resident or incorporated in any part of the United Kingdom;
 - “qualifying scheme”, in relation to an employer, means—
 - (a) the designated scheme or one of the designated schemes; or
 - (b) if regulations so provide, any other stakeholder pension scheme;
 - “relevant employees”, in relation to an employer, means all employees of his employed in Great Britain and also, in the case of an employer resident or incorporated in any part of Great Britain, all employees of his employed outside the United Kingdom, but with the exception, in the case of any employer, of any employees of his—
 - (a) whose employment qualifies them for membership of an occupational pension scheme of the employer;
 - (b) whose earnings fall below the lower earnings limit as defined in section 181 of the 1993 Act; or
 - (c) who are of such other description as may be prescribed.

4 Obtaining information with respect to compliance with section 3 and corresponding Northern Ireland legislation

- (1) Any person appearing to the Authority to be a person who holds, or is likely to hold, information which is relevant to the issue whether an employer is complying, or has complied, with the requirements under—
- (a) section 3, or
 - (b) corresponding Northern Ireland legislation,
- must, if required to do so by the Authority by notice in writing, produce any document which is so relevant.
- (2) To comply with subsection (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.
- (3) Section 100 of the 1995 Act shall have effect as if references to section 98(1) or 99(1) (b) of that Act included references to subsection (1) or section 5(1)(b).

- (4) Sections 101 to 103 of that Act shall have effect as if references which are or include references to section 98 or 99 of that Act included references to this section or section 5.
- (5) In this section and section 5 “document” includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form.

5 Powers of inspection for securing compliance with section 3 and corresponding Northern Ireland legislation

- (1) An inspector may, for the purposes of investigating whether an employer is complying, or has complied, with the requirements under section 3 or corresponding Northern Ireland legislation, at any reasonable time enter premises liable to inspection and, while there—
 - (a) may make such examination and inquiry as may be necessary for such purposes,
 - (b) may require any person on the premises to produce, or secure the production of, any document relevant to compliance with those requirements for his inspection, and
 - (c) may, as to any matter relevant to compliance with those requirements, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.
- (2) Premises are liable to inspection for the purposes of this section if the inspector has reasonable grounds to believe that—
 - (a) employees of the employer are employed there,
 - (b) documents relevant to the administration of the employer’s business are being kept there, or
 - (c) the administration of the employer’s business, or work connected with that administration, is being carried out there,unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (3) An inspector applying for admission to any premises for the purposes of this section must, if so required, produce his certificate of appointment.
- (4) In this section “inspector” means a person appointed by the Authority as an inspector.

6 Application of certain enactments

- (1) Sections 46 and 102 of the Employment Rights Act 1996 (occupational pension scheme trustees: protection from unfair dismissal and other detriment) shall apply in relation to an employee who is (or is a director of a company which is) a trustee of a scheme designated by his employer under section 3(2) as they apply in relation to an employee who is (or is a director of a company which is) a trustee of a relevant occupational pension scheme which relates to his employment.

- (2) Section 58 of that Act (occupational pension scheme trustees: time off) shall apply to the employer in relation to a designated scheme as it applies to the employer in relation to a relevant occupational pension scheme.
- (3) Schedule 1 (application of the 1993 and 1995 Acts to registered schemes) shall have effect.
- (4) In this section “relevant occupational pension scheme” has the meaning given by section 46 of the Employment Rights Act 1996.

7 **Reduced rates of contributions etc: power to specify different percentages**

- (1) An order under section 42B(2) of the 1993 Act (determination and alteration of reduced rates of Class 1 contributions, and rebates, for members of money purchase contracted-out schemes) may specify different percentages in respect of earners by reference to whether the money purchase contracted-out scheme of which the earner is a member is or is not for the time being registered under section 2.
- (2) An order under section 45A(2) of that Act (determination and alteration of minimum contributions to be paid to appropriate personal pension schemes) may—
 - (a) specify different percentages in respect of earners by reference to whether the appropriate personal pension scheme of which the earner is a member is or is not for the time being registered under section 2; and
 - (b) specify different percentages in respect of earners by reference to the time when the earner first became a member of the scheme.
- (3) This section is without prejudice to section 182 of that Act (orders and regulations: general provisions).

8 **Interpretation and application of Part I**

- (1) In this Part—
 - “the 1993 Act” means the Pension Schemes Act 1993;
 - “the 1995 Act” means the Pensions Act 1995;
 - “the Authority” means the Occupational Pensions Regulatory Authority;
 - “designated scheme”, in relation to an employer, means a scheme designated by him for the purposes of section 3(2);
 - “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the 1993 Act;
 - “pension scheme” means an occupational pension scheme or a personal pension scheme;
 - “prescribed” means prescribed by regulations made by the Secretary of State;
 - “stakeholder pension scheme” shall be construed in accordance with section 1.
- (2) The Secretary of State may by regulations make provision for a stakeholder pension scheme which—
 - (a) is of a prescribed description, and
 - (b) would (apart from the regulations) be an occupational pension scheme,

to be treated for all purposes, or for such purposes as may be prescribed, as if it were a personal pension scheme and not an occupational pension scheme.

- (3) This Part applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes; and, accordingly, references in this Part to a person in his capacity as a trustee or manager of, or person prescribed in relation to, a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (4) This Part applies to persons employed by or under the Crown in like manner as if such persons were employed by a private person; and references in this Part to a person in his capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (5) Subsections (3) and (4) do not apply to any provision of this Part under or by virtue of which a person may be prosecuted for an offence; but such a provision applies to persons in the public service of the Crown as it applies to other persons.
- (6) Nothing in this Part applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).