



# Child Support, Pensions and Social Security Act 2000

## 2000 CHAPTER 19

### PART II

#### PENSIONS

### CHAPTER I

#### STATE PENSIONS

VALID FROM 08/01/2001

#### *State second pension*

#### **30 Earnings from which pension derived.**

- (1) In section 22 of the <sup>M1</sup>Social Security Contributions and Benefits Act 1992 (earnings from which earnings factors are derived), after subsection (2) there shall be inserted—

“(2A) For the purposes specified in subsection (2)(b) above, in the case of the first appointed year or any subsequent tax year a person’s earnings factor shall be treated as derived only from those of his earnings on which primary Class 1 contributions have been paid or treated as paid.”

- (2) In section 44 of that Act (Category A retirement pension), in subsection (6)—

(a) before paragraph (a) there shall be inserted—

“(za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from those of his earnings upon which primary

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Class 1 contributions have been paid or treated as paid in respect of that year;”;

and

- (b) in paragraph (a), after “subsequent tax year” there shall be inserted “before the first appointed year”.

- (3) After that section there shall be inserted—

**“44A Deemed earnings factors.**

- (1) For the purposes of section 44(6)(za) above, if any of the conditions in subsection (2) below is satisfied for a relevant year, a pensioner is deemed to have an earnings factor for that year which—

- (a) is derived from earnings on which primary Class 1 contributions were paid; and  
 (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

- (2) The conditions referred to in subsection (1) above are that—

- (a) the pensioner would, apart from this section, have an earnings factor for the year—  
 (i) equal to or greater than the qualifying earnings factor for the year; but  
 (ii) less than the low earnings threshold for the year;  
 (b) invalid care allowance—  
 (i) was payable to the pensioner throughout the year; or  
 (ii) would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;  
 (c) for the purposes of paragraph 5(7)(b) of Schedule 3, the pensioner is taken to be precluded from regular employment by responsibilities at home throughout the year by virtue of—  
 (i) the fact that child benefit was payable to him in respect of a child under the age of six; or  
 (ii) his satisfying such other condition as may be prescribed;  
 (d) the pensioner is a person satisfying the requirement in subsection (3) below to whom long-term incapacity benefit was payable throughout the year, or would have been so payable but for the fact that—  
 (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3; or  
 (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme.

- (3) The requirement referred to in subsection (2)(d) above is that—

- (a) for one or more relevant years the pensioner has paid, or (apart from this section) is treated as having paid, primary Class 1 contributions

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- on earnings equal to or greater than the qualifying earnings factor; and
- (b) the years for which he has such a factor constitute at least one tenth of his working life.
- (4) For the purposes of subsection (3)(b) above—
- (a) a pensioner’s working life shall not include—
- (i) any tax year before 1978-79; or
- (ii) any year in which he is deemed under subsection (1) above to have an earnings factor by virtue of fulfilling the condition in subsection (2)(b) or (c) above; and
- (b) the figure calculated by dividing his working life by ten shall be rounded to the nearest whole year (and any half year shall be rounded down).
- (5) The low earnings threshold for the first appointed year and subsequent tax years shall be £9,500 (but subject to section 148A of the Administration Act).
- (6) In subsection (2)(d)(ii) above, “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.”
- (4) For the purposes of subsection (1) of section 44A of the <sup>M2</sup>Social Security Contributions and Benefits Act 1992, a pensioner is deemed to have an earnings factor in relation to any relevant year as specified in that subsection if—
- (a) severe disablement allowance was payable to him throughout the year; and
- (b) he satisfies the requirement in subsection (3) of that section.

#### Commencement Information

- II** [S. 30](#) wholly in force at 6.4.2002; [s. 30](#) not in force at Royal Assent see [s. 86\(2\)](#); [s. 30](#) in force for certain purposes at 8.1.2001 by [S.I. 2000/2950](#), [art. 6](#) (as amended by [S.I. 2000/3166](#), [art. 3](#)); [s. 30](#) in force for certain further purposes at 25.1.2001 and for all remaining purposes at 6.4.2002 by [S.I. 2001/153](#), [art. 2\(a\)](#)

#### Marginal Citations

- M1** [1992 c. 4.](#)
- M2** [1992 c. 4.](#)

### 31 Calculation.

- (1) In section 45 of the <sup>M3</sup>Social Security Contributions and Benefits Act 1992 (calculation of additional pension in a Category A retirement pension), in subsection (2)—
- (a) after “shall be” there shall be inserted “the sum of the following”;
- (b) in paragraph (b), after “after 1987-88” there shall be inserted “but before the first appointed year”; and
- (c) after that paragraph there shall be inserted “; and
- (c) in relation to any tax years falling within subsection (3A) below, the weekly equivalent of the amount calculated in accordance with Schedule 4A to this Act.”

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(2) In that section the following subsection shall be inserted after subsection (3)—

“(3A) The following tax years fall within this subsection—

- (a) the first appointed year;
- (b) subsequent tax years.”

(3) After Schedule 4 to that Act there shall be inserted the Schedule set out in Schedule 4 to this Act.

#### Commencement Information

**I2** S. 31 wholly in force at 6.4.2002; s. 31 not in force at Royal Assent see s. 86(2); s. 31 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 31 in force for certain further purposes at 25.1.2001 and for all remaining purposes at 6.4.2002 by S.I. 2001/153, art. 2(a)

#### Marginal Citations

**M3** 1992 c. 4.

### 32 Calculation of Category B retirement pension.

(1) In section 46 of the <sup>M4</sup>Social Security Contributions and Benefits Act 1992 (modifications of section 45 for calculating the additional pension in certain benefits), after subsection (2) there shall be inserted—

“(3) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 48BB below in a case where the deceased spouse died under pensionable age, the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

“ “N” =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse dies, or
- (b) the number of tax years in the period—
  - (i) beginning with the tax year in which the deceased spouse (“S”) attained the age of 16 or, if later, 1978-79, and
  - (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
 whichever is the smaller number. ””

(2) In section 48BB of that Act (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsection (5) for “section 46(2)” there shall be substituted “section 46(3)”.

(3) In paragraph 5 of Schedule 8 to the <sup>M5</sup>Welfare Reform and Pensions Act 1999 (welfare benefits: minor and consequential amendments), sub-paragraph (b), and the word “and” immediately preceding it, shall be omitted.

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### Commencement Information

- I3** S. 32 wholly in force at 9.4.2001; s. 32 not in force at Royal Assent see s. 86(2)(3)(a); s. 32 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 32 in force for all remaining purposes at 9.4.2001 by S.I. 2001/153, art. 2(b)

### Marginal Citations

- M4** 1992 c. 4.  
**M5** 1999 c. 30.

## 33 Revaluation.

- (1) After section 148 of the <sup>M6</sup>Social Security Administration Act 1992 there shall be inserted—

### “148A Revaluation of low earnings threshold.

- (1) The Secretary of State shall in the tax year preceding the first appointed year and in each subsequent tax year review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.
- (2) In this section, “the review period” means—
- (a) in the case of the first review under this section, the period beginning with 1st October 1998 and ending on 30th September in the tax year preceding the first appointed year; and
  - (b) in the case of each subsequent review under this section, the period since—
    - (i) the end of the last period taken into account in a review under this section; or
    - (ii) such other date (whether earlier or later) as the Secretary of State may determine.
- (3) If on such a review it appears to the Secretary of State that the general level of earnings has increased during the review period, he shall make an order under this section.
- (4) An order under this section shall be an order directing that, for the purposes of the Contributions and Benefits Act—
- (a) there shall be a new low earnings threshold for the tax years after the tax year in which the review takes place; and
  - (b) the amount of that threshold shall be the amount specified in subsection (5) below—
    - (i) increased by the percentage by which the general level of earnings increased during the review period; and
    - (ii) rounded to the nearest £100 (taking any amount of £50 as nearest to the next whole £100).
- (5) The amount referred to in subsection (4)(b) above is—
- (a) in the case of the first review under this section, £9,500; and

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- (b) in the case of each subsequent review, the low earnings threshold for the year in which the review takes place.
- (6) This section does not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.
- (7) If on any review under subsection (1) above the Secretary of State determines that he is not required to make an order under this section, he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.
- (8) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.”
- (2) Section 148 of the <sup>M7</sup>Social Security Administration Act 1992 (reevaluation of earnings factors) shall have effect as if—
- (a) the amounts for the first appointed year and any subsequent tax year that are to be reviewed under that section,
- (b) the amounts for those years to which any directions by an order under subsection (4) of that section are to be applied, and
- (c) accordingly, the amounts for the purpose of maintaining the value of which that section has effect,
- included the parts of the surplus in an earnings factor referred to in paragraphs 2(2)(a), 5(2)(a) and 7(2)(a) of Schedule 4A to the <sup>M8</sup>Social Security Contributions and Benefits Act 1992.
- (3) Nothing in section 148 of the <sup>M9</sup>Social Security Administration Act 1992 shall require, or ever have required, the earnings factors used for computing a surplus in an earnings factor for any year under section 44(5A) of the <sup>M10</sup>Social Security Contributions and Benefits Act 1992 to be treated as increased in any case in which that surplus, or any part of it, is itself reviewed under section 148 of the <sup>M11</sup>Social Security Administration Act 1992.
- (4) In section 128(3) of the <sup>M12</sup>Pensions Act 1995 (reevaluation of surpluses in earnings factors under section 44(5A) of the Social Security Contributions and Benefits Act 1992), after “1992” there shall be inserted “for the purposes of section 45(1) and (2)(a) and (b) of that Act”.

#### Commencement Information

- I4** S. 33 wholly in force 6.4.2002; s. 33 not in force at Royal Assent see s. 86(2)(3)(a); s. 33 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 33(1)(2) in force for certain purposes at 25.1.2001 and 6.4.2002 for all remaining purposes and s. 33(3)(4) in force for all remaining purposes at 25.1.2001 by S.I. 2001/153, art. 2(c)(d)

#### Marginal Citations

- M6** 1992 c. 5.  
**M7** 1992 c. 5.  
**M8** 1992 c. 4.  
**M9** 1992 c. 5.  
**M10** 1992 c. 4.  
**M11** 1992 c. 5.

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**M12** 1995 c. 26.

### 34 Report of Government Actuary: rebates etc.

In each of sections 42(1)(a)(ii), 42B(1)(a) and 45A(1)(a) of the <sup>M13</sup>Pension Schemes Act 1993 (reports by Government Actuary on cost of providing benefits equivalent to benefits which are foregone) for “which, under section 48A,” there shall be substituted “(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,”.

#### Commencement Information

**I5** S. 34 wholly in force at 6.4.2002; s. 34 not in force at Royal Assent see s. 86(2)(3)(a); s. 34 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 34 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

#### Marginal Citations

**M13** 1993 c. 48.

### 35 Supplementary.

- (1) The <sup>M14</sup>Social Security Contributions and Benefits Act 1992 shall be amended as follows.
- (2) In section 21(5A)(b) (contribution conditions)—
  - (a) after “22(1)(a)” there shall be inserted “, (2A)”;
  - (b) for “44(6)(a)” there shall be substituted “44(6)(za) and (a)”.
- (3) In section 39 (rate of widowed mother’s allowance and widow’s pension), in subsections (1), (2) and (3), after “sections 44 to 45B” there shall be inserted “and Schedule 4A”.
- (4) In section 39C (rate of widowed parent’s allowance and bereavement allowance), in subsections (1), (3) and (4), after “sections 44 to 45A” there shall be inserted “and Schedule 4A”.
- (5) In section 44 (Category A retirement pension), in subsection (5A), after “section 45” there shall be inserted “and Schedule 4A”.
- (6) In that subsection, for the words from “that year,” to “surplus” there shall be substituted “that year,
  - (b) the amount of the surplus is the amount of that excess, and
  - (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus”.
- (7) In subsection (6) of that section, after “section 45” there shall be inserted “or Schedule 4A”.
- (8) In section 45 (the additional element in a Category A retirement pension)—
  - (a) in subsections (1) and (2)(a) and (b), before “amount” (in each place) there shall be inserted “adjusted”; and

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- (b) in subsection (6), for “the amount of any surpluses” there shall be substituted “any amount”.
- (9) In section 48A(4) (Category B retirement pension for married person), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.
- (10) In section 48B (Category B retirement pension for widows and widowers), in subsections (2) and (3), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.
- (11) In section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsections (5) and (6), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A below”.
- (12) In section 48C(4) (Category B retirement pension: general), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.
- (13) In section 51 (Category B retirement pension for widowers), in subsections (2) and (3), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A below”.
- (14) In section 122(1) (interpretation of Parts I to VI), at the appropriate place in alphabetical order, there shall be inserted—
- ““first appointed year” means such tax year, no earlier than 2002-03, as may be appointed by order, and “second appointed year” means such subsequent tax year as may be so appointed;”.
- (15) In section 176 (Parliamentary control), after subsection (3) there shall be inserted—
- “(4) Subsection (3) above does not apply to a statutory instrument by reason only that it contains an order appointing the first or second appointed year (within the meanings given by section 122(1) above).”

#### Commencement Information

**I6** S. 35 wholly in force at 6.4.2002; s. 35 not in force at Royal Assent see s. 86(2)(3)(a); s. 35 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 35 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

#### Marginal Citations

**M14** 1992 c. 4.

VALID FROM 01/11/2000

### Report on pensions uprating

#### 36 Report on cost of pension uprating in line with general earnings level.

The Government Actuary or the Deputy Government Actuary shall report to the Secretary of State his opinion on the effect on the level of the National Insurance



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Fund, and the effect which might be expected on the rates of contributions, in each year up to and including 2005-06 of annual increases in the basic pension by the percentage increase in the general level of earnings; and the Secretary of State shall lay a copy of the report before Parliament.

### *Earnings factors*

VALID FROM 01/12/2000

#### **37 Revaluation of earnings factors.**

In section 148(2) of the <sup>M15</sup>Social Security Administration Act 1992 (revaluation of earnings factors), for the words from “place” to the end there shall be substituted “place—

- (a) since the end of the period taken into account for the last review under this section, or
- (b) since such other date (whether earlier or later) as he may determine;

and for the purposes of any such review the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.”

#### **Marginal Citations**

**M15** 1992 c. 5.

#### **38 Modification of earnings factors.**

- (1) In section 48A(5) of the <sup>M16</sup>1993 Act (power to modify the application of section 44(5) of the <sup>M17</sup>1992 Act where in any year a pensioner’s earnings derive only partially from contracted-out employment), after “44(5)” there shall be inserted “or (5A)”.
- (2) Subsection (1) shall have effect—
  - (a) in relation to the application of section 44(5A) of the 1992 Act by virtue of sections 39C(1) and 48BB(5) of that Act;
  - (b) in relation to the application of section 44(5A) of the 1992 Act in the circumstances described in section 128(4) to (6) of the 1995 Act.
- (3) In relation to the period—
  - (a) beginning with 6th April 2000, and
  - (b) ending with the day before the first regulations under section 48A(5) of the 1993 Act (as amended by subsection (1) above) come into force,
 the Secretary of State shall be taken to have, and to have had, power to calculate and pay relevant pensions by reference to section 44(5) of the 1992 Act as modified by regulations under section 48A(5) of the 1993 Act.
- (4) For the purpose of applying subsection (3) above—
  - (a) the substitution made by section 128(1) of the 1995 Act shall be ignored; and

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- (b) references in enactments to section 44(5A) of the 1992 Act shall (so far as necessary) be treated as references to section 44(5).
- (5) The first regulations under section 48A(5) of the 1993 Act (as amended by subsection (1) above) may include provision in relation to—
  - (a) revising the calculation of a relevant pension;
  - (b) paying a relevant pension in accordance with a revised calculation.
- (6) Relevant pensions are pensions which fall to be calculated—
  - (a) in the circumstances described in section 128(4) to (6) of the 1995 Act; and
  - (b) in relation to persons where, by virtue of section 48A(1) of the 1993 Act, section 44(6) of the 1992 Act has effect in any tax year as mentioned in section 48A(1) of the 1993 Act in relation to some but not all of a person's earnings.
- (7) For the purposes of this section—
  - (a) the 1992 Act is the <sup>M18</sup>Social Security Contributions and Benefits Act 1992;
  - (b) the 1993 Act is the <sup>M19</sup>Pension Schemes Act 1993;
  - (c) the 1995 Act is the <sup>M20</sup>Pensions Act 1995.

#### Marginal Citations

**M16** 1993 c. 48.

**M17** 1992 c. 4.

**M18** 1992 c. 4.

**M19** 1993 c. 48.

**M20** 1995 c. 26.

### *Preservation of rights in respect of additional pensions*

#### **39 Preservation of rights in respect of additional pensions.**

- (1) In the provisions of the <sup>M21</sup>Social Security Contributions and Benefits Act 1992 that are set out in subsection (2) (provisions relating to additional pensions for surviving spouses)—
  - (a) the references to 5th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 5th October 2002; and
  - (b) the references to 6th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 6th October 2002.
- (2) Those provisions are—
  - (a) sections 39(3) and 39C(4) (widowed mother's allowance and widowed parent's allowance);
  - (b) sections 48BB(7), 48C(3) and 51(3) (Category B retirement pensions); and
  - (c) paragraphs 4(3), 5A(2) and (3) and 6(3) and (4) of Schedule 5 (deferred pensions).
- (3) For section 52(3) of the <sup>M22</sup>Welfare Reform and Pensions Act 1999 (power to substitute a later year for references to year 2000 in prescribed provisions of the Social Security Contributions and Benefits Act 1992) there shall be substituted—

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“(3) The regulations may amend (or further amend) any prescribed provision set out in section 39(2) of the Child Support, Pensions and Social Security Act 2000 (which sets out provisions falling within subsection (2) of this section) so as to substitute a reference to a later date for—

- (a) any reference in that provision to 5th October 2002 or 6th October 2002; or
- (b) any reference to a date inserted in that provision by a substitution made by virtue of this subsection.”

(4) After section 52(4) of that Act of 1999 there shall be inserted—

“(4A) The regulations may provide, for the purposes of any provision made by virtue of subsection (4), for a case in which a person who, as a consequence of receiving incorrect or incomplete information, did not give any consideration to—

- (a) the taking of a step which is a step he might have taken had he considered the matter on the basis of correct and complete information, or
- (b) refraining from taking a step which is a step he did take but might have refrained from taking had he considered the matter on that basis,

to be treated as a case in which his failure to take the step, or his taking of the step he did take, was in reliance on the incorrect or incomplete information and as a case in which that step is one which he would have taken, or (as the case may be) would not have taken, had the information been correct and complete.”

(5) In section 52(6) of that Act of 1999 (supplemental provisions of regulations relating to the scheme), after paragraph (e) there shall be inserted—

“(ea) prescribing the matters that may be relied on, and the presumptions that may be made, in the determination of whether or not the prescribed conditions have been satisfied;”.

#### Marginal Citations

M21 1992 c. 4.

M22 1999 c. 30.

VALID FROM 29/09/2000

#### Other provisions

VALID FROM 08/01/2001

#### 40 Home responsibilities protection.

In paragraph 5 of Schedule 3 to the <sup>M23</sup>Social Security Contributions and Benefits Act 1992 (contribution conditions for entitlement to Category A and B retirement pension, widowed mother’s allowance and widow’s pension),

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after sub-paragraph (7) (reduction of number of years for which contribution conditions must be satisfied) there shall be inserted—

“(7A) Regulations may provide that a person is not to be taken for the purposes of sub-paragraph (7)(b) above as precluded from regular employment by responsibilities at home unless he meets the prescribed requirements as to the provision of information to the Secretary of State.”

#### Marginal Citations

M23 1992 c. 4.

### 41 Sharing of state scheme rights.

(1) In section 49 of the <sup>M24</sup>Welfare Reform and Pensions Act 1999 (creation of state scheme pension debits and credits), for subsection (4) there shall be substituted—

“(4) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(4A) The power conferred by subsection (4) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”

(2) In section 45B of the <sup>M25</sup>Social Security Contributions and Benefits Act 1992 (pension sharing resulting in reduction of additional Category A retirement pension), for subsection (7) there shall be substituted—

“(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(7A) The power conferred by subsection (7) above includes power to provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”

(3) In section 55A of that Act (shared additional pension), for subsection (6) there shall be substituted—

“(6) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(6A) The power conferred by subsection (6) above includes power to provide—

**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

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- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
  - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”
- (4) In section 55B of that Act (pension sharing resulting in reduction of shared additional pension), for subsection (7) there shall be substituted—
- “(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (7A) The power conferred by subsection (7) above includes power to provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
  - (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”

#### Marginal Citations

**M24** 1999 c. 30.

**M25** 1992 c. 4.

VALID FROM 01/12/2000

## 42 Disclosure of state pension information.

- (1) This section applies to any state pension information which is held in relation to any individual—
- (a) by the Secretary of State; or
  - (b) in connection with the provision of any services provided to the Secretary of State for purposes connected with his functions relating to social security, by the person providing those services.
- (2) Regulations may confer a power on the Secretary of State to disclose, or to authorise the disclosure of, any information to which this section applies in any case in which—
- (a) the person to whom the disclosure is made is a person falling within subsection (3) who has, in the prescribed manner, applied to the Secretary of State for the disclosure of the information; and
  - (b) it appears to the Secretary of State that the prescribed conditions for the making of a disclosure of the information in question to that person have been satisfied.
- (3) A person falls within this subsection if—
- (a) he is the trustee or manager of an occupational pension scheme of which the individual to whom the information relates is a member;
  - (b) he is the trustee or manager of a personal pension scheme of which that individual is a member;

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- (c) he is the employer in relation to an occupational pension scheme of which that individual is a member;
  - (d) he is the employer in relation to any employed earner's employment of that individual which is not contracted-out employment; or
  - (e) he is proposing to provide services to that individual in circumstances in which the provision of the services, or the proposal to do so, may involve the giving of advice or forecasts to which the information to which this section applies may be relevant.
- (4) The Secretary of State shall secure that his powers under this section are exercised so that at least the following is prescribed for the purposes of subsection (2)(b), namely—
- (a) in the case of an application for information made by a person falling within paragraph (e) of subsection (3), a condition that the individual to whom the information relates has consented to the making of the application and to the disclosure; and
  - (b) in any other case, either that condition or the alternative condition set out in subsection (5).
- (5) The alternative condition is—
- (a) that such steps as may be prescribed have been taken for the purpose of ascertaining whether the individual to whom the information relates objects to the making of the application for the disclosure of information relating to him; and
  - (b) that the prescribed time has elapsed without any objection by that individual.
- (6) A person applying to the Secretary of State, in accordance with regulations under this section, for the disclosure of any information relating to an individual shall be entitled, for the purpose of making the application, to make such disclosures of information relating to that individual as may be authorised by the regulations.
- (7) In this section the reference, in relation to an individual, to state pension information is a reference to the following information about that individual—
- (a) his date of birth, and the age at which and date on which he attains pensionable age—
    - (i) for the purposes of the <sup>M26</sup>Pension Schemes Act 1993, in relation to any guaranteed minimum pension to which he is entitled; and
    - (ii) in accordance with the rules in paragraph 1 of Schedule 4 to the <sup>M27</sup>Pensions Act 1995;
  - (b) the amount of any basic retirement pension a present or future entitlement to which has already accrued to that individual, and the amount of any additional retirement pension such an entitlement to which has already accrued to that individual;
  - (c) a projection of the amount of the basic retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances; and
  - (d) a projection of the amount of the additional retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances.

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- (8) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Subsections (4) to (6) of section 189 of the <sup>M28</sup>Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations under this section as they apply in relation to the powers to make regulations that are conferred by that Act.
- (10) For the purposes of section 121E of the <sup>M29</sup>Social Security Administration Act 1992 (supply of information by the Inland Revenue to the Secretary of State for the purposes of the Secretary of State’s functions relating to social security), the Secretary of State’s functions relating to social security shall be taken to include any power conferred on him by regulations under this section.
- (11) In this section—
- “basic retirement pension” and “additional retirement pension” mean any basic or, as the case may be, additional pension under the <sup>M30</sup>Social Security Contributions and Benefits Act 1992;
- “contracted-out employment” has the same meaning as in the <sup>M31</sup>Pension Schemes Act 1993;
- “employed earner” has the same meaning as it has in Parts I to V of the <sup>M32</sup>Social Security Contributions and Benefits Act 1992 (by virtue of section 2(1) of that Act);
- “employer”—
- (a) in relation to any occupational pension scheme, has the same meaning as in Part I of the <sup>M33</sup>Pensions Act 1995; and
- (b) in relation to employed earner’s employment, has the same meaning as in the <sup>M34</sup>Pension Schemes Act 1993;
- “member”, in relation to an occupational pension scheme, has the same meaning as in Part I of the <sup>M35</sup>Pensions Act 1995;
- “occupational pension scheme” and “personal pension scheme” have the same meanings as in the <sup>M36</sup>Pension Schemes Act 1993;
- “prescribed” means prescribed by or determined in accordance with regulations;
- “regulations” means regulations made by the Secretary of State;
- “trustee” and “manager”, in relation to an occupational pension scheme, have the same meanings as in Part I of the <sup>M37</sup>Pensions Act 1995.

#### Commencement Information

- I7** S. 42 wholly in force at 1.1.2001; s. 42 not in force at Royal Assent see s. 86(2); s. 42 in force for certain purposes at 1.12.2000 and for all other purposes at 1.1.2001 by [S.I. 2000/3166](#), [art. 2\(1\)](#)

#### Marginal Citations

- M26** 1993 c. 48.  
**M27** 1995 c. 26.  
**M28** 1992 c. 5.  
**M29** 1992 c. 5.  
**M30** 1992 c. 4.  
**M31** 1993 c. 48.

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- M32** 1992 c. 4.
- M33** 1995 c. 26.
- M34** 1993 c. 48.
- M35** 1995 c. 26.
- M36** 1993 c. 48.
- M37** 1995 c. 26.

VALID FROM 01/12/2000

## CHAPTER II

### OCCUPATIONAL AND PERSONAL PENSION SCHEMES

#### Modifications etc. (not altering text)

- C1** Pt. 2 Ch. 2: power to modify conferred (6.4.2006) by Pensions Act 2004 (c. 35), ss. **321(1)(e)**, 322 (with s. 313); S.I. 2006/560, **art. 2**, Sch. Pt. 3
- C2** Pt. 2 Ch. 2: power to modify conferred (26.11.2008) by Pensions Act 2008 (c. 30), ss. **146(2)(d)**, 149

PROSPECTIVE

#### *Selection of trustees and of directors of corporate trustees*

#### **43 Member-nominated trustees.**

- (1) Section 16 of the <sup>M38</sup>Pensions Act 1995 (requirements for trustees to be nominated and selected by members of the scheme) shall be amended in accordance with subsections (2) to (8) of this section.
- (2) In subsection (1) (duty of trustees to make arrangements for selection of member-nominated trustees)—
  - (a) the words “(subject to section 17)” and in paragraph (b), the words “, and the appropriate rules,” shall be omitted; and
  - (b) in paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.
- (3) In subsection (3)(a) (selected persons to be trustees), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated trustee”.
- (4) In subsection (4) (procedure for filling vacancies unfilled because of insufficient nominations), for “the appropriate rules” there shall be substituted “regulations”.
- (5) In subsection (5) (period of service as a member-nominated trustee), after “six years” there shall be inserted “but for a member-nominated trustee to be eligible for selection again at the end of any period of service as such a trustee.”
- (6) After subsection (6) there shall be inserted—



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“(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated trustee.”

(7) In subsection (8) (persons ceasing to be member-nominated trustees on ceasing to be qualifying members of the scheme)—

- (a) for “The arrangements must” there shall be substituted “The arrangements—
  - (a) must”; and
  - (b) at the end there shall be inserted “; and
    - (b) may provide for a member-nominated trustee who—
      - (i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and
      - (ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description, to cease, by virtue of that fact, to be a trustee.”

(8) After subsection (8) there shall be inserted—

- “(9) Regulations may make provision in relation to arrangements under this section—
- (a) supplementing the requirements of this section as to the matters to be contained in the arrangements; and
  - (b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated trustees.

(10) This section does not apply in the case of a trust scheme if—

- (a) every member of the scheme is a trustee of the scheme and no other person is such a trustee;
- (b) every trustee of the scheme is a company; or
- (c) the scheme is of a prescribed description.”

(9) Section 17 of that Act (exceptions to section 16 where the employer’s alternative proposals are approved) shall cease to have effect.

#### Marginal Citations

M38 1995 c. 26.

#### 44 Corporate trustees.

(1) Section 18 of the <sup>M39</sup>Pensions Act 1995 (requirements for member-nominated directors of trustee company) shall be amended in accordance with subsections (2) to (9) of this section.

(2) In subsection (1) (duty of corporate trustee to make arrangements for selection of member-nominated directors)—

- (a) for the words from “and the employer” to “satisfied” there shall be substituted “and there is no trustee of the scheme who is not a company”;

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- (b) the words “, subject to section 19,” and in paragraph (b), the words “, and the appropriate rules,” shall be omitted; and
  - (c) in paragraph (a), for “persons selected” there shall be substituted “the selection of persons nominated”.
- (3) In subsection (3)(a) (selected persons to be directors), for “in accordance with the appropriate rules” there shall be substituted “as a member-nominated director”.
- (4) In subsection (4) (procedure for filling vacancies unfilled because of insufficient nominations), for “the appropriate rules” there shall be substituted “regulations”.
- (5) In subsection (5) (period of service as a member-nominated director), after “six years” there shall be inserted “but for a member-nominated director to be eligible for selection again at the end of any period of service as such a director.”
- (6) After subsection (6) there shall be inserted—
- “(6A) The arrangements must provide that, where the employer so requires, a person who is not a qualifying member of the scheme must have the employer’s approval to qualify for selection as a member-nominated director.”
- (7) In subsection (7) (persons ceasing to be member-nominated directors on ceasing to be qualifying members of the scheme)—
- (a) for “The arrangements must” there shall be substituted “The arrangements—
    - (a) must”; and
    - (b) at the end there shall be inserted “; and
      - (b) may provide for a member-nominated director who—
        - (i) is a qualifying member of one of the following descriptions, that is to say, an active, deferred or pensioner member, and
        - (ii) ceases (without ceasing to be a qualifying member) to be a qualifying member of that description, to cease, by virtue of that fact, to be a director.”
- (8) For subsection (8) (companies that are trustees of two or more different trust schemes) there shall be substituted—
- “(8) Where—
- (a) the same company is a trustee of two or more schemes by reference to each of which this section applies to the company, and
  - (b) the company does not, in the prescribed manner, elect that this subsection should not apply,
- the preceding provisions of this section and section 21(8) shall have effect as if those schemes were a single scheme and the members of each of the schemes were members of that single scheme.”
- (9) After subsection (8) there shall be inserted—
- “(9) Regulations may make provision in relation to arrangements under this section—
- (a) supplementing the requirements of this section as to the matters to be contained in the arrangements; and

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- (b) providing for the manner in which, and the time within which, persons are, for the purposes of the arrangements, to be nominated and selected as member-nominated directors.

(10) This section does not apply in the case of a trust scheme if the scheme is of a prescribed description.”

(10) Sections 19 and 20 of that Act (exceptions to section 18 where the employer’s alternative proposals are approved and meaning of “appropriate rules”) shall cease to have effect.

#### Marginal Citations

M39 1995 c. 26.

### 45 Employer’s proposals for selection of trustees or directors.

(1) After section 18 of the <sup>M40</sup>Pensions Act 1995 there shall be inserted—

*“ Further provisions about the selection of trustees and directors*

#### 18A Employer’s proposals for selection of trustees or directors.

- (1) Where, in the case of any trust scheme—
  - (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the trustees of the scheme,
  - (b) the proposed arrangements comply with all the requirements of section 16 and do not contain anything inconsistent with those requirements,
  - (c) the proposed arrangements comply with such other requirements as may be prescribed,
  - (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and
  - (e) such other conditions are satisfied as may be prescribed,the trustees of the scheme shall secure that the proposed arrangements are made and implemented.
- (2) Where, in the case of any company which is trustee of a trust scheme of which there is no trustee who is not a company—
  - (a) the employer makes proposals for the adoption of arrangements for the nomination and selection of the directors of the company,
  - (b) the proposed arrangements comply with all the requirements of section 18 and do not contain anything inconsistent with those requirements,
  - (c) the proposed arrangements comply with such other requirements as may be prescribed,
  - (d) the proposed arrangements are approved under such procedure for obtaining the views of members of the scheme as may be prescribed, and

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- (e) such other conditions are satisfied as may be prescribed, the company shall secure that the proposed arrangements are made and implemented.
- (3) Arrangements made and implemented under this section may include provision that is different from that for which provision is made by regulations under section 16(9) or 18(9).
- (4) Regulations may make provision—
- (a) as to the manner in which, and the time within which, arrangements proposed and approved for the purposes of this section are to be implemented by the trustees of a trust scheme or by a company which is a trustee of a trust scheme; and
  - (b) as to what is to happen where an approval for the purposes of this section of any arrangements ceases, in accordance with regulations, to have effect.
- (5) Regulations about the manner in which anything is approved for the purposes of this section may provide—
- (a) for it to be treated as approved in accordance with the prescribed procedure where the Authority determine that prescribed conditions have been satisfied in relation to any departures from that procedure that have occurred; and
  - (b) for persons who do not object to it to be treated as having approved it.
- (6) Regulations may provide that, for the purposes of this section and any arrangements under this section, arrangements are to be taken as complying with the requirements of section 16 or 18, and as being consistent with those requirements, notwithstanding that nominations made for the purposes of the arrangements by a person or organisation which—
- (a) represents for any particular purposes the interests of persons who are comprised in the membership of the scheme in question, and
  - (b) is of such a description as is specified in the regulations,
- are to be treated under the arrangements as nominations, or as the only nominations, made by qualifying members of the scheme.
- (7) Provision made by or under the preceding provisions of this section with respect to member-nominated trustees does not apply in the case of a trust scheme if—
- (a) every member of the scheme is a trustee of the scheme and no other person is such a trustee; or
  - (b) every trustee of the scheme is a company.
- (8) Provision made by or under the preceding provisions of this section does not apply if the scheme is of a prescribed description.”
- (2) In section 68(2)(b) of that Act (power of trustee to modify scheme), for “17(2)” there shall be substituted “18A(1)”.
- (3) In section 117(2)(c) of that Act (overriding requirements), for “17(2)” there shall be substituted “18A(1)”.

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### Marginal Citations

M40 1995 c. 26.

## 46 Non-compliance in relation to arrangements or proposals.

- (1) In section 21 of the <sup>M41</sup>Pensions Act 1995 (consequences for trustees of failure to implement arrangements)—
- (a) in subsections (1) and (2), the words “, or the appropriate rules,” shall be omitted;
  - (b) in subsections (1) and (3), for “17(2)”, in each place, there shall be substituted “18A(1)”;
  - (c) in subsection (2), for “19(2)”, in each place, there shall be substituted “18A(2)”;
  - (d) in subsection (3), the words “or rules” shall be omitted;
  - (e) in subsection (4), for “17(2), 18(1) or 19(2)” there shall be substituted “18(1) or 18A(1) or (2)” and the words “(or further arrangements)” in paragraph (a), paragraph (b) and the word “and” immediately preceding it shall be omitted;
  - (f) subsection (5) shall cease to have effect;
  - (g) in subsection (6), for “20” there shall be substituted “18A”;
  - (h) in subsection (7), for “16 to 20” there shall be substituted “16 and 18” and the words “and this section”, paragraph (b) and the word “and” immediately preceding paragraph (b) shall be omitted;
  - (i) in subsection (8)(a), for the words from “of the appropriate” to “given” there shall be substituted “for the purposes of section 18A of proposed arrangements must be given, in accordance with regulations under that section,”; and
  - (j) paragraph (b) of subsection (8) and the word “and” immediately preceding it shall be omitted.
- (2) In subsection (1) of that section, after paragraph (b) there shall be inserted “or
- (c) regulations under section 16(9)(b) have not been complied with,”.
- (3) In subsection (2) of that section, after paragraph (b) there shall be inserted “or
- (c) regulations under section 18(9)(b) have not been complied with,”.
- (4) After subsection (2) of that section there shall be inserted—
- “(2A) Section 10 applies to an employer who has made a proposal for the purposes of section 18A but who contravenes any requirements of any regulations under section 18A relating to the submission of that proposal for approval.”
- (5) After subsection (6) there shall be inserted—
- “(6A) In sections 16 to 18A “company” means a company within the meaning given by section 735(1) of the <sup>M42</sup>Companies Act 1985 or a company which may be wound up under Part V of the <sup>M43</sup>Insolvency Act 1986 (unregistered companies).”

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### Extent Information

**E1** S. 46 partly extends to Northern Ireland see s. 87(2)(a)

### Marginal Citations

**M41** 1995 c. 26.

**M42** 1985 c. 6.

**M43** 1986 c. 45.

VALID FROM 01/03/2002

## *Winding-up of schemes*

### **47 Information to be given to the Authority.**

(1) In section 22(1) and (3) of the <sup>M44</sup>Pensions Act 1995 (circumstances in which provisions apply to a trust scheme the employer in relation to which has been subjected to an insolvency procedure), for “26”, in each case, there shall be substituted “26A”.

(2) After section 26 of that Act there shall be inserted—

#### **“26A Information to be given to the Authority in a s. 22 case.**

(1) If at any time while section 22 applies in relation to a scheme—

- (a) the trustees of the scheme do not include at least one person who the practitioner or official receiver has informed them is a person about whose independent status he is satisfied, and
- (b) the trustees have no other reasonable grounds for believing that their number includes at least one person about whose independent status the practitioner or official receiver is satisfied,

it shall be the duty of the trustees, as soon as reasonably practicable after it first appears to any one or more of them as mentioned in paragraphs (a) and (b), to give notice to the Authority that the scheme appears not to have an independent trustee.

(2) If a trust scheme is without trustees at any time while section 22 applies to it, it shall be the duty of every person involved in the administration of the scheme, as soon as reasonably practicable after it first appears to him that the scheme is without trustees, to give notice to the Authority that the scheme has no trustees.

(3) No person shall be required to give a notice under subsection (1) or (2) at any time when it appears to him on reasonable grounds—

- (a) that it is the intention of the practitioner or official receiver, for the purpose of complying with his duty under section 23(1)(b), to make or secure the appointment of any person as a trustee of the scheme; and

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(b) that the appointment will be made within the period specified by or under section 23(2) for the performance of that duty.

- (4) No person shall be required to give a notice under subsection (2) at any time when it appears to him, on reasonable grounds, that the Authority are already aware that the scheme has no trustees.
- (5) Where the practitioner or official receiver at any time informs the trustees of a trust scheme that he is not, or is no longer, satisfied about a person's independent status, no account shall be taken for the purposes of subsection (1)(a) of any information that he was so satisfied which was given by the practitioner or official receiver to the trustees before that time.
- (6) References in this section to the practitioner or official receiver being satisfied about a person's independent status are references to his being satisfied for the purposes of section 23 that that person is an independent person.
- (7) If subsection (1) is not complied with, section 10 applies to any trustee who has failed to take all such steps as are reasonable to secure compliance.
- (8) Section 10 applies to any person who fails to comply with a duty imposed on him by subsection (2).

#### **26B Information to be given in cases where s. 22 disapplied.**

- (1) Where, at any time—
- (a) section 22 would apply in relation to a trust scheme but for regulations under section 118,
  - (b) the employer in relation to the scheme is the sole trustee of the scheme,
  - (c) there are persons involved in the administration of the scheme, and
  - (d) none of those persons has received an employer's assurance relating to the scheme,
- it shall be the duty of every person who is involved in the administration of the scheme, as soon as reasonably practicable after it first appears to him as mentioned in paragraphs (a) and (b), to give notice to the Authority that the case is one falling within paragraphs (a) to (d).
- (2) For the purposes of this section a person has received an employer's assurance relating to a scheme if during the period while section 22 would have applied in relation to the scheme but for regulations under section 118—
- (a) he has been informed by the person who is the employer in relation to the scheme that there is no reason why the employer should not continue to act as a trustee of the scheme;
  - (b) he has not subsequently been informed by the person who is the employer in relation to the scheme that that has ceased to be the case; and
  - (c) the trustees of the scheme have not changed since he was informed as mentioned in paragraph (a).
- (3) No person shall be required to give a notice under subsection (1)—

*Status: Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Child Support, Pensions and Social Security Act 2000, Part II is up to date with all changes known to be in force on or before 18 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) at any time when it appears to him, on reasonable grounds, that the Authority are already aware that the case is one falling within paragraphs (a) to (d) of that subsection;
  - (b) if a period is prescribed for the purposes of this paragraph, at any time in the prescribed period after the event by virtue of which the scheme became a scheme in relation to which section 22 would apply but for regulations under section 118; or
  - (c) at any other time that is prescribed for the purposes of this subsection.
- (4) Section 10 applies to any person who fails to comply with any duty imposed on him by subsection (1).

### **26C Construction of ss. 26A and 26B.**

- (1) In sections 26A and 26B references, in relation to a scheme, to a person involved in the administration of the scheme are (subject to subsection (2)) references to any person who is so involved otherwise than as—
- (a) the employer in relation to that scheme;
  - (b) a trustee of the scheme;
  - (c) the auditor of the scheme or its actuary;
  - (d) a legal adviser of the trustees of the scheme;
  - (e) a fund manager for the scheme;
  - (f) a person acting on behalf of a person who is involved in the administration of the scheme;
  - (g) a person providing services to a person so involved;
  - (h) a person acting in his capacity as an employee of a person so involved;
  - (i) a person who would fall within any of paragraphs (f) to (h) if persons acting in relation to the scheme in any capacity mentioned in the preceding paragraphs were treated as involved in the administration of a scheme.
- (2) In this section references, in relation to a scheme, to a person involved in the administration of the scheme do not include references to persons of a particular description if regulations provide for persons of that description to be excluded from those references.
- (3) If regulations so provide in relation to any provision of section 26A or 26B, so much of that provision as requires any notice to be given as soon as reasonably practicable after a particular time shall have effect as a requirement to give that notice within such period after that time as may be prescribed.”
- (3) In subsection (2) of section 118 of that Act (powers to provide for sections 22 to 26 not to apply in the case of certain schemes), for “sections 22 to 26” there shall be substituted “some or all of the provisions of sections 22 to 26C”.
- (4) After that subsection there shall be inserted—
- “(3) Regulations may modify sections 26A and 26B for the purpose of requiring prescribed persons, in addition to or instead of the persons who (apart from



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the regulations) would be required to provide information to the Authority under those sections, to be subject to the duties imposed by those sections.”

- (5) In section 178(b) of the <sup>M45</sup>Pension Schemes Act 1993 (regulations providing for who is to be treated as a trustee of a scheme), at the end there shall be inserted “or sections 22 to 26C of the Pensions Act 1995”.

#### Commencement Information

- I8** S. 47 not in force at Royal Assent see s. 86(2); s. 47 in force at 1.3.2002 for the purposes of making regulations and rules and 1.4.2002 for all purposes other than the purpose of making regulations by S.I. 2002/437, art. 3(1)(a)(2)

#### Marginal Citations

- M44** 1995 c. 26.  
**M45** 1993 c. 48.

#### 48 Modification of scheme to secure winding-up.

After section 71 of the <sup>M46</sup>Pensions Act 1995 (effect of modification orders under section 69) there shall be inserted—

##### “71A Modification by Authority to secure winding-up.

- (1) The Authority may at any time while—
  - (a) an occupational pension scheme is being wound up, and
  - (b) the employer in relation to the scheme is subject to an insolvency procedure,
 make an order modifying that scheme with a view to ensuring that it is properly wound up.
- (2) The Authority shall not make such an order except on an application made to them, at a time such as is mentioned in subsection (1), by the trustees or managers of the scheme.
- (3) Except in so far as regulations otherwise provide, an application for the purposes of this section must be made in writing.
- (4) Regulations may make provision—
  - (a) for the form and manner in which an application for the purposes of this section is to be made to the Authority;
  - (b) for the matters which are to be contained in such an application;
  - (c) for the documents which must be attached to an application for the purposes of this section or which must otherwise be delivered to the Authority with or in connection with any such application;
  - (d) for persons to be required, before such time as may be prescribed, to give such notifications of the making of an application for the purposes of this section as may be prescribed;
  - (e) for the matters which are to be contained in a notification of such an application;

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- (f) for persons to have the opportunity, for a prescribed period, to make representations to the Authority about the matters to which such an application relates;
  - (g) for the manner in which the Authority are to deal with any such application.
- (5) The power of the Authority to make an order under this section—
- (a) shall be limited to what they consider to be the minimum modification necessary to enable the scheme to be properly wound up; and
  - (b) shall not include power to make any modification that would have a significant adverse effect on—
    - (i) the accrued rights of any member of the scheme; or
    - (ii) any person’s entitlement under the scheme to receive any benefit.
- (6) A modification of an occupational pension scheme by an order of the Authority under this section shall be as effective in law as if—
- (a) it had been made under powers conferred by or under the scheme;
  - (b) the modification made by the order were capable of being made in exercise of such powers notwithstanding any enactment, rule of law or rule of the scheme that would have prevented their exercise for the making of that modification; and
  - (c) the exercise of such powers for the making of that modification would not have been subject to any enactment, rule of law or rule of the scheme requiring the implementation of any procedure or the obtaining of any consent in connection with the making of a modification.
- (7) Regulations may provide that, in prescribed circumstances, this section—
- (a) does not apply in the case of occupational pension schemes of a prescribed class or description; or
  - (b) in the case of occupational pension schemes of a prescribed class or description applies with prescribed modifications.
- (8) The times when an employer in relation to an occupational pension scheme shall be taken for the purposes of this section to be subject to an insolvency procedure are—
- (a) in the case of a trust scheme, while section 22 applies in relation to the scheme; and
  - (b) in the case of a scheme that is not a trust scheme, while section 22 would apply in relation to the scheme if it were a trust scheme;
- and for the purposes of this subsection no account shall be taken of modifications or exclusions contained in any regulations under section 118.
- (9) The Authority shall not be entitled to make an order under this section in relation to a public service pension scheme.”

**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Child Support, Pensions and Social Security Act 2000, Part II is up to date with all changes known to be in force on or before 18 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

- 19** S. 48 not in force at Royal Assent see s. 86(2); s. 48 in force at 1.3.2002 for the purposes of making regulations and rules and 1.4.2002 for all purposes other than the purpose of making regulations by S.I. 2002/437, art. 3(1)(a)(2)

### Marginal Citations

- M46** 1995 c. 26.

## 49 Reports about winding-up.

- (1) After section 72 of the <sup>M47</sup>Pensions Act 1995 there shall be inserted—

*“ Supervision of winding-up*

### 72A Reports to Authority about winding-up.

- (1) Where—
- (a) an occupational pension scheme is being wound up, and
  - (b) the winding-up is one beginning at a time (whether before or after the passing of this Act) by reference to which regulations provide that it is to be a winding-up to which this section applies,
- it shall be the duty of the trustees or managers, in accordance with this section, to make periodic reports in writing to the Authority about the progress of the winding-up.
- (2) In the case of each winding-up, the first report to be made under this section shall be made—
- (a) except in a case to which paragraph (b) applies—
    - (i) after the end of the prescribed period beginning with the day on which the winding-up began; and
    - (ii) before the end of the prescribed period that begins with the end of the period that applies for the purposes of subparagraph (i);
  - and
  - (b) in a case where the winding-up began before the coming into force of the regulations which (for the purposes of subsection (1)(b)) prescribe the time by reference to which the winding-up is one to which this section applies, before such date as may be prescribed by those regulations.
- (3) Subject to subsection (4), each subsequent report made under this section in the case of a winding-up shall be made no more than twelve months after the date which (apart from any postponement under subsection (4)) was the latest date for the making of the previous report required to be made in the case of that winding-up.
- (4) If, in the case of any report required to be made under subsection (3), the Authority consider (whether on an application made for the purpose or otherwise) that it would be appropriate to do so, they may, at any time

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before the latest time for the making of that report, postpone that latest time by such period as they think fit.

- (5) The latest time for making a report shall not be postponed under subsection (4) by more than twelve months.
- (6) Subject to the application of the limit specified in subsection (5) to the cumulative period of the postponements, more than one postponement may be made under subsection (4) in the case of the same report.
- (7) A report under this section—
  - (a) must contain such information and statements as may be prescribed; and
  - (b) must be made in accordance with the prescribed requirements.
- (8) Regulations may—
  - (a) provide that, in prescribed circumstances, there shall be no obligation to make a report that would otherwise fall to be made under this section;
  - (b) make provision for the period within which, and the manner in which, applications may be made for a postponement under subsection (4); and
  - (c) modify subsections (3) and (5) by substituting periods of different lengths for the periods for the time being specified in those subsections.
- (9) If there is any failure by the trustees or managers of any scheme to comply with their duty to make a report in accordance with the requirements imposed by or under this section—
  - (a) section 3 applies, if the scheme is a trust scheme, to any trustee who has failed to take all such steps as are reasonable to secure compliance; and
  - (b) section 10 applies (irrespective of the description of scheme involved) to any trustee or manager who has failed to take all such steps.”
- (2) In section 124 of that Act (interpretation of Part I), after subsection (3) there shall be inserted—
  - “(3A) In a case of the winding-up of an occupational pension scheme in pursuance of an order of the Authority under section 11 or of an order of a court, the winding-up shall (subject to subsection (3E)) be taken for the purposes of this Part to begin—
    - (a) if the order provides for a time to be the time when the winding-up begins, at that time; and
    - (b) in any other case, at the time when the order comes into force.
  - (3B) In a case of the winding-up of an occupational pension scheme in accordance with a requirement or power contained in the rules of the scheme, the winding-up shall (subject to subsections (3C) to (3E)) be taken for the purposes of this Part to begin—
    - (a) at the time (if any) which under those rules is the time when the winding-up begins; and

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- (b) if paragraph (a) does not apply, at the earliest time which is a time fixed by the trustees or managers as the time from which steps for the purposes of the winding-up are to be taken.
- (3C) Subsection (3B) shall not require a winding-up of a scheme to be treated as having begun at any time before the end of any period during which effect is being given—
  - (a) to a determination under section 38 that the scheme is not for the time being to be wound up; or
  - (b) to a determination in accordance with the rules of the scheme to postpone the commencement of a winding-up.
- (3D) In subsection (3B)(b) the reference to the trustees or managers of the scheme shall have effect in relation to any scheme the rules of which provide for a determination that the scheme is to be wound up to be made by persons other than the trustees or managers as including a reference to those other persons.
- (3E) Subsections (3A) to (3D) above do not apply for such purposes as may be prescribed.”
- (3) After section 49 of that Act (other responsibilities of trustees employers etc.) there shall be inserted—

**“49A Record of winding-up decisions.**

- (1) Except so far as regulations otherwise provide, the trustees or managers of an occupational pension scheme shall keep written records of—
  - (a) any determination for the winding-up of the scheme in accordance with its rules;
  - (b) decisions as to the time from which steps for the purposes of the winding-up of the scheme are to be taken;
  - (c) determinations under section 38;
  - (d) determinations in accordance with the rules of the scheme to postpone the commencement of a winding-up of the scheme.
- (2) For the purpose of this section—
  - (a) the determinations and decisions of which written records must be kept under this section include determinations and decisions by persons who—
    - (i) are not trustees or managers of a scheme, but
    - (ii) are entitled, in accordance with the rules of a scheme, to make a determination for its winding-up;
  - and
  - (b) regulations may, in relation to such determinations or decisions as are mentioned in paragraph (a), impose obligations to keep written records on the persons making the determinations or decisions (as well as, or instead of, on the trustees or managers).
- (3) Regulations may provide for the form and content of any records that are required to be kept under this section.

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- (4) Section 3 applies to any trustee of a scheme who fails to take all such steps as are reasonable to secure compliance by the trustees of that scheme with the obligations imposed on them by this section.
- (5) Section 10 applies to any trustee or manager of a scheme who fails to take all such steps as are reasonable to secure compliance by the trustees or managers of that scheme with those obligations.”

#### Commencement Information

**I10** S. 49 not in force at Royal Assent see s. 86(2); s. 49 in force at 1.3.2002 for certain purposes and at 1.4.2002 for all purposes other than the purpose of making regulations by S.I. 2002/437, {art. 3(1)(b)-(e)(2)}

#### Marginal Citations

**M47** 1995 c. 26.

## 50 Directions for facilitating winding-up.

After the section 72A inserted in the <sup>M48</sup>Pensions Act 1995 by section 49 there shall be inserted—

### “72B Directions by Authority for facilitating winding-up.

- (1) Subject to the following provisions of this section, the Authority shall have power, at any time after the winding-up of an occupational pension scheme has begun, to give directions under this section if they consider that the giving of the direction is appropriate on any of the grounds set out in subsection (2).
- (2) Those grounds are—
- (a) that the trustees or managers of the scheme are not taking all the steps in connection with the winding-up that the Authority consider would be being taken if the trustees or managers were acting reasonably;
  - (b) that steps being taken by the trustees or managers for the purposes of the winding-up involve things being done with what the Authority consider to be unreasonable delay;
  - (c) that the winding-up is being obstructed or unreasonably delayed by the failure of any person—
    - (i) to provide information to the trustees or managers;
    - (ii) to provide information to a person involved in the administration of the scheme;
    - (iii) to provide information to a person of a prescribed description; or
    - (iv) to take any step (other than the provision of information) that he has been asked to take by the trustees or managers;

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- (d) that the winding-up would be likely to be facilitated or accelerated by the taking by any person other than the trustees or managers of any other steps;
  - (e) that in any prescribed circumstances not falling within paragraphs (a) to (d)—
    - (i) the provision by any person of any information to the trustees or managers or to any other person, or
    - (ii) the taking of any other step by any person,would be likely to facilitate or accelerate the progress of the winding-up.
- (3) Except in prescribed circumstances, the power of the Authority to give a direction under this section in the case of a winding-up shall be exercisable only where—
- (a) periodic reports about the progress of the winding-up are required to be made under section 72A; and
  - (b) the first report that has to be made for the purposes of that section in the case of that winding-up either has been made or should have been made.
- (4) Regulations may provide that, in prescribed circumstances, the Authority shall not give a direction on the ground set out in subsection (2)(e) except in response to an application made by the trustees or managers of the scheme for the giving of a direction on that ground.
- (5) A direction under this section is a direction in writing given to and imposing requirements on—
- (a) any or all of the trustees or managers of the scheme;
  - (b) a person who is involved in its administration; or
  - (c) a person of a prescribed description.
- (6) The requirements that may be imposed by a direction under this section are any requirement for the person to whom it is given, within such period specified in the direction as the Authority may consider reasonable—
- (a) to provide the trustees or managers with all such information as may be specified or described in the direction;
  - (b) to provide a person involved in the administration of the scheme with all such information as may be so specified or described;
  - (c) to provide a person who is of a prescribed description with all such information as may be so specified or described;
  - (d) to take such steps (other than the provision of information) as may be so specified or described.
- (7) If, at any time before the end of a period within which any step is required by a direction under this section to be taken by any person, the Authority consider (whether on an application made for the purpose or otherwise) that it would be appropriate to do so, they may extend (or further extend) that period until such time as they think fit.
- (8) Regulations may—
- (a) impose limitations on the steps that a person may be required to take by a direction under this section;

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- (b) make provision for the period within which, and the manner in which, applications may be made for a period to be extended (or further extended) under subsection (7).
- (9) In this section references, in relation to a scheme, to a person involved in the administration of the scheme are (subject to subsection (10)) references to any person who is so involved otherwise than as—
- (a) the employer in relation to that scheme;
  - (b) a trustee or manager of the scheme;
  - (c) the auditor of the scheme or its actuary;
  - (d) a legal adviser of the trustees or managers of the scheme;
  - (e) a fund manager for the scheme;
  - (f) a person acting on behalf of a person who is involved in the administration of the scheme;
  - (g) a person providing services to a person so involved;
  - (h) a person acting in his capacity as an employee of a person so involved;
  - (i) a person who would fall within any of paragraphs (f) to (h) if persons acting in relation to the scheme in any capacity mentioned in the preceding paragraphs were treated as involved in the administration of a scheme.
- (10) In this section references, in relation to a scheme, to a person involved in the administration of the scheme do not include references to persons of a particular description if regulations provide for persons of that description to be excluded from those references.

### **72C Duty to comply with directions under s. 72B.**

- (1) It shall be the duty of any person to whom a direction is given under section 72B to comply with it.
- (2) Where a direction is given under section 72B to the trustees of a trust scheme, section 3 applies to any trustee who fails, without reasonable excuse, to take all such steps as are reasonable to secure compliance with it.
- (3) Section 10 applies to any trustee or manager of a scheme who fails, without reasonable excuse, to take all such steps as are reasonable to secure compliance by the trustees or managers of that scheme with any direction given to them under section 72B.
- (4) Section 10 applies to any person who—
  - (a) is a person to whom a direction under section 72B is given otherwise than in the capacity of a trustee or manager; and
  - (b) without reasonable excuse, fails to comply with that direction.
- (5) For the purposes of this section it shall not be a reasonable excuse in relation to any failure to provide information in pursuance of a direction under section 72B that the provision of that information would (but for the duty imposed by subsection (1) of this section) involve a breach by any person of a duty owed to another not to disclose that information.”



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### Commencement Information

- I11** S. 50 not in force at Royal Assent see s. 86(2); s. 50 in force at 1.3.2002 for the purposes of making regulations and rules and at 1.4.2002 for all purposes other than the purpose of making regulations by S.I. 2002/437, art. 3(1)(f)(2)

### Marginal Citations

- M48** 1995 c. 26.

VALID FROM 01/11/2000

### *Other provisions*

VALID FROM 01/12/2000

### **51 Restriction on index-linking where annuity tied to investments.**

- (1) In section 51(2) of the <sup>M49</sup>Pensions Act 1995 (annual increases in rate of pension), for “Subject to section 52” there shall be substituted “Subject to sections 51A and 52”.
- (2) After section 51 of that Act there shall be inserted—

#### **“51A Restriction on increase where annuity tied to investments.**

- (1) No increase under section 51 is required to be made, at any time on or after the relevant date, of so much of any pension under a money purchase scheme as—
- (a) is payable by way of an annuity the amount of which for any year after the first year of payment is determined (whether under the terms of the scheme or under the terms of the annuity contract in pursuance of which it is payable) by reference to fluctuations in the value of, or the return from, particular investments;
  - (b) does not represent benefits payable in respect of the protected rights of any member of the scheme; and
  - (c) satisfies such other conditions (if any) as may be prescribed.
- (2) For the purposes of this section it shall be immaterial whether the annuity in question is payable out of the funds of the scheme in question or under an annuity contract entered into for the purposes of the scheme.
- (3) In this section “the relevant date” means the date appointed for the coming into force of section 51 of the Child Support, Pensions and Social Security Act 2000.”

*Status: Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.*

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### Marginal Citations

**M49** 1995 c. 26.

VALID FROM 01/01/2001

## 52 Information for members of schemes etc.

(1) In subsection (1) of section 113 of the <sup>M50</sup>Pension Schemes Act 1993 (regulations as to information to be provided to scheme members etc.), for the word “and” at the end of paragraph (c) there shall be substituted—

“(ca) of the pensions and other benefits an entitlement to which would be likely to accrue to the member, or be capable of being secured by him, in respect of the rights that may arise under it; and”.

(2) After subsection (3) of that section there shall be inserted—

“(3A) The regulations may provide for the information that must be given to be determined, in whole or part, by reference to guidance which—

(a) is prepared and from time to time revised by a prescribed body; and

(b) is for the time being approved by the Secretary of State.

(3B) The regulations may, in relation to cases where a scheme is being wound up, contain—

(a) provision conferring power on the Regulatory Authority, at times before the period expires, to extend any period specified in the regulations as the period within which a requirement imposed by the regulations must be complied with; and

(b) provision as to the contents of any application for the exercise of such a power and as to the form and manner in which, and the time within which, any such application must be made.”

### Commencement Information

**I12** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 86(2); s. 52 in force for certain purposes at 1.1.2001 by S.I. 2000/3166, art. 2(3)(a)

### Marginal Citations

**M50** 1993 c. 48.

VALID FROM 01/12/2000

## 53 Jurisdiction of the Pensions Ombudsman.

(1) Section 146 of the <sup>M51</sup>Pension Schemes Act 1993 (functions of the Pensions Ombudsman) shall be amended as follows.

**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

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(2) In subsection (1), after paragraph (b) there shall be inserted—

“(ba) a complaint made to him by or on behalf of an independent trustee of a trust scheme who, in connection with any act or omission which is an act or omission either—

(i) of trustees of the scheme who are not independent trustees, or

(ii) of former trustees of the scheme who were not independent trustees,

alleges maladministration of the scheme.”.

(3) In that subsection, for the words after sub-paragraph (ii) of paragraph (d) there shall be substituted—

“and in a case falling within sub-paragraph (ii) references in this Part to the scheme to which the reference relates are references to each of the schemes,

(e) any dispute not falling within paragraph (f) between different trustees of the same occupational pension scheme,

(f) any dispute, in relation to a time while section 22 of the <sup>M52</sup>Pensions Act 1995 (schemes subject to insolvency procedures) applies in relation to an occupational pension scheme, between an independent trustee of the scheme and either—

(i) trustees of the scheme who are not independent trustees, or

(ii) former trustees of the scheme who were not independent trustees, and

(g) any question relating, in the case of an occupational pension scheme with a sole trustee, to the carrying out of the functions of that trustee.”

(4) After that subsection there shall be inserted—

“(1A) The Pensions Ombudsman shall not investigate or determine any dispute or question falling within subsection (1)(c) to (g) unless it is referred to him—

(a) in the case of a dispute falling within subsection (1)(c), by or on behalf of the actual or potential beneficiary who is a party to the dispute,

(b) in the case of a dispute falling within subsection (1)(d), by or on behalf of any of the parties to the dispute,

(c) in the case of a dispute falling within subsection (1)(e), by or on behalf of at least half the trustees of the scheme,

(d) in the case of a dispute falling within subsection (1)(f), by or on behalf of the independent trustee who is a party to the dispute,

(e) in the case of a question falling within subsection (1)(g), by or on behalf of the sole trustee.

(1B) For the purposes of this Part, any reference to or determination by the Pensions Ombudsman of a question falling within subsection (1)(g) shall be taken to be the reference or determination of a dispute.”

*Status: Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Child Support, Pensions and Social Security Act 2000, Part II is up to date with all changes known to be in force on or before 18 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) In subsection (3) (persons responsible for the management of the scheme to be the trustees and managers and employer), after “occupational pension scheme” there shall be inserted “or a personal pension scheme”.
- (6) For paragraph (a) of subsection (6) (exclusion of the Ombudsman’s jurisdiction where court proceedings have been begun) there shall be substituted—
- “(a) if, before the making of the complaint or the reference of the dispute—
- (i) proceedings in respect of the matters which would be the subject of the investigation have been begun in any court or employment tribunal, and
- (ii) those proceedings are proceedings which have not been discontinued or which have been discontinued on the basis of a settlement or compromise binding all the persons by or on whose behalf the complaint or reference is made;”.
- (7) In subsection (7) (persons who are actual or potential beneficiaries)—
- (a) after paragraph (b) there shall be inserted—
- “(ba) a person who is entitled to a pension credit as against the trustees or managers of the scheme;”
- and
- (b) in sub-paragraph (i) of paragraph (c), for “paragraph (a) or (b)” there shall be substituted “paragraph (a), (b) or (ba)”.
- (8) In subsection (8) (interpretation) after the definition of “employer” there shall be inserted—
- ““independent trustee”, in relation to a scheme, means—
- (a) a trustee of the scheme appointed under section 23(1)(b) of the <sup>M53</sup>Pensions Act 1995 (appointment of independent trustee by insolvency practitioner or official receiver),
- (b) a person appointed under section 7(1) of that Act to replace a trustee falling within paragraph (a) or this paragraph;”.
- (9) In subsection (1)—
- (a) for “complaints and disputes” there shall be substituted “matters”;
- (b) in paragraph (b), for the words from “is to” to the end of the paragraph there shall be substituted “are references to the other scheme referred to in that sub-paragraph”; and
- (c) in paragraphs (c) and (d), the words “which arises”, in each place where they occur, shall be omitted.
- (10) Subsection (6) does not have effect in relation to proceedings begun before the day appointed under section 86 for the coming into force of this section.

#### Marginal Citations

**M51** 1993 c. 48.

**M52** 1995 c. 26.

**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Child Support, Pensions and Social Security Act 2000, Part II is up to date with all changes known to be in force on or before 18 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M53 1995 c. 26.

VALID FROM 01/03/2002

#### 54 Investigations by the Pensions Ombudsman.

- (1) The <sup>M54</sup>Pension Schemes Act 1993 shall be amended as follows.
- (2) In section 148(5) (meaning of parties to an investigation for the purposes of staying proceedings), after paragraph (b) there shall be inserted—
  - “(ba) any actual or potential beneficiary of the scheme whose interests are or may be affected by the matters to which the complaint or dispute relates,
  - (bb) any actual or potential beneficiary of the scheme whose interests it is reasonable to suppose might be affected by—
    - (i) the Pensions Ombudsman’s determination of the complaint or dispute, or
    - (ii) directions that may be given by the Ombudsman in consequence of that determination.”
- (3) For subsection (1) of section 149 (obligation to allow persons to comment on allegations in complaint or reference) there shall be substituted—
  - “(1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part, he shall—
    - (a) give every person against whom allegations are made in the complaint or reference an opportunity to comment on those allegations,
    - (b) give every person responsible for the management of the scheme to which the complaint or reference relates an opportunity to make representations to him about the matters to which the complaint or dispute relates, and
    - (c) give every actual or potential beneficiary of that scheme whose interests are or may be affected by the matters to which the complaint or dispute relates, an opportunity to make representations about those matters.
  - (1A) Subject to subsection (1B), subsection (1) shall not require an opportunity to make comments or representations to be given to any person if the Pensions Ombudsman is satisfied that that person is—
    - (a) a person who, as the person or one of the persons making the complaint or reference, has had his opportunity to make comments or representations about the matters in question; or
    - (b) a person whose interests in relation to the matters to which the complaint or dispute relates are being represented, in accordance with rules under this section, by a person who has been given an appropriate opportunity to make comments or representations.
  - (1B) The Pensions Ombudsman shall, under subsection (1), give an opportunity to make comments and representations to a person falling within subsection (1A)(a) in any case in which that person is a person

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who, in accordance with rules, is appointed or otherwise determined, after the making of the complaint or reference, to represent the interests of other persons in relation to the matters to which the complaint or dispute relates.”

(4) In subsection (3) of section 149 (matters as to which rules may be made), for “and” at the end of paragraph (b) there shall be substituted—

“(ba) for the interests of all of a number of persons who—

- (i) are actual or potential beneficiaries of the scheme to which the complaint or reference relates, and
- (ii) appear to have the same interest in relation to any of the matters to which the complaint or dispute relates,

to be represented for the purposes of the investigation by such one or more of them, or such other person, as may be appointed by the Ombudsman or otherwise determined in accordance with the rules.”.

(5) In that subsection, at the end of paragraph (c), there shall be inserted “and

- (d) for the payment of legal expenses incurred by a party to an investigation (as defined in section 148(5)) out of funds held for the purposes of the scheme to which the complaint or reference relates.”

(6) After subsection (7) of section 149 there shall be inserted—

“(8) References in this section to the matters to which a complaint or dispute relates include references to any matter which it is reasonable to suppose might form the subject of—

- (a) the Pensions Ombudsman’s determination of the complaint or dispute, or
- (b) any directions that may be given by the Ombudsman in consequence of that determination.”

(7) In subsection (1) of section 151 (persons to be given notice of a determination by the Ombudsman), at the end of paragraph (b) there shall be inserted “and

- (c) to every other person who was required under section 149 to be given an opportunity—
  - (i) to comment on an allegation in the complaint or reference, or
  - (ii) to make representations about matters to which the complaint or reference relates.”.

(8) In subsection (3) of section 151 (persons bound by determinations), for “and” at the end of paragraph (b) there shall be substituted—

- “(ba) any person who under section 149 was given such an opportunity to make any such comment or representation as is mentioned in subsection (1)(c) of this section,
- (bb) any person whose interests were represented by a person falling within any of the preceding paragraphs, and”;

and, in paragraph (c) of that subsection for “paragraph (a) or (b)” there shall be substituted “any of paragraphs (a) to (bb)”;

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- (9) Nothing in any provision made by this section shall—
- (a) apply in relation to any complaint or reference made to the Pensions Ombudsman before the day on which this section comes into force; or
  - (b) authorise the making of any provision applying in relation to any such complaint or reference.

#### Commencement Information

**I13** S. 54 partly in force; s. 54 not in force at Royal Assent see s. 86(2); s. 54 in force at 1.3.2002 for the purposes of making regulations and rules by S.I. 2002/437, art. 3(1)(g)

#### Marginal Citations

**M54** 1993 c. 48.

VALID FROM 23/07/2001

### 55 Prohibition on different rules for overseas residents etc.

After section 66 of the <sup>M55</sup>Pensions Act 1995 there shall be inserted—

*“ Treatment of overseas residents etc.*

#### 66A Prohibition on different rules for overseas residents etc.

- (1) This section applies where an occupational pension scheme contains provisions contravening subsection (2) or (3).
- (2) Except so far as regulations otherwise provide, provisions of an occupational pension scheme contravene this subsection to the extent that they would (apart from this section) have an effect with respect to—
  - (a) the entitlement of any person to benefits under the scheme, or
  - (b) the payment to any person of benefits under the scheme,which would be different according to whether or not a place outside the United Kingdom is specified by that person as the place to which he requires payments of benefits under the scheme to be made to him.
- (3) Except so far as regulations otherwise provide, provisions of an occupational pension scheme contravene this subsection to the extent that they would (apart from this section) have an effect with respect to—
  - (a) the entitlement of any person to remain a member of the scheme,
  - (b) the eligibility of any person to remain a person by or in respect of whom contributions are made towards or under the scheme, or
  - (c) the making by or in respect of any person who is a member of the scheme of any contributions towards or under the scheme,

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which would be different according to whether that person works wholly in the United Kingdom or wholly or partly outside the United Kingdom.

- (4) Provisions contravening subsection (2) shall have effect, in relation to all times after the coming into force of section 55 of the Child Support, Pensions and Social Security Act 2000, as if they made the same provision in relation to a person who requires payments of benefits to be made to a place outside the United Kingdom as they make in relation to a person in whose case all payments of benefits fall to be made to a place in the United Kingdom.
- (5) Provisions contravening subsection (3) shall have effect, in relation to all times after the coming into force of section 55 of the Child Support, Pensions and Social Security Act 2000, as if they made the same provision in relation to persons working wholly or partly outside the United Kingdom as they make in relation to persons working wholly in the United Kingdom.
- (6) This section—
- (a) shall be without prejudice to any enactment under which any amount is to be or may be deducted, or treated as deducted, from amounts payable by way of benefits under the scheme or treated as so payable; and
  - (b) shall not apply in relation to so much of any provision of a scheme as is required for securing compliance with the conditions of any approval, exemption or relief given or available under the Tax Acts.”

#### Marginal Citations

**M55** 1995 c. 26.

## 56 Miscellaneous amendments and alternative to anti-franking rules.

Schedule 5 (which contains miscellaneous amendments of the <sup>M56</sup>Pension Schemes Act 1993 and the <sup>M57</sup>Pensions Act 1995 and makes provision for an alternative to the anti-franking rules in Part III of that Act of 1993) shall have effect.

#### Commencement Information

**I14** S. 56 partly in force; s. 56 not in force at Royal Assent see s. 86(2); s. 56 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, **art. 2**; s. 56 in force for certain further purposes at 1.1.2001 and 12.2.2001 by S.I. 2000/3166, **art. 2(3)(b)(5)**; s. 56 in force for certain further purposes at 2.4.2001 by S.I. 2001/1252, **art. 2(1)(c)**; s. 56 in force for certain further purposes at 6.4.2002 by S.I. 2001/2295, **art. 2(b)**

#### Marginal Citations

**M56** 1993 c. 48.



**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

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**M57** 1995 c. 26.

VALID FROM 15/11/2000

### CHAPTER III

#### WAR PENSIONS

#### 57 Rights of appeal.

- (1) After section 5 of the <sup>M58</sup>Pensions Appeal Tribunals Act 1943 there shall be inserted—

**“5A Appeals in other cases.**

- (1) Where, in the case of any such claim as is referred to in section 1, 2 or 3 of this Act, the Minister makes a specified decision—
- (a) he shall notify the claimant of the decision, specifying the ground on which it is made, and
  - (b) thereupon an appeal against the decision shall lie to the Tribunal on the issue whether the decision was rightly made on that ground.
- (2) For the purposes of subsection (1), a “specified decision” is a decision (other than a decision which is capable of being the subject of an appeal under any other provision of this Act) which is of a kind specified by the Minister in regulations made by statutory instrument.
- (3) Regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) In subsection (2) of section 6 of that Act (further appeals to High Court in cases of appeals brought under sections 1 to 4), for the words from “section one” to “four” there shall be substituted “sections 1, 2, 3, 4 or 5A”.
- (3) In subsection (2A) of that section (setting aside of decisions of Tribunal on appeals under sections 1, 2, 3 or 4), for “or 4” there shall be substituted “, 4 or 5A”.
- (4) Section 1(2) of the <sup>M59</sup>Pensions Appeal Tribunals Act 1949 (no right of appeal against rejection of claims relating to service before 3rd September 1939) shall cease to have effect.

#### Commencement Information

**I15** S. 57 wholly in force at 9.4.2001; s. 57 not in force at Royal Assent see s. 86(2); s. 57 in force for certain purposes at 15.11.2000 and for all other purposes at 9.4.2001 by S.I. 2000/2994, art. 2(4)

#### Marginal Citations

**M58** 1943 c. 39.

*Status: Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.*

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**M59** 1949 c. 12.

## **58 Time limit for appeals.**

- (1) In section 8 of the <sup>M60</sup>Pensions Appeal Tribunals Act 1943 (time limit for appeals), in subsection (1) (notice of appeal to be given within twelve months of notification of decision or assessment), for the words from “twelve months after” to “in any other case,” there shall be substituted “six months after”.
- (2) After subsection (3) of that section there shall be inserted—
  - “(4) The Minister may by regulations made by statutory instrument amend subsections (1) and (3) so as to substitute a different number of months for any number of months specified there.
  - (5) The Minister may by regulations made by statutory instrument provide that the Tribunal may, in circumstances prescribed in the regulations, allow an appeal to be brought not later than twelve months after the end of any period limited by this section.
  - (6) Regulations under subsection (4) or (5) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.”
- (3) Subsection (1) shall not have effect in relation to—
  - (a) decisions from which an appeal lies to the Tribunal under sections 1 to 4 of the <sup>M61</sup>Pensions Appeal Tribunals Act 1943 and which are made before the day on which that subsection comes into force, or
  - (b) decisions or assessments from which an appeal lies to the Tribunal under section 5(2) of that Act and which are made before the day on which that subsection comes into force.
- (4) In relation to decisions falling within subsection (3)(a) of this section, section 8 of the <sup>M62</sup>Pensions Appeal Tribunals Act 1943 shall have effect as if for paragraphs (a) to (c) of subsection (1) of that section there were substituted “the day on which section 58(1) of the Child Support, Pensions and Social Security Act 2000 came into force”.
- (5) In section 6(1) of the <sup>M63</sup>War Pensions Act 1921 (notice of appeal to be given within twelve months of notification of rejection of claim), for “twelve” there shall be substituted “six”.
- (6) Subsection (5) shall not have effect in relation to any appeal if the decision or assessment appealed against was made before the day on which that subsection comes into force.

### **Commencement Information**

**I16** S. 58 wholly in force at 9.4.2004; s. 58 not in force at Royal Assent see s. 86(2); s. 58 in force for certain purposes at 15.11.2000 and for all other purposes at 9.4.2001 by S.I. 2000/2994, art. 2(4)

### **Marginal Citations**

**M60** 1943 c. 39.

**M61** 1943 c. 39.

**Status:** Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

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**M62** 1943 c. 39.

**M63** 1921 c. 49.

VALID FROM 01/01/2001

## 59 Matters relevant on appeal to Pensions Appeal Tribunal.

Before section 6 of the <sup>M64</sup>Pensions Appeal Tribunals Act 1943 (constitution, jurisdiction and procedure of Pensions Appeal Tribunal), there shall be inserted—

### “5B Matters relevant on appeal.

In deciding any appeal, a Pensions Appeal Tribunal—

- (a) need not consider any issue that is not raised by the appellant or the Minister in relation to the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.”

## Marginal Citations

**M64** 1943 c. 39.

VALID FROM 09/04/2001

## 60 Constitution and procedure of Pensions Appeal Tribunals.

(1) In sub-paragraph (2) of paragraph 2 of the Schedule to the <sup>M65</sup>Pensions Appeal Tribunals Act 1943 (remuneration for members of Pensions Appeal Tribunals), after “remuneration” there shall be inserted “and allowances”.

(2) After that sub-paragraph there shall be inserted—

“(2A) Subject to sub-paragraphs (3) and (4) below, a member of such a Tribunal shall hold and vacate his office in accordance with the terms of his appointment, but shall be eligible for reappointment.”

(3) After paragraph 2 of that Schedule, there shall be inserted—

“2A (1) The Lord Chancellor shall ensure that the appointments made by him under paragraph 2 above have the effect, in the case of each of the Tribunals, that the persons holding office as members of that Tribunal at all times include—

- (a) persons who are legally qualified;
- (b) persons who are medically qualified;
- (c) persons with knowledge or experience of service in Her Majesty’s naval, military or air forces; and

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- (d) other persons.
- (2) For the purposes of this Schedule a person is legally qualified if—
- (a) he has a seven year general qualification within the meaning of section 71 of the <sup>M66</sup>Courts and Legal Services Act 1990;
  - (b) he is an advocate or solicitor in Scotland of at least seven years' standing; or
  - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least seven years' standing.
- (3) For the purposes of this Schedule a person is medically qualified if he is a duly qualified medical practitioner of at least seven years' standing.
- (4) In making any appointment under paragraph 2 it shall be the duty of the Lord Chancellor to have regard to the desirability of having as members of the Tribunals persons with knowledge or experience of matters relating to the disability of persons.
- 2B (1) A President of Pensions Appeal Tribunals and a Deputy President of Pensions Appeal Tribunals may be appointed for each part of the United Kingdom
- (2) The person entitled to appoint a person under this paragraph to be a President or Deputy President of Pensions Appeal Tribunals shall be—
- (a) in the case of an appointment for England and Wales, the Lord Chancellor;
  - (b) in the case of an appointment for Scotland, the Lord President of the Court of Session; and
  - (c) in the case of an appointment for Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (3) Only legally qualified members of a Pensions Appeal Tribunal shall be eligible for appointment under this paragraph.
- (4) A person shall cease to be President or Deputy President of Pensions Appeal Tribunals if he ceases to be a member of any such Tribunal.
- (5) The Deputy President of Pensions Appeal Tribunals for any part of the United Kingdom shall carry out such of the functions of the President for that part of the United Kingdom as that President assigns to him.
- (6) If at any time the President of Pensions Appeal Tribunals for any part of the United Kingdom is temporarily unable to carry out his functions under this Schedule, those functions shall be carried out by the Deputy President for that part of the United Kingdom.”
- (4) For paragraph 3 of that Schedule (constitution of Tribunal for particular hearings) there shall be substituted—

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“3

The members of the Tribunal hearing a particular appeal shall in every case include a legally qualified member; and only a legally qualified member may preside as chairman for the hearing of any appeal.

3A

- (1) The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to—
- (a) the number of members of the Tribunal who should hear an appeal in that part of the United Kingdom;
  - (b) the extent to which the members hearing such an appeal must include—
    - (i) medically qualified persons; and
    - (ii) persons who are neither legally qualified nor medically qualified;
  - (c) the extent to which in the case of such an appeal the members hearing it must include persons satisfying other requirements specified by the President;
  - (d) the manner of determining the members who are to serve as the chairman and members of the Tribunal for the hearing of such an appeal.

3B

The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to the practice and procedure to be followed by such Tribunals in that part of the United Kingdom.

3C

- (1) The power to give directions under paragraphs 3A and 3B shall be exercisable in relation to a particular appeal, to a category of appeal or to appeals generally.
- (2) If at any time there is, in the case of any part of the United Kingdom, neither a President of Pensions Appeal Tribunals nor a Deputy President, the power of the President to give directions under paragraphs 3A and 3B above shall be exercisable—
- (a) in the case of England and Wales, by the Lord Chancellor;
  - (b) in the case of Scotland, by the Lord President of the Court of Session; and
  - (c) in the case of Northern Ireland, by the Lord Chief Justice of Northern Ireland.
- (3) The power to give directions under paragraphs 3A and 3B above includes power to vary or revoke directions previously given.”
- (5) In Schedule 11 to the <sup>M67</sup>Courts and Legal Services Act 1990 (judges barred from legal practice), at the end there shall be inserted “Member of a Pensions Appeal Tribunal”.

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#### Marginal Citations

**M65** 1943 c. 39.

**M66** 1990 c. 41.

**M67** 1990 c. 41.

VALID FROM 01/01/2001

#### **61** Composition of central advisory committee.

- (1) In section 9 of the <sup>M68</sup>Chronically Sick and Disabled Persons Act 1970 (central advisory committee on war pensions to include chairmen of not less than twelve of the war pensions committees), in subsection (1), for “chairmen of not less than twelve” there shall be substituted “chairman of at least one”.
- (2) In section 3 of the <sup>M69</sup>War Pensions Act 1921 (constitution of central advisory committee), for “representatives of any committees” there shall be substituted “at least one person from one of the committees”.

#### Marginal Citations

**M68** 1970 c. 44.

**M69** 1921 c. 49.

**Status:**

Point in time view as at 28/07/2000. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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