2008 CHAPTER 1

PART 2

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Contracting-out

Conversion of guaranteed minimum pensions

12.—(1) After section 9(1) of the Pension Schemes Act (contracted-out scheme: requirement for guaranteed minimum pension) insert—

"(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1)(a) and (b) if the conditions specified in section 20B are satisfied.".

(2) After section 13(1) of that Act (minimum pension for survivors) insert—

"(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 20B are satisfied.".

(3) Before section 21 of that Act (before the italic cross-heading) insert—

"**Conversion of guaranteed minimum pension into other benefits: introduction**

20A In this section and sections 20B to 20H—

(a) the rules specified in sections 9(1)(a) and (b) and 13(1) are referred to as the "guaranteed minimum pension rules",

(b) "GMP conversion" means amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules,

(c) a "GMP-converted scheme" is a scheme which has been subject to GMP conversion,

(d) "the conversion date" means the date on which that amendment takes effect,

(e) "the pre-conversion benefits" means the benefits provided under the scheme immediately before the conversion date (disregarding money purchase benefits),

(f) "the post-conversion benefits" means the benefits which are provided under the converted scheme (disregarding money purchase benefits),

(g) "the converted scheme" means the scheme as it has effect immediately after conversion, and

(h) "the trustees" in relation to a scheme means the trustees, managers or other persons responsible under the scheme for effecting amendments of it.

The conversion conditions

20B.—(1) This section specifies the conditions referred to in sections 9(1A) and 13(1A) (for exemption from the requirement to guarantee a minimum pension).

(2) Condition 1 is that the post-conversion benefits must be actuarially at least equivalent to the pre-conversion benefits.

(3) Condition 2 is that if the earner was entitled immediately before the conversion date to the payment of a pension under the scheme, the converted scheme does not provide for a reduction of, or have the effect of reducing, the amount of that pension immediately after conversion.

(4) Condition 3 is that the post-conversion benefits must not include money purchase benefits, apart from any money purchase benefits provided under the scheme immediately before the conversion date.

(5) Condition 4 is that the converted scheme provides survivors' benefits in accordance with section 20D in such circumstances, and during such periods, as are prescribed by regulations.

(6) Condition 5 is that the procedural requirements of section 20E have been complied with.

(7) In applying these conditions to a scheme in respect of an earner—

(a) it is immaterial whether or not on the conversion date the scheme was also converted in respect of other earners, and

(b) it is immaterial (except for Condition 2) whether or not on the conversion date the earner was entitled to the payment of a pension under the scheme.

Actuarial equivalence

20C Regulations may make provision for determining actuarial equivalence for the purpose of Condition 1 of section 20B.

Survivors' benefits

20D.—(1) This section specifies the benefits mentioned in Condition 4 of section 20B.

(2) The first benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widow, she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—

(a) beginning with 6th April 1978, and

(b) ending with 5th April 1997.

(3) The second benefit is that if the earner dies (whether before or after attaining normal pension age) leaving a widower or surviving civil partner, he or she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—

(a) beginning with 6th April 1988, and

(b) ending with 5th April 1997.

Procedural requirements

20E.—(1) This section specifies the procedural requirements that must be complied with in order to satisfy Condition 5 of section 20B.

(2) The employer in relation to the scheme must consent to the GMP conversion in advance.

(3) The trustees must take all reasonable steps to—

(a) consult the earner in advance, and

(b) notify all members, and survivors, affected by the GMP conversion before, or as soon as is reasonably practicable after, the conversion date.

(4) The Commissioners for Her Majesty's Revenue and Customs must be notified on or before the conversion date—

(a) that the GMP conversion will occur or has occurred, and

(b) that it affects the earner.

Transfer out

20F.—(1) Regulations may prescribe—

(a) restrictions on the transfer of the earner's accrued rights under a GMP-converted scheme;

(b) conditions which must be complied with on the transfer of the earner's accrued rights under a GMP-converted scheme.

(2) Section 16(2) and (5) shall apply to regulations under this section.

(3) Where a member of a non-GMP-converted scheme makes an application under section 91(1), the trustees may with his consent adjust any guaranteed cash equivalent so as to reflect rights that would have accrued if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 20B.

Powers to amend schemes

20G.—(1) The trustees of an occupational pension scheme may by resolution modify it so as to effect GMP conversion (whether in relation to present earners, pensioners or survivors) in accordance with the conditions of section 20B.

(2) The subsisting rights provisions within the meaning of Article 67 of the Pensions (Northern Ireland) Order 1995 shall not apply to a power conferred by an occupational pension scheme to modify the scheme in so far as the power enables GMP conversion in accordance with the conditions of section 20B.

(3) Where a scheme is amended to effect GMP conversion the trustees may include other amendments which they think are necessary or desirable as a consequence of, or to facilitate, the GMP conversion.

(4) Where an occupational pension scheme is being wound up, the trustees may, before the winding up is completed, adjust rights under the scheme so as to reflect what would have happened if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 20B.

(5) In the application of section 20E by virtue of subsection (1) above, a reference to the earner includes a reference to a pensioner or survivor whose pension is subjected to GMP conversion.

Enforcement of GMP conversion conditions

20H.—(1) If the Regulatory Authority thinks that the conditions of section 20B have not been satisfied in relation to an amendment, modification or adjustment effected in accordance with any of sections 9(1A), 13(1A),

20F and 20G, the Regulatory Authority may make an order declaring the amendment, modification or adjustment void—

(a) in respect of a specified person or class of person,

(b) to a specified extent, and

(c) as from a specified time.

(2) Where the Regulatory Authority makes an order under subsection (1) it may—

(a) require the trustees of the scheme concerned to take specified steps;

(b) declare that specified action of the trustees shall not be treated as a contravention of the scheme if it would not have been a contravention if the order under subsection (1) had not been made.

(3) An order may be made under subsection (1) before or after the amendment, modification or adjustment takes effect.

(4) If the Regulatory Authority thinks that the process of effecting a GMP conversion of a scheme has been commenced and that a relevant condition of section 20B is not being complied with, or may not be complied with, the Regulatory Authority may by order—

(a) prohibit the taking of further steps in the GMP conversion (whether generally or in relation to specified steps), and

(b) require the trustees of the scheme to take specified steps before resuming the process of GMP conversion.

(5) Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) shall apply to a trustee who has failed to take all reasonable steps to secure compliance with the conditions of section 20B in relation to an amendment, modification or adjustment effected in accordance with any of sections 9(1A), 13(1A), 20F and 20G.”.

(4) In section 5(2A) of that Act (requirements for certification) for “sections 9 to 19” substitute “ sections 9 to 20E ”.

(5) At the end of section 43 of that Act (deductions from social security payments) add—

“(9) For the purposes of section 42, a person shall be treated as entitled to a guaranteed minimum pension to which, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, he would have been entitled but for the amendment of a scheme so that it no longer contains the guaranteed minimum pension rules.

(10) Where the earner's accrued rights have been transferred after the amendment of the scheme, in making the calculation under subsection (9) the Commissioners shall assume the application of section 12(1) after the transfer.

(11) In making the calculation under subsection (9) the Commissioners shall ignore any effect of the scheme being wound up.”.

(6) In Article 92(5) of the Pensions (Northern Ireland) Order 2005 (NI 1) (Pensions Regulator: special procedure) after sub-paragraph (t) insert—

“(ta) a power under section 20H of the Pension Schemes Act;”.

(7) At the end of Part 1 of Schedule 2 to that Order (reserved regulatory functions: Pension Schemes Act) add—

“**3A** A power under section 20H (compliance with conditions of conversion of guaranteed minimum pension).”.

(8) Subsection (9) applies where—

(a) a person has been in receipt of a guaranteed minimum pension and a Category A or Category B retirement pension,

(b) the guaranteed minimum pension has been increased in accordance with section 11(1) of the Pension Schemes Act or the Category A or Category B retirement pension has been increased in accordance with paragraph 5 of Schedule 5 to the Contributions and Benefits Act (increase of pension where commencement of guaranteed minimum pension postponed),

(c) the pension scheme under which the guaranteed minimum pension is paid is subject to GMP conversion **[**[F1]in relation to the person**]** , and

(d) an order under section 132 of the Administration Act would have applied to the person in respect of the increase mentioned in paragraph (b) but for the scheme having been subject to GMP conversion **[**[F2]in relation to the person**]** .

(9) The person's Category A or Category B retirement pension shall be increased by the amount by which it would have increased as a result of the order.

(10) If paragraph 5 of Schedule 5 to the Contributions and Benefits Act (increase of pension for survivor of “S”) would apply to a person but for the fact that the scheme of which S was a member was subject to GMP conversion **[**[F3]in relation to S**]** before S's death, the paragraph shall apply to the person (with any necessary modifications) despite that fact.

(11) In subsections (8)(c) and (d) and (10) “GMP conversion” has the meaning given by section 20A of the Pension Schemes Act [F4]....

(12) In section 181 of the Pension Schemes Act (Assembly, etc. control of regulations and orders) in subsection (2) after “the Department under section” insert “ 20B(5) ”.

Textual Amendments

F1 Words in s. 12(8)(c) inserted (28.4.2022 for specified purposes) by Pension Schemes (Conversion of Guaranteed Minimum Pensions) Act 2022 (c. 33), **ss. 2(10)(a)**, 3(4)(b)

F2 Words in s. 12(8)(d) inserted (28.4.2022 for specified purposes) by Pension Schemes (Conversion of Guaranteed Minimum Pensions) Act 2022 (c. 33), **ss. 2(10)(b)**, 3(4)(b)

F3 Words in s. 12(10) inserted (28.4.2022 for specified purposes) by Pension Schemes (Conversion of Guaranteed Minimum Pensions) Act 2022 (c. 33), **ss. 2(10)(c)**, 3(4)(b)

F4 Words in s. 12(11) omitted (28.4.2022 for specified purposes) by virtue of Pension Schemes (Conversion of Guaranteed Minimum Pensions) Act 2022 (c. 33), **ss. 2(10)(d)**, 3(4)(b)

Commencement Information

I1 S. 12 wholly in operation at 6.4.2009; s. 12 not in operation at Royal Assent see s. 21(1)(a); s. 12 in operation for certain purposes at 3.3.2009 and in operation at 6.4.2009 for all other purposes by S.R. 2009/75, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Pensions Act (Northern Ireland) 2008, Section 12.