

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2 **E+W+S**

Section 52.

CONTRACTING-OUT REGULATIONS

General regulations

- 1 In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which such employments are or have been contracted-out, provision may be made by regulations—
 - (a) for treating an earner's employment, where it ends before a person succeeds to the business of the earner's employer, as having been employment under the employer's successor;
 - (b) for disregarding changes in an earner's employment due to the death of an employer or other cause, or any cesser of contracted-out employment so due, or for treating employment under one employer as a continuation of that under another and treating any contracting-out certificate issued to, or election made by, the former employer as issued to or made by the latter;
 - (c) for disregarding temporary interruptions in an earner's employment or contracted-out employment, and for treating the employment in either case as continuing during the interruption; and
 - (d) generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end;and references in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.
- 2 Regulations may enable the Occupational Pensions Board to determine, in prescribed circumstances, that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date earlier than would otherwise be the case, not being, in the case of an earner within the scope of the determination, a date earlier than that on which his relevant employment began or a contracting-out certificate was issued in respect of it, whichever is the later.
- 3 Provision may be made by regulations for requiring an employer to give notice to the Secretary of State when an earner's employment becomes or ceases to be contracted-out employment and when an earner's employment in contracted-out employment begins or ends.

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Requisite benefits

F1

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Textual Amendments

F1 Sch. 4 para 4 repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

Modification of Part III in certain cases

- 5
- (1) Regulations may modify the provisions of Part III of this Act in their application to cases in which a person is employed at the same time in two or more employments (whether or not under the same employer), being employments of which at least one is contracted-out employment but which are not all contracted-out employments, with a view to enabling the employments to be treated either separately or together for the purposes of that Part of this Act.
 - (2) Regulations may modify the provisions of Part III of this Act in their application to cases in which—
 - (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits;
 - (b) earners qualify for the benefits of a scheme by reference not only to service in contracted-out employment but also to service in the same or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment;
 and regulations under this paragraph may include provision for securing that in such cases an earner's employment does not cease to be contracted-out employment only because his service for the time being does not qualify him for the requisite benefits.

State scheme premiums

- 6
- (1) Regulations may make provision for requiring persons to furnish the Secretary of State or the Occupational Pensions Board with such information as he or the Board may require for the purposes of sections 42 to 50 of this Act.
 - (2) In relation to employed earners who, in any period of service in contracted-out employment—
 - (a) have been paid earnings in any income tax week by more than one person in respect of different employments; or
 - (b) have worked under the general control or management of a person other than their immediate employer,
 and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of sections 42 to 45 of this Act the prescribed person shall be treated as the employer of any earners.
 - (3) Regulations may, in relation to state scheme premiums, provide—

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- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- (b) for treating a premium payable in respect of any person as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, that person;
- [^{F2}(bb) for treating part of a premium payable in prescribed circumstances in respect of a person as actually paid and for modifying Part III of this Act in relation to a case in which such a part is so treated;]
- (c) for treating a premium wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of [^{F3}The Contributions and Benefits Act];
- (d) for the return of premiums paid in error or, in prescribed circumstances, of premiums as to which the Secretary of State is satisfied that they ought to be repaid;
- (e) for the Secretary of State, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;
- (f) for any other matters incidental to the payment, collection or return of premiums.

[^{F4}and the Secretary of State may accept payments in connection with a case in which a premium or part of it is treated as actually paid and shall pay into the National Insurance Fund any sums received by him by way of such payments]

[^{F5}(4) Without prejudice to sub-paragraph (3) above, regulations may provide—

- (a) that for the purpose of extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions [^{F6}or, in the case of a contracted-out protected rights premium, for the purpose of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is entitled,] a state scheme premium is to be treated as actually paid on a date determined under the regulations;
 - (b) for disregarding the effect of regulations made by virtue of paragraph (a) of this sub-paragraph in a case where the premium in question is not paid on or before the date when it becomes payable or such later date as may be determined under the regulations; and
 - (c) for obtaining repayment of benefits paid by virtue of regulations so made in a case where the effect of the regulations is to be disregarded, and, where the repayment is obtained from assets of the relevant scheme, for reducing the sums payable under the scheme to the beneficiary by the amount of the repayment.]
- [^{F7}(a) that for the purpose of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled, a personal pension protected rights premium is to be treated as actually paid on a date determined under the regulations;]

Textual Amendments

F2 Para. 6(3)(bb) inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(a\)](#)

F3 Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 42](#)

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- F4** Words inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(b\)](#)
- F5** [Para. 6\(4\)](#) inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(c\)](#)
- F6** Words inserted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 ([S.I. 1987/1116, reg. 5\(4\)](#))
- F7** [Sch. 2 para. 6\(4\)\(a\)](#) substituted (with effect from 6.4.1988) by [S.I. 1987/1116](#) reg. 3(11) and Sch. 5 para. 3

Modifications etc. (not altering text)

- C1** Under reg. 3(11) of, and Sch. 5 to, [S.I. 1987/1116, Sch. 2 para. 6](#) has effect (27.7.1987) in relation to personal pension schemes subject to the substitution (in para. 6(3)(bb)) of “Part I of the Social Security Act 1986” for “Part III of this Act”, the omission (in para. 6(3)(c)) of the words after “another premium”, and the modification made by para. 3 of Sch. 5 to that S.I. to para. 6(4)(a) above as it stood before 6.4.1988. As so modified, para. 6(4)(a) reads as set out at the end of para. 6

Centralised schemes

- 7 (1) Regulations may modify sections 31 to 49 of this Act in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.
- (2) Regulations under this paragraph may provide—
- (a) for the trustees or managers of the scheme instead of the employer to be subject to the liabilities imposed by sections 42 to 45 of this Act;
 - (b) for the adjustment (whether as a consequence of any provision made under paragraph (a) above or otherwise) of rights and liabilities as between employers, earners and the trustees or managers.

Special provisions for certain public service pension schemes

- 8 (1) In relation to employments of any class to which this paragraph applies, the Secretary of State may by regulations—
- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by him instead of by the employer;
 - (b) make provision for other things which by or under Part III of this Act are required or authorised to be done by or to an employer to be done instead by or to the Secretary of State;
 - (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
 - (d) make provision for the recovery by the Secretary of State of any state scheme premium from any person where it has been paid by the Secretary of State instead of by that person.
- (2) Before making any regulations under this paragraph the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.

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- (3) Subject to sub-paragraphs (4) and (5) below, the employments in which an earner's service qualifies him for benefit under any of the following enactments shall constitute a class to which this paragraph applies—
- Section 26 of the ^{M1}Fire Service Act 1947;
[^{F8}the ^{M2}Police Pensions Act 1976];
Sections 7 to 10 of the ^{M3}Superannuation Act 1972.
- (4) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (3) above but for rules having effect under section 2 of ^{M4} the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as falling within the class to which that enactment relates and as not falling within any other class to which this paragraph applies.
- (5) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (3) above, that provision shall be deemed to be included among the enactments so specified.

Textual Amendments

F8 Words substituted by [Police Pensions Act 1976 \(c. 35\), Sch. 2 para. 11](#)

Marginal Citations

M1 [1947 c. 41.](#)

M2 [1976 c. 35.](#)

M3 [1972 c. 11.](#)

M4 [1948 c. 33](#)

Incidental matters

- 9 Regulations may make provision for any incidental matters connected with the provisions of Part III of this Act in relation to any employment which is, has been or may become contracted-out employment and for any incidental matters otherwise connected with the provisions of that Part or this Schedule.

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