



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART I

#### PRELIMINARY

#### 1 Categories of pension schemes.

[<sup>F1</sup>(1)] In this Act, unless the context otherwise requires—

[<sup>F2</sup>“occupational pension scheme” means a pension scheme—

(a) that—

- i for the purpose of providing benefits to, or in respect of, people with service in employments of a description, or
- ii for that purpose and also for the purpose of providing benefits to, or in respect of, other people,

is established by, or by persons who include, a person to whom subsection (2) applies when the scheme is established or (as the case may be) to whom that subsection would have applied when the scheme was established had that subsection then been in force, and

(b) that has its main administration in the United Kingdom or outside the member States,

or a pension scheme that is prescribed or is of a prescribed description;]

[<sup>F2</sup>“personal pension scheme” means a pension scheme that—

- (a) is not an occupational pension scheme, and
- (b) is established by a person within any of the paragraphs of section 154(1) of the Finance Act 2004;]

“public service pension scheme” means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

- (a) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or

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- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department [<sup>F3</sup>or by the Scottish Ministers],

and includes any occupational pension scheme established, with the concurrence of the Treasury, by or with the approval of any Minister of the Crown [<sup>F4</sup>or established by or with the approval of the Scottish Ministers] and any occupational pension scheme prescribed by regulations made by the Secretary of State and the Treasury jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Act.

[<sup>F5</sup>(2) This subsection applies—

- (a) where people in employments of the description concerned are employed by someone, to a person who employs such people,
  - (b) to a person in an employment of that description, and
  - (c) to a person representing interests of a description framed so as to include—
    - (i) interests of persons who employ people in employments of the description mentioned in paragraph (a), or
    - (ii) interests of people in employments of that description.
- (3) For the purposes of subsection (2), if a person is in an employment of the description concerned by reason of holding an office (including an elective office) and is entitled to remuneration for holding it, the person responsible for paying the remuneration shall be taken to employ the office-holder.
- (4) In the definition in subsection (1) of “occupational pension scheme”, the reference to a description includes a description framed by reference to an employment being of any of two or more kinds.
- (5) In subsection (1) “pension scheme” (except in the phrases “occupational pension scheme”, “personal pension scheme” and “public service pension scheme”) means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of people—
- (a) on retirement,
  - (b) on having reached a particular age, or
  - (c) on termination of service in an employment.
- (6) The power of the Treasury under section 154(4) of the Finance Act 2004 (power to amend sections 154 and 155) includes power consequentially to amend—
- (a) paragraph (a) of the definition in subsection (1) of “personal pension scheme”, and
  - (b) any provision in force in Northern Ireland corresponding to that paragraph.]

#### Textual Amendments

- F1** S. 1 renumbered as s. 1(1) (1.7.2005 for specified purposes, 22.9.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), [ss. 239\(2\), 322\(1\)](#) (with s. 313); [S.I. 2005/1720](#), art. 2(7)(a)(b)(i)
- F2** Words in s. 1(1) substituted (1.7.2005 for specified purposes, 22.9.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), [ss. 239\(3\), 322\(1\)](#) (with s. 313); [S.I. 2005/1720](#), art. 2(7)(a)(b)(i)
- F3** Words in s. 1 inserted (1.7.1999) by [The Scotland Act 1998 \(Consequential Modifications\) \(No.2\) Order 1999 \(S.I. 1999/1820\)](#), [Sch. 2 para. 113\(a\)](#) (with art. 5); [S.I. 1998/3178](#), art. 3

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- F4** Words in s. 1 inserted (1.7.1999) by The Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820), **Sch. 2 para. 113(b)** (with art. 5); S.I. 1998/3178, art. 3
- F5** S. 1(2)-(6) inserted (1.7.2005 for specified purposes, 22.9.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 239(4), 322(1)** (with s. 313); S.I. 2005/1720, art. 2(7)(a)(b)(i)

**Commencement Information**

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

**PART II**

ADMINISTRATION

*The Occupational Pensions Board*

**F62 Constitution and functions of the Board.**

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**Textual Amendments**

- F6** Ss. 2-5 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 19, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F63 Membership of the Board.**

.....

**Textual Amendments**

- F6** Ss. 2-5 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 19, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F64 Reports of the Board.**

.....

**Textual Amendments**

- F6** Ss. 2-5 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 19, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F65 Further provisions as to constitution and procedure of the Board.**

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#### Textual Amendments

- F6** Ss. 2-5 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 19, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

### *Registration of schemes*

## **F7 6 Registration of occupational and personal pension schemes.**

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#### Textual Amendments

- F7** S. 6 repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1

## **PART III**

### CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON MEMBERS’ STATE SCHEME RIGHTS AND DUTIES

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

- C1** Pt. III power to modify conferred by Social Security Administration Act 1992 (c. 5), s. 148 (as read with Pensions Act 1995 (c. 26), ss. 128(3)(4), 180(2) (with s. 128(5)(6)); Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 33(2)-(4), 86(1)(b)(2))
- C2** Pt. III: power to modify conferred (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 149(1), 180(1); S.I. 1996/778, art. 2(6); S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- C3** Pt. III applied (with modifications) (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), 2(4)(a)-(f)
- C4** Pt. III: power to transfer functions conferred (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), ss. 23, 28(3); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

## **CHAPTER I**

### CERTIFICATION

#### *Preliminary*

## **7 Issue of contracting-out and appropriate scheme certificates.**

- (1) Regulations shall provide for the <sup>F8</sup>... [<sup>F9</sup>Inland Revenue] to issue certificates stating—
- (a) that the employment of an earner in employed earner’s employment is contracted-out employment by reference to an occupational pension scheme;
- or

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- (b) that a personal pension scheme is an appropriate scheme; and in this Act a certificate under paragraph (a) is referred to as “a contracting-out certificate” and a certificate under paragraph (b) as “an appropriate scheme certificate”.
- (2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—
- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
  - (b) the occupational pension schemes by reference to which those employments are to be so treated.
- [<sup>F10</sup>(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—
- (a) at the end of a prescribed period beginning with that day, or
  - (b) if prescribed conditions are not satisfied at any time in that period,
- but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.
- (2B) In this Part, “the principal appointed day” means the day designated by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act]
- (3) An occupational pension scheme is a contracted-out scheme in relation to an earner’s employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.
  - (4) A personal pension scheme is an appropriate scheme if there is in force an appropriate scheme certificate issued <sup>F11</sup>... in accordance with this Chapter that it is such a scheme.
  - (5) An appropriate scheme certificate for the time being in force in relation to a scheme shall be conclusive that the scheme is an appropriate scheme.
  - (6) Regulations shall provide that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the [<sup>F12</sup>Inland Revenue].
  - (7) Except in prescribed circumstances, no contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the certificate is issued.

#### Textual Amendments

- F8** Word in s. 7(1) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by *Pensions Act 1995* (c. 26), s. 180(1), **Sch. 5 para. 22(a)**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F9** Words in s. 7(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by *Social Security Contributions (Transfer of Functions, etc.) Act 1999* (c. 2), s. 28(2)(a), **Sch. 1 para. 33**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F10** S. 7(2A)(2B) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by *Pensions Act 1995* (c. 26), **ss. 136(1), 180(1)**; S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5

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- F11** Words in s. 7(4) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 22(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F12** Words in s. 7(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 33**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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

- C5** S. 7(1)(a) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C6** S. 7(2) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C7** S. 7(7) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14

**Commencement Information**

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

**8 Meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”.**

- (1) The employment of an earner in employed earner’s employment is “contracted-out employment” in relation to him during any period in which he is under pensionable age and—
- (a) either—
- (i) [<sup>F13</sup>his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out scheme”)]
- (ii) his employer makes minimum payments in respect of his employment to an occupational pension scheme which is contracted-out by virtue of satisfying section 9(3) (in this Act referred to as “a money purchase contracted-out scheme”); and
- (b) there is in force a contracting-out certificate issued by the [<sup>F14</sup>Inland Revenue] in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

- (2) In this Act—

“guaranteed minimum pension” means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s [<sup>F15</sup>widow's, widower’s or surviving civil partner's] guaranteed minimum as determined for the purposes of those sections respectively; and

“minimum payment”, in relation to an earner’s employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in that week as exceeds the current lower earnings limit but not the current upper earnings limit (or the prescribed equivalents if he is paid otherwise than weekly);

[<sup>F16</sup>and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage for the purposes of [<sup>F17</sup>section 42A]].

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- (3) Regulations may make provision—
- (a) for the manner in which, and time at which or period within which, minimum payments are to be made;
  - (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;
  - (c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
  - (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
  - (e) for securing that liability is not avoided or reduced by the payment of earnings being made in accordance with any practice which is abnormal for the employment in respect of which the earnings are paid;
  - (f) without prejudice to paragraph (e), for enabling the [<sup>F18</sup>Inland Revenue], where [<sup>F18</sup>they are] satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;
  - (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
  - (h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.
- (4) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

<sup>F19</sup>(5) .....

#### Textual Amendments

- F13** S. 8(1)(a)(i) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 136(2)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5
- F14** Words in s. 8(1)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 34(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F15** Words in s. 8(2) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 1**
- F16** Words in s. 8(2) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 23(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F17** Words in s. 8(2) substituted (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 126**; S.I. 1999/418, art. 2(3)(a)
- F18** Words in s. 8(3)(f) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 34(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F19** S. 8(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 23(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### *General requirements for certification*

## 9 Requirements for certification of schemes: general.

- (1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner’s employment only if it satisfies subsection (2) or (3).
- (2) <sup>F20</sup>An occupational pension scheme satisfies this subsection only if—
  - (a) in relation to any earner’s service before the principal appointed day, it satisfies the conditions of subsection (2A), and
  - (b) in relation to any earner’s service on or after that day, it satisfies the conditions of subsection (2B).
- (2A) The conditions of this subsection are that—
  - (a) the scheme complies in all respects with sections 13 to 23 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and
  - (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.
- (2B) The conditions of this subsection are that the <sup>F21</sup>Inland Revenue<sup>F22</sup>are satisfied] that—
  - (a) the scheme complies with section 12A,
  - (b) restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,
  - (c) the scheme satisfies such other requirements as may be prescribed (which—
    - (i) must include requirements as to the amount of the resources of the scheme and,
    - (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and
  - (d) the scheme does not fall within a prescribed class or description,
 and <sup>F22</sup>are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.
- (2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.]
- (3) An occupational pension scheme satisfies this subsection only if—
  - (a) the requirements imposed by or by virtue of sections <sup>F23</sup>... 26 to 32 and such other requirements as may be prescribed are satisfied in its case
  - <sup>F24</sup>(aa) the <sup>F25</sup>Inland Revenue are] satisfied that the scheme does not fall within a prescribed class or description]; and
  - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.



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- (4) Where there are two or more occupational pension schemes in force in relation to an earner’s employment, none of which can by itself be a contracted-out scheme, the <sup>[F26]</sup>Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.
- (5) A personal pension scheme can be an appropriate scheme only if—
- (a) the requirements imposed by or by virtue of sections 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
  - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- <sup>[F27]</sup>(5A) Regulations about pension schemes made under this Chapter may contain provisions framed by reference to whether or not a scheme—
- (a) is approved under Chapter 1 (retirement benefit schemes) of Part 14 of the Income and Corporation Taxes Act 1988, or is a relevant statutory scheme within the meaning of that Chapter, or
  - (b) is approved under Chapter 4 (personal pension schemes) of that Part.]
- (6) In this section “relevant requirements” means—
- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out or, as the case may be, appropriate schemes; and
  - (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the <sup>[F28]</sup>Secretary of State] as a condition of contracting-out or, as the case may be, of being an appropriate scheme, either generally or in relation to a particular scheme.

#### Textual Amendments

- F20** S. 9(2)-(2C) substituted for s. 9(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 136(3)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), **Sch. Pt. V**
- F21** Words in s. 9(2B) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 35(2)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F22** Words in s. 9(2B) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 35(2)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F23** Words in s. 9(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 24**, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F24** S. 9(3)(aa) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 136(4)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5
- F25** Words in s. 9(3)(aa) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 35(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F26** Words in s. 9(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 35(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F27** S. 9(5A) inserted (1.7.2005) by [Pensions Act 2004 \(c. 35\)](#), **ss. 283**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(9)
- F28** Words in s. 9 substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 21**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

- C8** S. 9 excluded (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 149\(1\), 180\(1\)](#); [S.I. 1996/778](#), art. 2(6); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- C9** S. 9(2) excluded (6.4.1997) by [The Occupational Pension Schemes \(Mixed Benefit Contracted-out Schemes\) Regulations 1996 \(S.I. 1996/1977\)](#), regs. 1(1), **2(3)**
- C10** S. 9(2B) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **27**
- C11** S. 9(2B)(b) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **48(5)(d)**
- C12** S. 9(3) excluded (6.4.1997) by [The Occupational Pension Schemes \(Mixed Benefit Contracted-out Schemes\) Regulations 1996 \(S.I. 1996/1977\)](#), regs. 1(1), **2(3)**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

## 10 Protected rights and money purchase benefits.

- (1) Subject to <sup>F29</sup>the following provisions of this section], the protected rights of a member of a pension scheme are his rights to money purchase benefits under the scheme.
- (2) If the rules of an occupational pension scheme so provide, a member's protected rights are—
- (a) his rights under the scheme which derive from the payment of minimum payments <sup>F30</sup>and payments under section 42A(3)] together with any payments by the <sup>F31</sup>Inland Revenue] to the scheme under section 7 of the <sup>M1</sup>Social Security Act 1986 in respect of the member;
  - (b) any rights of the member to money purchase benefits which derive from protected rights under another occupational pension scheme or under a personal pension scheme which have been the subject of a transfer payment; and
  - (c) such other rights as may be prescribed.
- (3) If the rules of a personal pension scheme so provide, a member's protected rights are—
- (a) his rights under the scheme which derive from any payment of minimum contributions to the scheme; and
  - (b) any rights of his to money purchase benefits which derive from protected rights under another personal pension scheme or protected rights under an occupational pension scheme which have been the subject of a transfer payment; and
  - (c) such other rights as may be prescribed.
- <sup>F32</sup>(4) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), a member's rights under the scheme become subject to a pension debit, his protected rights shall exclude the appropriate percentage of the rights which were his protected rights immediately before the day on which the pension debit arose.
- (5) For the purposes of subsection (4), the appropriate percentage is—
- (a) if the order or provision on which the pension debit depends specifies the percentage value to be transferred, that percentage;

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- (b) if the order or provision on which the pension debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of subsection (1) of section 29 of the Welfare Reform and Pensions Act 1999 (lesser of specified amount and cash equivalent of transferor's benefits) represents of the amount mentioned in subsection (3)(b) of that section (cash equivalent of transferor's benefits).]

[<sup>F33</sup>(6) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), any liability of the scheme in respect of a member's protected rights ceases by virtue of a civil recovery order, his protected rights are extinguished or reduced accordingly.]

#### Textual Amendments

- F29** Words in s. 10(1) substituted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 32(2), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F30** Words in s. 10(2)(a) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 25; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F31** Words in s. 10(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), Sch. 1 para. 36; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F32** S. 10(4)(5) added (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 32(2), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F33** S. 10(6) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 11 para. 22(2); S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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

- C13** S. 10 modified (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), 2(2)(3)
- C14** S. 10(4)(5) applied (with effect in accordance with art. 1(2) of the amending S.S.I.) by SI 1992/129 Sch. 2 rule N6 (as inserted by The Firemens Pension Scheme (Pension Sharing on Divorce) (Scotland) Order 2001 (S.S.I. 2001/310), arts. 1(2), 3)
- C15** S. 10(4)(5) applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by SI 1995/365 reg. W6 (as inserted by The National Health Service (Scotland) (Superannuation Scheme and Additional Voluntary Contributions) (Pension Sharing on Divorce) Amendment Regulations 2001 (S.S.I. 2001/465), reg. 1(2), sch. 1 para. 3)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

#### Marginal Citations

- M1** 1986 c. 50.

## 11 Elections as to employments covered by contracting-out certificates.

- (1) Subject to the provisions of this Part, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise.

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- (2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.
- (4) If the [<sup>F34</sup>Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [<sup>F35</sup>they] may—
  - (a) refuse to give effect to any election made by him in relation to that scheme; or
  - (b) cancel any contracting-out certificate held by him in respect of it.
- (5) Regulations may make provision—
  - (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
  - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
    - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
    - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
    - (iii) to the trustees and managers of the scheme; and
    - (iv) to such other persons as may be prescribed;
  - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
  - (d) for empowering the [<sup>F36</sup>Inland Revenue] to refuse to give effect to an election made by an employer unless [<sup>F36</sup>they are] satisfied that he has complied with the requirements of the regulations;
  - (e) for referring to an industrial tribunal any question—
    - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
    - (ii) whether the requirements of the regulations as to consultation have been complied with.

#### Textual Amendments

- F34** Words in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F35** Word in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F36** Words in s. 11(5)(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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

- C16** S. 11 extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **12(3)**, 13(2), 14

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#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## 12 Determination of basis on which scheme is contracted-out.

- (1) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or (3) of section 9.
- (2) Where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of those subsections as the subsection by virtue of which they wish the scheme to be contracted-out.
- (3) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other except in prescribed circumstances.

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

**C17** S. 12 excluded (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 149\(1\), 180\(1\)](#); [S.I. 1996/778, art. 2\(6\)](#); [S.I. 1997/664, art. 2\(3\)](#), Sch. Pt. 2

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

*[<sup>F37</sup>Requirements for certification of occupational pension schemes applying from the principal appointed day of the Pensions Act 1995*

#### Textual Amendments

**F37** Ss. 12A-12D and cross-heading inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 136\(5\), 180\(1\)](#); [S.I. 1996/778, art. 2\(5\)\(a\)\(7\)](#), Sch. Pt. 5

## 12A The statutory standard

- (1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their [<sup>F38</sup>widows, widowers or surviving civil partners], satisfy the statutory standard.
- (2) Subject to regulations made by virtue of section 9(2B)(c)(ii), in applying this section regard must only be had to—
  - (a) earners in employed earner's employment, or
  - (b) their [<sup>F39</sup>widows, widowers or surviving civil partners],collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.
- (3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.

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- (4) Regulations may provide for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.
- (5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared from time to time by a prescribed body and approved by the Secretary of State.
- (6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of section 47 of the Pensions Act 1995) so certifies.

#### **Textual Amendments**

- F38** Words in s. 12A(1) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 2](#)
- F39** Words in s. 12A(2)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 2](#)

## **12B Reference scheme**

- (1) This section applies for the purposes of section 12A.
- (2) A reference scheme is an occupational pension scheme which—
  - (a) complies with each of subsections (3) and (4), and
  - (b) complies with any prescribed requirements.
- (3) In relation to earners employed in employed earner’s employment, a reference scheme is one which provides—
  - (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and
  - (b) for the annual rate of the pension at that age to be—
    - (i) 1/80th of average qualifying earnings in the last three tax years preceding the end of service,  
multiplied by
    - (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.
- (4) In relation to <sup>F40</sup>widows, widowers or surviving civil partners], a reference scheme is one which provides—
  - (a) for the <sup>F40</sup>widows, widowers or surviving civil partners] of earners employed in employed earner’s employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme, and

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- [<sup>F41</sup>(b) for entitlements to those pensions to commence on the day following the death of the earners, and
- (c) except in prescribed circumstances, for the annual rate of those pensions to be—
- (i) if the earners die on or after their normal pension age, 50 per cent. of the annual rate which a reference scheme was required to provide to the deceased earners immediately before their death, or
  - (ii) if the earners die before their normal pension age, 50 per cent. of the annual rate which a reference scheme would have been required to provide to the deceased earners if the date of their death had been their normal pension age, and
- (d) if those pensions are payable in respect of earners who die—
- (i) otherwise than in pensionable service under the scheme, and
  - (ii) before their own entitlements to pensions under the scheme have commenced,
- for those pensions to be revalued in accordance with section 84 as though they were such benefits as are mentioned in section 83(1)(a).]
- (5) For the purposes of this section, an earner's qualifying earnings in any tax year are 90 per cent. of the amount by which the earner's earnings—
- (a) exceed the qualifying earnings factor for that year, and
  - (b) do not exceed the upper earnings limit for that year multiplied by fifty-three.
- (6) Regulations may modify subsections (2) to (5).
- (7) In this section—
- “normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),
- “qualifying earnings factor”, in relation to a tax year, has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992, and
- “upper earnings limit”, in relation to a tax year, means the amount specified for that year by regulations made by virtue of section 5(3) of that Act as the upper earnings limit for Class 1 contributions.

#### Textual Amendments

- F40** Words in s. 12B(4) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 3](#)
- F41** Ss. 12B(4)(b)-(d) substituted for s. 12B(4)(b) (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), 2

## 12C Transfer, commutation, etc

- (1) Regulations may prohibit or restrict—
- (a) the transfer of any liability—
    - (i) for the payment of pensions under a relevant scheme, or

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- (ii) in respect of accrued rights to such pensions,
  - (b) the discharge of any liability to provide pensions under a relevant scheme, or
  - (c) the payment of a lump sum instead of a pension payable under a relevant scheme,
- except in prescribed circumstances or on prescribed conditions.
- (2) In this section “relevant scheme” means a scheme contracted out by virtue of section 9(2B) of this Act and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day.
- (3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.

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

- C18** S. 12C applied (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **58(5)(6)**
- C19** S. 12C(1) extended (with modifications) (6.4.1997) by [The Occupational Pension Schemes \(Discharge of Liability\) Regulations 1997 \(S.I. 1997/784\)](#), regs. 1(1), **11(3)(e)(6)**

**12D Entitlement to benefit**

In the case of a scheme contracted out by virtue of section 9(2B) of this Act, regulations may make provision as to the ages by reference to which benefits under the scheme are to be paid]

*Requirements for certification of occupational pension schemes providing guaranteed minimum pensions*

**13 Minimum pensions for earners.**

- (1) Subject to the provisions of this Part, the scheme must—
- (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
  - (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.
- (2) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the <sup>M2</sup>Social Security Contributions and Benefits Act 1992, subject to the provisions of this Part, the scheme must—
- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age<sup>F42</sup>...; and
  - (b) satisfy such other conditions as may be prescribed.
- (3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.



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- (4) Subject to subsection (5), the scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.
- (5) The scheme must provide for the earner's consent to be required—
- (a) for any such postponement by virtue of employment to which the scheme does not relate; and
  - (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.
- (6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.
- (7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—
- (a) was for him non-participating employment under that legislation; and
  - (b) was not on its termination the subject of any payment in lieu of contributions; but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.
- (8) In this section “the former legislation” means Part III of the <sup>M3</sup>National Insurance Act 1965 and the previous corresponding enactments.

#### Textual Amendments

- F42** Words in s. 13(2)(a) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 26, Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

#### Marginal Citations

- M2** [1992 c. 4.](#)  
**M3** [1965 c. 51.](#)

## 14 Earner's guaranteed minimum.

- (1) An earner has a guaranteed minimum in relation to the pension provided by a scheme if in any tax week in a relevant year, earnings in excess of the current lower earnings limit (or the prescribed equivalent if he is paid otherwise than weekly) have been paid to or for his benefit in respect of employment which is contracted-out by reference to the scheme.
- (2) Subject to section 15(1), the guaranteed minimum shall be the weekly equivalent of an amount equal to the appropriate percentage of the total of the earner's earnings factors for the relevant years, so far as derived from earnings such as are mentioned in subsection (1) upon which primary Class 1 contributions have been paid or treated as paid.
- [<sup>F43</sup>(2A) Where any liability of a scheme in respect of an earner's guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.]

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- <sup>F44</sup>(3) .....
- (4) Where the amount of a person’s earnings for any period is relevant for any purpose of subsection (1) or (2) and the [<sup>F45</sup>Inland Revenue are] satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, [<sup>F46</sup>they] may for that purpose—
- (a) compute, in such manner as [<sup>F46</sup>they][<sup>F47</sup>think] fit, an amount which shall be regarded as the amount of those earnings; or
  - (b) take their amount to be such sum as [<sup>F46</sup>he][<sup>F46</sup>they] may specify in the particular case.
- (5) In subsection (2) the “appropriate percentage” means—
- (a) in respect of the earner’s earnings factors for any tax year not later than the tax year 1987-88—
    - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;
    - (ii) in any other case 25/N per cent.;
  - (b) in respect of the earner’s earnings factors for the tax year 1988-89 and for subsequent tax years—
    - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
    - (ii) in any other case 20/N per cent.;
- where N is the number of years in the earner’s working life (assuming he will attain pensionable age) which fall after 5th April 1978.
- (6) Regulations may prescribe rules as to the circumstances in which earnings factors are derived from earnings for the purposes of subsection (2).
- (7) For the purposes of subsection (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52.
- (8) In this section “relevant year” means any tax year in the earner’s working life (not being earlier than the tax year 1978-79 [<sup>F48</sup>or later than the tax year ending immediately before the principal appointed day]).

#### Textual Amendments

- F43** S. 14(2A) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 22\(3\)](#); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- F44** S. 14(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 27\(a\)](#), [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)
- F45** Words in s. 14(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 38\(a\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F46** Word in s. 14(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 38\(b\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F47** Word in s. 14(4)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 38\(c\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F48** Words in s. 14(8) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 27\(b\)](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)

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

- C20** S. 14(1) applied (with modifications) (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), **6(4)**
- C21** S. 14(2) modified (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **36(1)**

#### **Commencement Information**

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

### **15 Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.**

- (1) Where in accordance with section 13(4) the commencement of an earner's guaranteed minimum pension is postponed for any period and there are at least seven complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by one-seventh per cent.—
- (a) of the amount of that minimum apart from this subsection; or
- (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.
- (2) In subsection (1) “week” means any period of seven consecutive days.
- (3) Where an earner's guaranteed minimum is increased under subsection (1), the increase of that part of it which is attributable to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.
- (4) Where one or more orders have come into force under section 109 during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the guaranteed minimum for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.

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

- C22** S. 15: sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1999 \(S.I. 1999/264\)](#), **art. 5** (which amending S.I. is revoked (1.4.2000) by [S.I. 2000/440](#), art. 24)
- C23** S. 15 applied (6.4.2005) by [The Armed Forces Pension Scheme Order 2005 \(S.I. 2005/438\)](#), art. 1, **Sch. 1 rule D.17(5)**
- C24** S. 15(1) sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1994 \(S.I. 1994/542\)](#), arts. 1(2)(d), **5** (which amending S.I. is revoked (1.4.1995) by [S.I. 1995/559](#), art. 24)
- C25** S. 15(1) sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1995 \(S.I. 1995/559\)](#), arts. 1(2)(d), **5** (which amending S.I. is revoked (1.4.1996) by [S.I. 1996/599](#), art. 24)
- C26** S. 15(1) sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1996 \(S.I. 1996/599\)](#), arts. 1(2)(d), **5**
- C27** S. 15(1): sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1997 \(S.I. 1997/543\)](#), arts. 1(2)(d), **5** (which amending S.I. is revoked (1.4.1998) by [S.I. 1998/470](#), art. 27)

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- C28** S. 15(1): sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 1998 \(S.I. 1998/470\)](#), arts. 1(2)(d), **5** (which amending S.I. is revoked (1.4.1999) by [S.I. 1999/264](#), art. 27)
- C29** S. 15(1): sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2000 \(S.I. 2000/440\)](#), arts. 1(2)(c), **5** (which amending S.I. is revoked (1.4.2001) by [S.I. 2001/207](#), art. 24)
- C30** S. 15(1): sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up-rating \(No. 2\) Order 2000 2001 \(S.I. 2001/207\)](#), arts. 1(2)(c), **5** (which amending S.I. is revoked (1.4.2002) by [S.I. 2002/668](#), art. 24)
- C31** S. 15(1): sums amended (with effect in accordance with arts. 1(3), 6 of the amending S.I.) by [The Social Security Benefits Up Rating Order 2002 \(S.I. 2002/668\)](#), arts. 1(2)(c), **5** (which amending S.I. is revoked (1.4.2003) by [S.I. 2003/526](#), art. 26)
- C32** S. 15(1) modified (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), **5**
- C33** S. 15(1) modified (with effect in accordance with art. 1(3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), **5**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### [<sup>F49</sup>15A Reduction of guaranteed minimum in consequence of pension debit.

- (1) Where—
  - (a) an earner has a guaranteed minimum in relation to the pension provided by a scheme, and
  - (b) his right to the pension becomes subject to a pension debit,
 his guaranteed minimum in relation to the scheme is, subject to subsection (2), reduced by the appropriate percentage.
- (2) Where the earner is in pensionable service under the scheme on the day on which the order or provision on which the pension debit depends takes effect, his guaranteed minimum in relation to the scheme is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.
- (3) For the purposes of subsection (2), the corresponding qualifying benefit is the guaranteed minimum taken for the purpose of calculating the cash equivalent by reference to which the amount of the pension debit is determined.
- (4) For the purposes of this section the appropriate percentage is—
  - (a) if the order or provision on which the pension debit depends specifies the percentage value to be transferred, that percentage;
  - (b) if the order or provision on which the pension debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of subsection (1) of section 29 of the Welfare Reform and Pensions Act 1999 (lesser of specified amount and cash equivalent of transferor's benefits) represents of the amount mentioned in subsection (3)(b) of that section (cash equivalent of transferor's benefits).]

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### Textual Amendments

- F49** S. 15A inserted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 32(3), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

### Modifications etc. (not altering text)

- C34** S. 15A applied (with effect in accordance with art. 1(2) of the amending S.S.I.) by SI 1992/129 Sch. 2 rule N6 (as inserted by The Firemens Pension Scheme (Pension Sharing on Divorce) (Scotland) Order 2001 (S.S.I. 2001/310), arts. 1(2), 3)
- C35** S. 15A applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365), reg. W6 (as inserted by S.S.I. 2001/465, reg. 1(2), sch. 1 para. 3)

## 16 Revaluation of earnings factors for purposes of s. 14: early leavers etc.

- (1) Subject to subsection (2), for the purpose of section 14(2) the earner's earnings factor for any relevant year (so far as derived as mentioned in that section) shall be taken to be that factor as increased by the same percentage as that prescribed for the increase of that factor by the last order under section 21 of the <sup>M4</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M5</sup>Social Security Administration Act 1992 to come into force before the end of the final relevant year.
- (2) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before the final relevant year shall be determined for the purposes of section 14(2) by reference to the last such order to come into force before the end of the tax year in which that service ends ("the last service tax year").
- (3) Where a scheme provides as mentioned in subsection (2) the scheme shall provide for the weekly equivalent mentioned in section 14(2) to be increased by at least [<sup>F50</sup>the prescribed percentage for each relevant year after the last service tax year; and the provisions included by virtue of this subsection may also conform with such additional requirements as may be prescribed].
- (4) Except in such cases or classes of case as may be prescribed, the provision made by virtue of subsections (2) and (3) must be the same for all members of the scheme.
- (5) In this section—
  - [<sup>F51</sup>"relevant year" means any tax year in the earner's working life,]
  - [<sup>F52</sup>"final relevant year" means the last tax year in the earner's working life].

### Textual Amendments

- F50** Words in s. 16(3) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 28(a); S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 3)
- F51** Words in s. 16(5) substituted (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 2 para. 4; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. 2
- F52** Words in s. 16(5) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 28(b); S.I. 1997/664, art. 2(3), Sch. Pt. 2

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

- C36** S. 16 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **65**, **66**
- C37** S. 16(1) applied (with modifications) (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), **6(5)**
- C38** S. 16(2) applied (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), **6(6)**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

#### Marginal Citations

- M4** 1975 c. 60.  
**M5** 1992 c. 5.

### 17 Minimum pensions for widows and widowers.

- (1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a [<sup>F53</sup>widow, widower or surviving civil partner] (whether before or after attaining pensionable age), the [<sup>F53</sup>widow, widower or surviving civil partner] will be entitled to a guaranteed minimum pension under the scheme.
- (2) The scheme must contain a rule to the effect that—
  - (a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow's pension will be not less than the widow's guaranteed minimum;
  - (b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower's pension will be not less than the widower's guaranteed minimum;
  - [<sup>F54</sup>(c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner's pension will not be less than the surviving civil partner's guaranteed minimum.]
- (3) The widow's guaranteed minimum shall be half that of the earner.
- (4) The widower's [<sup>F55</sup>or surviving civil partner's] guaranteed minimum shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.
- [<sup>F56</sup>(4A) [<sup>F57</sup>Subject to subsection (4B)] the scheme must provide for the [<sup>F58</sup>widow's, widower's or surviving civil partner's] pension to be payable to the [<sup>F59</sup>widow, widower or surviving civil partner]—
  - (a) for any period for which a Category B retirement pension is payable to the [<sup>F59</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions or would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension);
  - (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the [<sup>F59</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions; and
  - (c) in the case of a [<sup>F59</sup>widow, widower or surviving civil partner] whose entitlement by virtue of the earner's contributions to a widowed parent's

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allowance or bereavement allowance has come to an end at a time after the [F59 widow, widower or surviving civil partner] attained the age of 45, for so much of the period beginning with the time when the entitlement came to an end as neither—

[ comprises a period during which the widow, widower or surviving F60 (i) civil partner and—

(a) a person of the opposite sex are living together as husband and wife; or

(b) a person of the same sex are living together as if they were civil partners; nor

(ii) falls after the time of any—

(a) marriage; or

(b) formation of a civil partnership,

by the widow or widower or surviving civil partner which takes place after the earner's death.]

[ Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner F61 (4B) dies before 5th December 2005.]

(5) The scheme [F62 must also make provision] for the widow's pension to be payable to her for any period for which a F63 ... widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions F63 ....

(6) The scheme [F64 must also make provision] for the [F65 widower's or surviving civil partner's pension to be payable] in the prescribed circumstances and for the prescribed period.

(7) The trustees or managers of the scheme shall supply to the [F66 Inland Revenue] any such information as [F66 the Inland Revenue] may require relating to the payment of pensions under the scheme to [F67 widows, widowers or surviving civil partners].

[ Where—

F68 (8) (a) a lump sum is paid to an earner under provisions included in a scheme by virtue of section 21(1), and

(b) those provisions are of a prescribed description,

the earner shall be treated for the purposes of this section as having any guaranteed minimum under section 14 that he would have had but for that payment.]

[ For the purposes of subsection (4A), two people of the same sex are to be regarded as F69 (9) living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]]

#### Textual Amendments

**F53** Words in s. 17(1) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 4(a)**

**F54** S. 17(2)(c) added (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 4(b)**

**F55** Words in s. 17(4) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 4(c)**

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- F56** S. 17(4A) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(1)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F57** Words in s. 17(4A) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(i)**
- F58** Words in s. 17(4A) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(ii)**
- F59** Words in s. 17(4A) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(iii)**
- F60** S. 17(4A)(c)(i)(ii) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(iv)**
- F61** S. 17(4B) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(e)**
- F62** Words in s. 17(5) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(2)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F63** Words in s. 17(5) repealed (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(2)(b)**, **Sch. 9 Pt. III(4)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F64** Words in s. 17(6) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F65** Words in s. 17(6) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(f)**
- F66** Words in s. 17(7) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 39**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)
- F67** Words in s. 17(7) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(g)**
- F68** S. 17(8) inserted (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(2)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), **Sch. Pt. 2**
- F69** S. 17(9) added (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(h)**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 18 Treatment of insignificant amounts.

- (1) Where an amount is required to be calculated in accordance with the provisions of sections 14(7), 15(1) or 17(2), (3) or (4) and, apart from this subsection, the amount so calculated is less than 0.5p, then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking 0.5p as nearest to the next whole penny above.
- (2) Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988-89 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by—



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- (a) applying subsection (1) separately to the amount attributable to the period before the tax year 1988-89 and to the amount attributable to that and subsequent tax years, and
- (b) aggregating the two amounts so calculated.

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

### 19 Discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts.

- (1) A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person guaranteed minimum pensions—
  - (a) if it is carried out not earlier than the time when that person's pensionable service terminates; and
  - (b) if and to the extent that it results in guaranteed minimum pensions for or in respect of that person being appropriately secured; and
  - (c) if and to the extent that the requirements set out in paragraph (a), (b) or (c) of subsection (5) are satisfied.
- (2) This section applies to the following transactions—
  - (a) the taking out of a policy of insurance or a number of such policies;
  - (b) the entry into an annuity contract or a number of such contracts;
  - (c) the transfer of the benefit of such a policy or policies or such a contract or contracts.
- (3) In this section “appropriately secured” means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract.
- (4) A policy of insurance or annuity contract is appropriate for the purposes of this section if—
  - (a) the [<sup>F70</sup>insurer] with which it is or was taken out or entered into—
    - (i) is, or was at the relevant time, carrying on <sup>F71</sup>... long-term insurance business in the United Kingdom or any other member State; and
    - (ii) satisfies, or at the relevant time satisfied, prescribed requirements; and
  - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed; and
  - (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed; and
  - (d) it satisfies such other requirements as may be prescribed.
- (5) The requirements referred to in subsection (1) are—
  - (a) that the arrangement for securing the amount by means of the policy or contract was made—

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- (i) at the written request of the earner or, if the earner has died, of the earner’s [<sup>F72</sup>widow, widower or surviving civil partner]; or
  - (ii) with the consent of the earner or the [<sup>F73</sup>widow, widower or surviving civil partner] given in writing in a prescribed form;
  - (b) that—
    - (i) the case is one such as is mentioned in section 96(2); and
    - (ii) the policy or contract only secures guaranteed minimum pensions;
  - (c) that—
    - (i) the case is not one such as is mentioned in section 96(2); and
    - (ii) such conditions as may be prescribed are satisfied.
- (6) In subsection (4)(a), “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.

<sup>F74</sup>(7) .....

#### **Textual Amendments**

- F70** Word in s. 19(4)(a) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **116(2)(a)**
- F71** Word in s. 19(4)(a)(i) repealed (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **116(2)(b)**
- F72** Words in s. 19(5)(a)(i) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 5**
- F73** Words in s. 19(5)(a)(ii) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 5**
- F74** S. 19(7) repealed (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **116(3)**

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

- C39** S. 19 applied (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **58(5)(6)**

#### **Commencement Information**

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

## **20 Transfer of accrued rights.**

- (1) Regulations may prescribe circumstances in which and conditions subject to which—
- (a) a transfer of or a transfer payment in respect of—
    - (i) an earner’s accrued rights to guaranteed minimum pensions under a contracted-out scheme;
    - (ii) an earner’s accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or

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- (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them, may be made by an occupational pension scheme to another such scheme [<sup>F75</sup>, to a personal pension scheme or to an overseas arrangement];
- (b) a transfer of or a transfer payment in respect of an earner's accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 19 may be made to an occupational pension scheme [<sup>F76</sup>, a personal pension scheme or an overseas arrangement].
- (2) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.
- (3) Regulations under subsection (1) may provide that any provision of this Part (other than sections 18, 19 and 43 to 45, and sections 26 to 33 so far as they apply to personal pension schemes) or of Chapter III of Part IV or Chapter II of Part V shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.
- (4) Regulations under subsection (1) shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.
- (5) The power conferred by subsection (1) is without prejudice to the generality of section 182(2).
- (6) In the provisions mentioned in subsection (3) "accrued rights", in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for the earner and the earner's [<sup>F77</sup>widow, widower or surviving civil partner] in accordance with sections 13 and 17, and references to an earner's accrued rights to guaranteed minimum pensions shall be construed accordingly.

#### Textual Amendments

- F75** Words in s. 20(1)(a) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(1)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F76** Words in s. 20(1)(b) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(1)(b)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F77** Words in s. 20(6) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 6**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 21 Commutation, surrender and forfeiture.

- [<sup>F78</sup>(1) A scheme may, in such circumstances and subject to such restrictions and conditions as may be prescribed, provide for the payment of a lump sum instead of a pension required to be provided by the scheme in accordance with section 13 or 17.]
- (2) Neither section 13 nor section 17 shall preclude a scheme from providing for the earner's or the earner's [<sup>F79</sup>widow's, widower's or surviving civil partner's] guaranteed

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minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

#### Textual Amendments

**F78** S. 21(1) substituted (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), ss. 284(1), 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2

**F79** Words in s. 21(2) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), Sch. 1 para. 7

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

**C40** S. 21 applied (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, 58(5)(6)

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## <sup>F80</sup>22 Financing of benefits.

.....

#### Textual Amendments

**F80** S. 22 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 30, Sch. 7 Pt. III; S.I. 1997/664, art. 2(3), Sch. Pt. 2

## 23 Securing of benefits.

<sup>F81</sup>(1) .....

(2) Subject to subsection (3), the scheme must contain a rule by which any liabilities of the scheme in respect of—

- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (b) any such benefits as are excluded by section 13(6) from earners’ guaranteed minimum pensions;
- (c) pensions and other benefits (whether or not within paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and
- (d) state scheme premiums,

are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect.

(3) The rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which—

- (a) he will be entitled on ceasing to be in employment, or
- (b) the earner’s [<sup>F82</sup>widow, widower or surviving civil partner] or any dependant of the earner’s will be entitled on the earner’s death.

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(4) Subsections [F83(2) and (3)] do not apply to public service pension schemes.

F84(5) .....

(6) Subsections (2) and (3) do not apply to schemes falling within any category or description prescribed as being exempt from the requirements of those subsections.

(7) If the scheme provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, it must make provision so that there may be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

**Textual Amendments**

**F81** S. 23(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 31(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F82** Words in s. 23(3)(b) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 8**

**F83** Words in s. 23(4) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 31(b)**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F84** S. 23(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 31(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

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

**C41** S. 23(2)(3) excluded (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 31**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**Commencement Information**

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

**F85 24 Sufficiency of resources.**

.....

**Textual Amendments**

**F85** S. 24 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 32, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

*Discretionary requirements*

**25 Power for Board to impose conditions as to investments and resources.**

F86(1) .....

[F87(2) A salary related contracted-out scheme must, in relation to any earner’s service before the principal appointed day, comply with any requirements prescribed for the purpose of securing that—

- (a) the [F88Inland Revenue are] kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme, and

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- (b) the resources of the scheme are brought to and are maintained at a level satisfactory to the [<sup>F89</sup>Inland Revenue]]

<sup>F90</sup>(3) .....

#### Textual Amendments

- F86** S. 25(1) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 33(a), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F87** S. 25(2) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 33(b)**; [S.I. 1996/778](#), art. 2(5)(a), Sch. Pt. 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F88** Words in s. 25(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 40(a)**; [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F89** Words in s. 25(2)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 40(b)**; [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F90** S. 25(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 33(a), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

*Requirements for certification of occupational and personal money purchase schemes*

## 26 Persons who may establish scheme.

The Secretary of State may prescribe descriptions of persons by whom or bodies by which the scheme may be established and, if he does so, the scheme may only be established by a person or body of a prescribed description.

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

## 27 Identification and valuation of protected rights.

- (1) Where the rules of the scheme make such provision as is mentioned in section 10(2) or (3), they must also make provision for the identification of the protected rights.
- (2) The value of such protected rights as are mentioned in section 10(2) or (3) must be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated.
- (3) Subject to subsection (2), the value of protected rights must be calculated and verified in such manner as may be prescribed.

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 28 Ways of giving effect to protected rights.

(1) The rules of the scheme must provide for effect to be given to the protected rights of a member—

(a) in any case where subsection (3) so requires, by the purchase of such an annuity as is mentioned in that subsection, and

<sup>F91</sup>(aa) .....

(b) in any other case, in such of the ways [<sup>F92</sup>provided for] by the following subsections as the rules may specify,

and they must not provide for any part of a member's protected rights to be discharged otherwise than in accordance with those subsections.

(1A) [<sup>F93</sup>Where the scheme is a personal pension scheme which provides for the member to elect to receive payments in accordance with this subsection, and the member so elects, effect shall be given to his protected rights during the interim period by the making of payments under an interim arrangement which—

(a) complies with section 28A, and

(b) satisfies such conditions as may be prescribed;

and in such a case subsections (2) to (4) accordingly apply as regards giving effect to his protected rights as from the end of that period.]

(2) Effect may be given to protected rights—

(a) by the provision by the scheme of a pension which—

(i) complies with the pension requirements (within the meaning of section 29(1)), and

(ii) satisfies such conditions as may be prescribed; or

(b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment—

(i) in the case of an occupational pension scheme, to another occupational pension scheme [<sup>F94</sup>, to a personal pension scheme or to an overseas arrangement], and

(ii) in the case of a personal pension scheme, to another personal pension scheme [<sup>F95</sup>, to an occupational pension scheme or to an overseas arrangement],

where the scheme to which the payment is made satisfies such requirements as may be prescribed.

(3) Subject to subsections (5) and (7), if—

(a) the rules of the scheme do not provide for a pension; or

(b) the member [<sup>F96</sup>or, where section 28A(2) applies, the member's [<sup>F97</sup>widow, widower or surviving civil partner]] so elects,

then, except to the extent that effect is given to protected rights in accordance with subsection [<sup>F98</sup>(1A)][<sup>F99</sup>or (4)], effect shall be given to them by the purchase by the scheme of an annuity which—

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- (i) complies with the annuity requirements (within the meaning of section 29(3)), and
  - (ii) satisfies such conditions as may be prescribed.
- (4) Effect may be given to protected rights by the provision of a lump sum [<sup>F100</sup>, subject to such restrictions as may be prescribed,] if—
  - (a) [<sup>F101</sup>the lump sum is payable on a date which is—
    - (i) in the case of an occupational pension scheme, a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of [<sup>F102</sup>65 or such later date as has been agreed by him, or
    - (ii) in the case of a personal pension scheme, where the member has elected to receive payments under an interim arrangement, the date by reference to which the member elects to terminate that arrangement, and otherwise such date as has been agreed by him and is not earlier than his 60th birthday nor later than his 75th birthday.]]
  - (b) [<sup>F101</sup>the annual rate of a pension under subsection (2) or an annuity under subsection (3) giving effect to the protected rights and commencing on the date on which the lump sum is payable would not exceed the prescribed amount;]
  - (c) the circumstances are such as may be prescribed; and
  - [<sup>F103</sup>(d) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given.]] [<sup>F104</sup>; and
  - (e) such other conditions as may be prescribed are satisfied.]
- [<sup>F105</sup>(4A) [<sup>F106</sup>Subject to subsection (4B), in the case of an occupational pension scheme, effect may be given to protected rights by the provision of a lump sum if—
  - (a) the trustees or managers of the scheme are satisfied that the member is terminally ill and likely to die within the period of twelve months beginning with the date on which the lump sum becomes payable; and
  - (b) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given.]
- (4B) [<sup>F106</sup>The value of the protected rights to which effect may be given under subsection (4A) in a case in which the member is [<sup>F107</sup>married or a civil partner] on the date on which the lump sum becomes payable shall not exceed one half of the value on that date of all the member’s protected rights.]]
- (5) If the member has died without effect being given to protected rights under subsection [<sup>F108</sup>(1A)] (2), (3) [<sup>F109</sup>or (4)], effect may be given to them in such manner as may be prescribed.
- (6) No transaction is to be taken to give effect to protected rights unless it falls within this section.
- [<sup>F110</sup>(7) .....
- [<sup>F111</sup>(8) In this section and sections 28A, 28B and 29—
  - “the interim period” means the period beginning with the starting date in relation to the member in question and ending with the termination date;
  - “the starting date” means the date[<sup>F112</sup>, which must not be earlier than the member’s 60th birthday,] by reference to which the member elects to begin to receive payments under the interim arrangement;



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“the termination date” means the date by reference to which the member (or, where section 28A(2) applies, the member’s [<sup>F113</sup>widow, widower or surviving civil partner]) elects to terminate the interim arrangement, and that date must be not later than—

- (i) the member’s 75th birthday, or
- (ii) where section 28A(2) applies, the earlier of the member’s [<sup>F114</sup>widow's, widower’s or surviving civil partner's] 75th birthday and the 75th anniversary of the member’s birth.]

[<sup>F115</sup>(9) This section is subject to section 32A]

### Textual Amendments

- F91** S. 28(1)(aa) repealed (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 2 para. 5(2)(a), **Sch. 13 Pt. I**; S.I. 2001/4049, art. 2(1)(a)
- F92** Words in s. 28(1)(b) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(2)(b)**; S.I. 2001/4049, art. 2(1)(a)
- F93** S. 28(1A) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(3)**; S.I. 2001/4049, art. 2(1)(a)
- F94** Words in s. 28(2)(b)(i) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(2)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F95** Words in s. 28(2)(b)(ii) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(2)(b)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F96** Words in s. 28(3)(b) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 142(4)(a)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F97** Words in s. 28(3)(b) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 9(a)**
- F98** Words in s. 28(3) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(4)**; S.I. 2001/4049, art. 2(1)(a)
- F99** Words in s. 28(3) substituted (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(5)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F100** Words in s. 28(4) inserted (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(3)(a)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F101** S. 28(4)(a)(b) repealed (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(3)(b)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F102** Words in s. 28(4)(a) substituted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 142(5)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F103** S. 28(4)(d) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 3(2)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(iii)
- F104** S. 28(4)(e) and word inserted (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(3)(c)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F105** S. 28(4A)(4B) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 3(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(iii)
- F106** S. 28(4A)(4B) repealed (1.7.2005 for specified purposes) by Pensions Act 2004 (c. 35), **ss. 284(4)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2

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- F107** Words in s. 28(4B) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 9(b)**
- F108** Word in s. 28(5) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 142(6)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F109** Words in s. 28(5) substituted (1.7.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), **ss. 284(5)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F110** S. 28(7) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 34(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F111** S. 28(8) added (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 142(7)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F112** Words in s. 28(8) repealed (1.7.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), **ss. 284(6)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F113** Words in s. 28(8) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 9(c)(i)**
- F114** Words in s. 28(8) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 9(c)(ii)**
- F115** S. 28(9) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 146(2)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2

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

- C42** S. 28 extended (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(1), **3(7)**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### [<sup>F116</sup>28A Requirements for interim arrangements

- (1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member's [<sup>F117</sup>widow, widower or surviving civil partner], throughout the interim period, at intervals not exceeding twelve months.
- (2) This subsection applies where the member dies during the interim period and is survived by a [<sup>F118</sup>widow, widower or surviving civil partner] who at the date of the member's death has not yet attained the age of 75 years.
- (3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be—
  - (a) greater than the annual amount of the annuity which would have been purchasable by him on the relevant reference date, or
  - (b) less than the prescribed percentage of that amount.
- (4) The percentage prescribed under subsection (3)(b) may be zero.
- (5) For the purposes of this section—
  - (a) the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner by reference to—
    - (i) the value on that date, determined by or on behalf of the trustees or managers of the scheme, of the person's protected rights, and

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- (ii) the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary for the purposes of this section, and
- (b) the relevant reference date is—
  - (i) in relation to payments made to the member during the three years beginning with the member’s starting date, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question, or
  - (ii) where subsection (2) applies, in relation to payments made to the member’s <sup>F119</sup>widow, widower or surviving civil partner] during the three years beginning with the date of the member’s death, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question.

#### Textual Amendments

- F116** Ss. 28A, 28B inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 143, 180(1)**; S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F117** Words in s. 28A(1) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 10**
- F118** Words in s. 28A(2) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 10**
- F119** Words in s. 28A(5)(b)(ii) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 10**

## 28B Information about interim arrangements

- (1) The trustees or managers of a personal pension scheme must, if required to do so by the <sup>F120</sup>Inland Revenue], produce any document relevant to—
  - (a) the level of payments made under any interim arrangement, or
  - (b) the value of protected rights to which such an arrangement gives effect, or otherwise connected with the making of payments under such an arrangement.
- (2) In this section, “document” includes information recorded in any form, and the reference to the production of a document, in relation to information recorded otherwise than in legible form, is a reference to producing a copy of the information in legible form.]

#### Textual Amendments

- F116** Ss. 28A, 28B inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 143, 180(1)**; S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F120** Words in s. 28B(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 41**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 30/12/2005.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Pension Schemes Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## 29 The pension and annuity requirements.

- (1) For the purposes of section 28 a pension complies with the pension requirements if—
- <sup>F121</sup>(a) in the case of an occupational pension scheme it commences on a <sup>F122</sup>date that is not later than the member’s 65th birthday, or on] such later date as has been agreed by him, and continues until the date of his death, or
  - (aa) in the case of a personal pension scheme—
    - (i) where the member has elected under section 28(1A) to receive payments under an interim arrangement, it commences on the termination date, and continues until the date of the member’s death or, where section 28A(2) applies, until the death of the member’s widow or widower, or
    - (ii) otherwise, it commences on such a date as has been agreed by the member <sup>F123</sup>... and continues until the date of his death;]
  - (b) in a case where the member dies while it is payable to him and is survived by a <sup>F124</sup>widow, widower or surviving civil partner]—
    - (i) it is payable to the <sup>F124</sup>widow, widower or surviving civil partner] in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
    - (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in <sup>F125</sup>the prescribed manner] is provided in lieu of it.
- (2) As respects the period of 5 years beginning with the commencement of the pension referred to in subsection (1), that subsection shall have effect in relation to that pension as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).
- (3) For the purposes of section 28 an annuity complies with the annuity requirements if—
- (a) it satisfies the requirements mentioned in subsections (1) and (2) (taking the references in those subsections to pensions as references to annuities); and
  - (b) it is provided by an <sup>F126</sup>insurer] which—
    - (i) satisfies prescribed conditions;
    - (ii) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and
    - (iii) subject to subsection (4), has been chosen by the member <sup>F127</sup>or, where section 28A(2) applies, the member’s <sup>F128</sup>widow, widower or surviving civil partner]].
- (4) A member <sup>F129</sup>(or a member’s <sup>F130</sup>widow, widower or surviving civil partner)]) is only to be taken to have chosen an <sup>F131</sup>insurer] if he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the <sup>F131</sup>insurer] instead.

*Status: Point in time view as at 30/12/2005.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Pension Schemes Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F121** S. 29(1)(a)(aa) substituted for s. 29(1)(a) (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 144\(2\)](#), 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F122** Words in s. 29(1)(a) substituted (1.7.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), [ss. 284\(7\)\(a\)](#), 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F123** Words in s. 29(1)(aa)(ii) repealed (1.7.2005 for specified purposes) by [Pensions Act 2004 \(c. 35\)](#), [ss. 284\(7\)\(b\)](#), 322(1), [Sch. 13](#) (with s. 313); S.I. 2005/1720, art. 2(15)(a), Sch. Pt. 2
- F124** Words in s. 29(1)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 11](#)
- F125** Words in s. 29(1)(b)(ii) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 35](#); S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F126** Word in s. 29(3)(b) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [117\(2\)](#)
- F127** Words in s. 29(3)(b)(iii) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 144\(3\)](#), 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F128** Words in s. 29(3)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 11](#)
- F129** Words in s. 29(4) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 144\(4\)](#), 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F130** Words in s. 29(4) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 11](#)
- F131** Word in s. 29(4) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [117\(3\)](#)

### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 30 Securing of liability for protected rights.

- (1) The [<sup>F132</sup>Inland Revenue] must be satisfied that the scheme complies with any such requirements as may be prescribed for meeting the whole or a prescribed part of any liability in respect of protected rights under the scheme which the scheme is unable to meet from its own resources—
- by reason of the commission by any person of a criminal offence;
  - in such other circumstances as may be prescribed.
- (2) Subsection (1) does not apply to a public service pension scheme.

### Textual Amendments

- F132** Words in s. 30(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 42](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 30/12/2005.*

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 31 Investment and resources of schemes.

<sup>F133</sup>(1) .....

(2) The scheme must comply with such requirements as may be prescribed as regards the part—

- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;
- (b) of any income or capital gain arising from the investment of such a payment; or
- (c) of the value of rights under the scheme,

that may be used—

- (i) to defray the administrative expenses of the scheme;
- (ii) to pay commission; or
- (iii) in any other way which does not result in the provision of benefits for or in respect of members.

(3) Subject to subsection (4)—

(a) in the case of an occupational pension scheme, all minimum payments [<sup>F134</sup>and payments under section 42A(3)] and any payments made by the [<sup>F135</sup>Inland Revenue] under section 7 of the <sup>M6</sup>Social Security Act 1986, and

(b) in the case of a personal pension scheme, all minimum contributions,

which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member, except so far as they are used—

- (i) to defray the administrative expenses of the scheme; or
- (ii) to pay commission.

(4) If regulations are made under subsection (2), the payments mentioned in paragraph (a) of subsection (3) and the contributions mentioned in paragraph (b) of that subsection may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.

[<sup>F136</sup>(5) Any minimum contributions required by reason of this section to be applied so as to provide money purchase benefits for or in respect of a member of a scheme must be so applied in the prescribed manner and within the prescribed period.]

### Textual Amendments

**F133** S. 31(1) repealed (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 36(a), **Sch. 7 Pt. III**; S.I. 1996/1412, art. 2(2), **Sch. Pt. II**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F134** Words in s. 31(3)(a) inserted (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 36(b)**; S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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**F135** Words in s. 31(3)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 43](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**F136** S. 31(5) added (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 36\(c\)](#); S.I. 1996/1412, art. 2(2); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

#### Marginal Citations

**M6** [1986 c. 50](#).

## 32 Suspension or forfeiture.

Except in such circumstances as may be prescribed, the rules of the scheme must not permit the suspension or forfeiture of a member's protected rights or of payments giving effect to them.

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## [<sup>F137</sup>32A Discharge of protected rights on winding up: insurance policies

- (1) Where an occupational pension scheme is being wound up and such conditions as may be prescribed are satisfied, effect may be given to the protected rights of a member of the scheme (in spite of section 28) by—
  - (a) taking out an appropriate policy of insurance, or a number of such policies, under which the member is the beneficiary, or
  - (b) assuring the benefits of a policy of insurance, or a number of such policies, to the member, where the policy assured is an appropriate policy.
- (2) A policy of insurance is appropriate for the purposes of this section if—
  - (a) the [<sup>F138</sup>insurer] with which it is or was taken out or entered into—
    - (i) is, or was at the time when the policy was taken out or (as the case may be) the benefit of it was assured, carrying on <sup>F139</sup>... long-term insurance business <sup>F139</sup>... in the United Kingdom or any other Member State, and
    - (ii) satisfies, or at that time satisfied, prescribed requirements, and
  - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed, and
  - (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed, and
  - (d) it satisfies such other requirements as may be prescribed]

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#### Textual Amendments

- F137** S. 32A inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **146(1)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F138** Word in s. 32A(2)(a) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **118(a)**
- F139** Words in s. 32A(2)(a)(i) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **118(b)**

### 33 Tax requirements to prevail over certification requirements.

Nothing in sections 26 to 32 shall be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval.

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

#### [<sup>F140</sup>33A Appropriate schemes: “Blowing the whistle”

- (1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—
- (a) any requirement which, in the case of the scheme, is required by section 9(5)(a) to be satisfied is not satisfied, and
  - (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the [<sup>F141</sup>Inland Revenue] of any of [<sup>F142</sup>their] functions relating to appropriate schemes,
- that person must immediately give a written report of the matter to the [<sup>F141</sup>Inland Revenue].
- (2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.]

#### Textual Amendments

- F140** S. 33A inserted (6.4.1997) by Pensions Act 1995 (c. 26), ss. **147**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F141** Words in s. 33A(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 44(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F142** Word in s. 33A(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 44(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)



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*Cancellation, variation, surrender and refusal of certificates*

**34 Cancellation, variation, surrender and refusal of certificates.**

(1) Regulations shall provide for the cancellation, variation or surrender of any contracting-out certificate or appropriate scheme certificate, or the issue of an amended certificate—

- (a) [F143] in the case of a contracting-out certificate—
  - (i) on any change of circumstances affecting the treatment of an employment as contracted-out employment, or
  - (ii) where the scheme is a salary related contracted-out scheme and the certificate was issued on or after the principal appointed day, if any employer of persons in the description or category of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide the [F144] Inland Revenue], at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied]
- (b) in the case of an appropriate scheme certificate, on any relevant change of circumstances.

(2) Regulations may enable the [F144] Inland Revenue] to cancel or vary a contracting-out certificate where—

- (a) [F145] they have] reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate; and
- (b) the employer does not show that it ought to be so treated.

(3) Where—

- (a) by or by virtue of any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, or
- (b) by or by virtue of any provision of sections 26 to 32 a scheme’s being an appropriate scheme depends on the satisfaction of a particular condition,

the continued contracting-out of the scheme or, as the case may be, the scheme’s continuing to be an appropriate scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out or appropriate scheme certificate.

(4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the [F144] Inland Revenue] if [F146] they consider] that there are circumstances which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme, notwithstanding that the relevant scheme is one that [F146] they] would otherwise treat as proper to be contracted-out in relation to all earners in that employment.

(5) An appropriate scheme certificate may be withheld or cancelled by the [F144] Inland Revenue] if [F147] they consider] that there are circumstances which make it inexpedient that the scheme should be or continue to be an appropriate scheme, notwithstanding that [F147] they] would otherwise issue such a certificate or not cancel such a certificate.

F148(6) . . . . .

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- [<sup>F149</sup>(7) Without prejudice to the previous provisions of this section, failure of a scheme to comply with any requirements prescribed by virtue of section 25(2) shall be a ground on which the [<sup>F144</sup>Inland Revenue] may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate]
- (8) Except in prescribed circumstances, no cancellation, variation or surrender of a contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the cancellation, variation or surrender is made.

#### Textual Amendments

- F143** S. 34(1)(a) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 37(a)**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F144** Words in s. 34 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 45(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F145** Words in s. 34(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 45(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F146** Words in s. 34(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 45(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F147** Words in s. 34(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 45(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F148** S. 34(6) repealed (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 37(b), **Sch. 7 Pt. III**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F149** S. 34(7) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 37(c)**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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

- C43** S. 34(1)(a) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C44** S. 34(2) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C45** S. 34(8) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### 35 Surrender and cancellation of contracting-out certificates: issue of further certificates.

- (1) This section applies in any case where—
- (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board; and

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- (b) at any time before the end of the period of 12 months beginning with the date of the surrender or cancellation, that or any connected employer makes an election under section 11 in respect of any employment which was specified by virtue of section 7(2)(a) in the first certificate, with a view to the issue of a further contracting-out certificate.
- (2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme which would be specified in the further certificate if it were issued.
- (3) The Board shall not give effect to the election referred to in subsection (1) by issuing a further certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.
- (4) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.
- (5) For the purposes of subsection (1)—
- (a) an employment (“the second employment”) in respect of which an election of the kind referred to in subsection (1)(b) has been made; and
  - (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,
- shall be treated as one employment if, in the opinion of the Board—
- (i) they are substantially the same, however described; or
  - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (6) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.

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

**C46** Ss. 35 36 modified (temp.) (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **75**

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**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

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**36 Surrender and cancellation of contracting-out certificates: cancellation of further certificates.**

- (1) This section applies in any case where—
- (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board;
  - (b) a further contracting-out certificate (“the further certificate”) has been issued, after the surrender or cancellation of the first certificate but before the end of the period of 12 months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 7(2)(a) in the first certificate; and

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- (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further certificate was issued they would have been prevented by section 35(3) from issuing it.
- (2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme specified in the further certificate.
- (3) The Board may, before the end of the period of 12 months beginning with the date on which the further certificate was issued, cancel that certificate.
- (4) Where a contracting-out certificate is cancelled under subsection (3) the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.
- (5) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.
- (6) Without prejudice to subsection (5), regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (3), preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner’s liability under section 6(3) of the <sup>M7</sup>Social Security Contributions and Benefits Act 1992 as may be prescribed.
- (7) For the purposes of subsection (1)—
- (a) an employment (“the second employment”) in respect of which a further contracting-out certificate of the kind referred to in subsection (1)(b) has been issued; and
- (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,
- shall be treated as one employment if, in the opinion of the Board—
- (i) they are substantially the same, however described; or
- (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.

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

**C46** Ss. 35 36 modified (temp.) (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **75**

**Commencement Information**

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**Marginal Citations**

**M7** 1992 c. 4.

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### Alteration of scheme rules after certification

#### 37 Alteration of rules of contracted-out schemes.

- [<sup>F150</sup>(1) Except in prescribed circumstances, the rules of a contracted-out scheme cannot be altered unless the alteration is of a prescribed description.
- (2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (3) References in this section to a contracted-out scheme include a scheme which has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.
- (4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower [<sup>F151</sup>or surviving civil partner] of an earner only in such cases as may be prescribed.]

#### Textual Amendments

**F150** S. 37 substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 39**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F151** Words in s. 37(4) inserted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 12**

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### 38 Alteration of rules of appropriate schemes.

- (1) Where an appropriate scheme certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as—
- (a) to affect any of the matters dealt with in sections 26 to 33; or
- (b) to cause the scheme to take a different permitted form from that previously taken,
- <sup>F152</sup> ...  
<sup>F152</sup> .....
- (2) Subsection (1) does not apply
- [<sup>F153</sup>(a)] to an alteration of a prescribed description [<sup>F154</sup>; or
- (b) where the rules of the relevant scheme are altered to make provision for pensions for surviving civil partners].
- (3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void<sup>F155</sup> ... .

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- (4) <sup>F156</sup>Regulations made by virtue of subsection (2) may] operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (5) This section shall continue in force in relation to a scheme after it has ceased to be an appropriate scheme so long as any person has protected rights under the scheme.
- (6) The reference in subsection (1)(b) to a permitted form is to one of the following forms, namely—
  - (a) an arrangement for the issue of insurance policies or annuity contracts;
  - (b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 to the <sup>M8</sup>Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which <sup>F157</sup>is an authorised unit trust scheme];
  - (c) an arrangement for the investment of contributions in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the <sup>M9</sup>Building Societies Act 1986));
  - <sup>F158</sup>(d) an open-ended investment company within the meaning of the Open-Ended Investment Companies Regulations 2001.]
- <sup>F159</sup>(6A) “Authorised unit trust scheme” has the meaning given in Part 17 of the Financial Services and Markets Act 2000 and includes any scheme which is, as a result of an order made under section 426 of that Act making transitional provisions, treated as falling within that meaning.]

<sup>F160</sup>(7) .....

**Textual Amendments**

- F152** Words in s. 38(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 40(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F153** Word in s. 38(2) inserted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 13(a)**
- F154** Words in s. 38(2) inserted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 13(b)**
- F155** Words in s. 38(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 40(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F156** Words in s. 38(4) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 40(c)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F157** Words in s. 38(6)(b) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **119(2)**
- F158** S. 38(6)(d) substituted (1.12.2001) by The Open-Ended Investment Companies Regulations 2001 (S.I. 2001/1228), reg. 1(2)(c), **Sch. 7 para. 10** (with reg. 1(3))
- F159** S. 38(6A) inserted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **119(3)**
- F160** S. 38(7) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 40(d), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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### Marginal Citations

**M8** S.I. 1988/137.

**M9** 1986 c. 53.

## General regulations as to administration of Part III

### 39 General power to make regulations.

Schedule 2 shall have effect for enabling regulations to be made in relation to the operation and administration of this Part, and Part I of that Schedule has effect as respects occupational pension schemes, and Part II of that Schedule as respects personal pension schemes.

### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## CHAPTER II

### REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

#### Preliminary

### 40 Scope of Chapter II.

This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [<sup>F161</sup>Inland Revenue] in respect of earners who are members of [<sup>F162</sup>money purchase contracted-out schemes and members of ]appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

### Textual Amendments

**F161** Words in s. 40(b) substituted (11.11.1999) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(4) (d), Sch. 11 para. 21

**F162** Words in s. 40(b) inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 137(1), 180(1); S.I. 1996/778, art. 2(1)(5)(a), Sch. Pts. 1, 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

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**[<sup>F163</sup>Reduced rates of contributions for members of salary related contracted-out schemes]**

**Textual Amendments**

**F163** S. 41 cross-heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(2), 180(1)**; S.I. 1996/778, art. 2(1)(5)(a), Sch. Pts. I, V; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**41 [<sup>F164</sup>Reduced rates of Class 1 contributions]**

[<sup>F165</sup>(1) Subsections (1A) to [<sup>F166</sup>(1E)] apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner’s service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme;

and in subsections (1A) and (1B) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).]

[<sup>F167</sup>(1A) The amount of any primary Class 1 contribution [<sup>F168</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] in respect of the earnings shall be reduced by an amount equal to 1.6 per cent of the relevant part of the earnings (“Amount R1”).

(1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to [<sup>F169</sup>3.5 per cent] of the relevant part of the earnings (“Amount R2”).

(1C) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (1A) and (1B); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
  - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
  - (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(1D) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.



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But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(1E) If the Inland Revenue pay any amount under subsection (1D) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]

(2) Where—

- (a) an earner has ceased to be employed in an employment; and
- (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the <sup>M10</sup>Social Security Contributions and Benefits Act 1992 (reduced rates for married women and widows).

#### Textual Amendments

- F164** S. 41 heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(2)**, 180(1); S.I. 1996/778, art. 2(1)(5)(a), [Sch. Pts. I, V](#); S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F165** S. 41(1)-(1C) substituted for s. 41(1)(1A) (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 127**; S.I. 1999/418, art. 2(3)(a)
- F166** Word in s. 41(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), **Sch. 9 para. 6(2)**; S.I. 1999/3420, art. 2
- F167** S. 41(1A)-(1E) substituted for s. 41(1A)-(1C) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), **Sch. 9 para. 6(3)**; S.I. 1999/3420, art. 2
- F168** Words in s. 41(1A) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), **Sch. 1 para. 36**
- F169** Words in s. 41(1B) substituted (6.4.2002) by [The Social Security \(Reduced Rates of Class 1 Contributions\) \(Salary Related Contracted-out Schemes\) Order 2001 \(S.I. 2001/1356\)](#), arts. 1, 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

#### Marginal Citations

- M10** 1992 c. 4.

## 42 Review and alteration of rates of contributions applicable under s. 41.

(1) The Secretary of State may from time to time, and shall when required by subsection (2), lay before each House of Parliament—

- (a) <sup>F170</sup>a report by the Government Actuary or the Deputy Government Actuary on—

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- (i) the percentages for the time being applying under section [F171]41(1A) and (1B)], and
- (ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits [F172] (or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of salary related contracted-out schemes]
- (b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the Deputy Government Actuary, there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.
- (2) The Secretary of State shall lay such reports at intervals of not more than five years.
- (3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section [F173]41(1A) and (1B)], he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (3) shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.
- (5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.
- (6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

#### Textual Amendments

- F170** S. 42(1)(a) substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(3), 180(1)**; S.I. 1996/778, art. 2(1)(5)(a), Sch. Pts. 1, 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F171** Words in s. 42(1)(a)(i) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))
- F172** Words in s. 42(1)(a)(ii) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 34, 86(1)(b)(2)** (with s. 83(6)); S.I. 2001/153, art. 2(a)
- F173** Words in s. 42(3) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))

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

- C47** S. 42(1)(a) modified (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(4), 180(1)**; S.I. 1996/778, art. 2(1)(5)(a), Sch. Pts. 1, 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

*[<sup>F174</sup>Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes*

### Textual Amendments

**F174** Ss. 42A, 42B and cross-heading inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 137\(5\), 180\(1\); S.I. 1996/778, art. 2\(1\)\(5\)\(a\), Sch. Pts. I, V; S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)

### [<sup>F175</sup>42A Reduced rates of Class 1 contributions, and rebates

- (1) Subsections (2) to [<sup>F176</sup>(2D) and (3)] apply where—
- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
  - (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme;
- and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).
- (2) [<sup>F177</sup>The amount of any primary Class 1 contribution [<sup>F178</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R1”).
- (2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R2”).
- (2B) The aggregate of Amounts R1 and R2 shall be set off—
- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
  - (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—
    - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
    - (ii) in relation to which the secondary contributor is such a contributor;
 and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.
- (2C) If—
- (a) any balance remains, and

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- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,  
 the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.  
 But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.
- (2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]
- (3) The [<sup>F179</sup>Inland Revenue] shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—
- (a) the appropriate age-related percentage of that part of those earnings, exceeds
  - (b) the appropriate flat-rate percentage of that part of those earnings.
- (4) Regulations may make provision—
- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
  - (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,
  - (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.
- (5) If the [<sup>F180</sup>Inland Revenue][<sup>F181</sup>pay] an amount under subsection (3) which [<sup>F181</sup>they][<sup>F181</sup>are] not required to pay or is not required to pay to the person to whom, or in respect of whom, he pays it, he may recover it from any person to whom, or in respect of whom, he paid it.
- (6) Where—
- (a) an earner has ceased to be employed in an employment, and
  - (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased,
- that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.]

#### Textual Amendments

**F175** S. 42A(1)-(2B) substituted for s. 42A(1)(2) (6.4.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 128; S.I. 1999/418, art. 2\(3\)\(a\)](#)

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- F176** Words in s. 42A(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), [Sch. 9 para. 7\(2\)](#); S.I. 1999/3420, art. 2
- F177** S. 42A(2)-(2D) substituted for s. 42A(2)-(2B) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), [Sch. 9 para. 7\(3\)](#); S.I. 1999/3420, art. 2
- F178** Words in s. 42A(2) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 37](#)
- F179** Words in s. 42A(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 46\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F180** Words in s. 42A(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 46\(3\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F181** Words in s. 42A(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 46\(3\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### **42B Determination and alteration of rates of contributions, and rebates, applicable under section 42A**

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—
- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F182</sup>(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of money purchase contracted-out schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—
- (a) specify different percentages for primary and secondary Class 1 contributions, and
  - (b) for each of the tax years for which it has effect—
    - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
    - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i)) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.

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- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### Textual Amendments

**F182** Words in s. 42B(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 34, 86(1)(b)(2) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C48** S. 42B(2) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 7(1), 89(5)(a) (with ss. 7(3), 8); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

*Minimum contributions: members of appropriate personal pension schemes*

### 43 Payment of minimum contributions to personal pension schemes.

- (1) Subject to the following provisions of this Part, the [<sup>F183</sup>Inland Revenue] shall, except in such circumstances [<sup>F184</sup>or in respect of such periods] as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—
- (a) is over the age of 16 but has not attained pensionable age;
  - (b) is not a married woman or widow who has made an election which is still operative that [<sup>F185</sup>so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] shall be a liability to contribute at a reduced rate; and
  - (c) is a member of an appropriate personal pension scheme which is for the time being the earner’s chosen scheme.
- (2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner’s chosen scheme.
- (3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.
- (4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the [<sup>F183</sup>Inland Revenue][<sup>F186</sup>are] required to pay minimum contributions, the duty of the [<sup>F183</sup>Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations.
- (5) If the [<sup>F183</sup>Inland Revenue][<sup>F187</sup>pay] an amount by way of minimum contributions which [<sup>F188</sup>they][<sup>F187</sup>are] not required to pay, [<sup>F188</sup>they] may recover it—
- (a) from the person to whom [<sup>F188</sup>they] paid it, or
  - (b) from any person in respect of whom [<sup>F188</sup>they] paid it.
- (6) If the [<sup>F183</sup>Inland Revenue][<sup>F189</sup>pay] in respect of an earner an amount by way of minimum contributions which [<sup>F190</sup>they][<sup>F189</sup>are] required to pay, but [<sup>F189</sup>do] not pay

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it to the trustees or managers of the earner's chosen scheme, [<sup>F190</sup>they] may recover it from the person to whom [<sup>F190</sup>they] paid it or from the earner.

#### Textual Amendments

- F183** Words in s. 43 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F184** Words in s. 43(1) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 42**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F185** Words in s. 43(1)(b) substituted (with effect in accordance with s. 8(2) of the amending Act) by National Insurance Contributions Act 2002 (c. 19), **Sch. 1 para. 38**
- F186** Word in s. 43(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F187** Words in s. 43(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(4)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F188** Word in s. 43(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(4)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F189** Words in s. 43(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(5)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F190** Word in s. 43(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(5)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### 44 Earner's chosen scheme.

(1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the [<sup>F191</sup>Inland Revenue], in such manner and form and with such supporting evidence as may be prescribed—

- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 43;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,

[<sup>F192</sup>then, unless the [<sup>F191</sup>Inland Revenue][<sup>F193</sup>reject] the notice on either or both of the grounds mentioned in subsection (1A)] that scheme is the earner's chosen scheme for the purposes of section 43 as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner's chosen scheme for those purposes.

[<sup>F194</sup>(1A) The grounds referred to in subsection (1) are that the [<sup>F191</sup>Inland Revenue][<sup>F195</sup>are] of the opinion—

- (a) that section 31(5) is not being complied with in respect of any members of the scheme,

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- (b) that, having regard to any other provisions of sections 26 to 32 and 43 to 45, it is inexpedient to allow the scheme to be the chosen scheme of any further earners]
- (2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the [<sup>F191</sup>Secretary of State][<sup>F191</sup>Inland Revenue] at such time and in such manner and form as may be prescribed.
- (3) When a notice under subsection (2) is given, the scheme ceases to be the earner’s chosen scheme as from a date determined in accordance with regulations and specified in the notice.

**Textual Amendments**

- F191** Words in s. 44 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F192** Words in s. 44(1) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(a\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F193** Word in s. 44(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F194** S. 44(1A) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(b\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F195** Word in s. 44(1A) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(4\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**45 Amount of minimum contributions.**

[<sup>F196</sup>(1) In relation to any tax week falling within a period for which the [<sup>F197</sup>Inland Revenue are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly)]

<sup>F198</sup>(2) .....

- (3) Regulations may make provision—
  - (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
  - (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
  - (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;



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- <sup>F199</sup>(d) . . . . .
- (e) for this section to have effect in prescribed cases as if for any reference to a tax week there were substituted a reference to a prescribed period<sup>F200</sup> ...;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

#### Textual Amendments

- F196** S. 45(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), **ss. 138(2)**, 180(1); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F197** Words in s. 45(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 49**; [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F198** S. 45(2) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), **ss. 138(3)**, 180(1), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F199** S. 45(3)(d) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 43, **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F200** Words in s. 45(3)(e) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), **ss. 138(4)**, 180(1), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

### <sup>F201</sup>45A Determination and alteration of rates of minimum contributions under section 45

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—
- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F202</sup>(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of appropriate personal pension schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection—
- (a) shall have effect in relation to a period of tax years (not exceeding five), and
  - (b) may, for each of the tax years for which it has effect, specify different percentages in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 45).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.

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- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### Textual Amendments

**F201** S. 45A inserted (13.3.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 138(5), 180(1); S.I. 1996/778, art. 2(1), Sch. Pt. 1; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F202** Words in s. 45A(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 34, 86(1)(b)(2) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C49** S. 45A(2) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 7(2), 89(5)(a) (with ss. 7(3), 8); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

### [<sup>F203</sup> 45B Money purchase and personal pension schemes: verification of ages

- (1) Regulations may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).
- (2) Information held by the Secretary of State [<sup>F204</sup> or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State [<sup>F204</sup> or the Inland Revenue]—
- (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
  - (b) to such other persons as may be prescribed,
- in connection with the making of payments under section 42A(3) or the payment of minimum contributions.]

#### Textual Amendments

**F203** S. 45B inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 139, 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F204** Words in s. 45B(2) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), Sch. 1 para. 50; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Effect of entitlement to guaranteed minimum pensions on payment of social security benefits*

### 46 Effect of entitlement to guaranteed minimum pensions on payment of social security benefits.

- (1) Where for any period a person is entitled both—

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- (a) to a Category A or Category B retirement pension, a widowed mother’s allowance <sup>F205</sup>, a widowed parent’s allowance<sup>F206</sup> or a widow’s pension] under the <sup>M11</sup>Social Security Contributions and Benefits Act 1992; and
  - (b) to one or more guaranteed minimum pensions,
- the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—
- (i) <sup>F207</sup>to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day], or
  - (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),
- whichever is the less.

<sup>F208</sup>(2) .....

<sup>F209</sup>(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992,

for that period an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions shall be deducted from any increase payable under regulations under section 30B(7) of that Act and he shall be entitled to such an increase only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

(4) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M11</sup>Social Security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M11</sup>Social Security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be

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entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—
  - <sup>F210</sup>(i) .....
  - (ii) to a Category A retirement pension under section 44 of that Act; or
  - (iii) to a Category B retirement pension under [<sup>F211</sup>section 48A [<sup>F212</sup>, 48B or 48BB]] of that Act; and
- (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to any of the pensions under the <sup>M11</sup> Social Security Contributions and Benefits Act 1992 mentioned in subsection (6)(b); and
- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- <sup>F213</sup>(a) .....
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 15(1).

<sup>F214</sup>(9) .....

#### Textual Amendments

**F205** Words in s. 46(1) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 8 para. 18\(2\)](#); [S.I. 2000/1047](#), art. 2(2)(a), [Sch. Pt. 1](#)

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- F206** Words in s. 46(1) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(2\)](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F207** S. 46(1)(i) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 44](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F208** S. 46(2) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(3\)](#), [Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F209** S. 46(3) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(4\)](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F210** S. 46(6)(b)(i) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(5\)](#), [Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F211** Words in s. 46(6)(b)(iii) substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), [Sch. 4 para. 22](#)
- F212** Words in s. 46(6)(b)(iii) substituted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 8 para. 18\(3\)](#); S.I. 2000/1047, art. 2(2)(a), Sch. Pt. 1
- F213** S. 46(8)(a) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(6\)](#), [Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F214** S. 46(9) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 56\(7\)](#), [Sch. 2](#); S.I. 1994/2926, art. 2(4), Sch. Pt. 4

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

- C50** Ss. 46-48 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [49\(1\)](#)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

#### Marginal Citations

- M11** 1992 c. 4.

## 47 Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 46.

- (1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [<sup>F215</sup>or surviving civil partner] of an earner [<sup>F216</sup>in any case where he is entitled to a benefit other than a widowed parent's allowance]<sup>F217</sup>... only if—
- [<sup>F218</sup>(a) he is also entitled to a Category B retirement pension by virtue of the earner's contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits Act 1992); or]
- (b) he is also entitled to a Category A retirement pension by virtue of [<sup>F219</sup>section 41(5)] of [<sup>F219</sup>that Act].
- (2) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as a result of which—
- (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and

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- (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member’s [<sup>F220</sup>widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
  - (b) either—
    - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
    - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
  - (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
  - (d) the combined proceeds of—
    - (i) any relevant policies and annuity contracts, and
    - (ii) any cash sums paid or alternative arrangements made under the [<sup>F221</sup>Financial Services Compensation Scheme],
 are inadequate to provide the whole of the amount secured,
 

the member and the member’s [<sup>F220</sup>widow, widower or surviving civil partner] shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member’s or, as the case may be, the member’s [<sup>F222</sup>widow’s, widower’s or surviving civil partner’s] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.
- (5) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or
  - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).
- [<sup>F223</sup>(6) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for [<sup>F224</sup>section 14(2A) and] any reduction under section 15A.]
- [<sup>F225</sup>(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.]

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- F215** Words in s. 47(1) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 14\(a\)](#)
- F216** Words in s. 47(1) inserted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), [ss. 18\(a\)](#), 22(3); S.I. 2002/2248, art. 2
- F217** Words in s. 47(1) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), [Sch. 1 para. 57](#), [Sch. 2](#); S.I. 1994/2926, art. 2(4), [Sch. Pt. IV](#)
- F218** S. 47(1)(a) substituted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), [ss. 18\(b\)](#), 22(3); S.I. 2002/2248, art. 2
- F219** Words in s. 47(1)(b) substituted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), [ss. 18\(c\)](#), 22(3); S.I. 2002/2248, art. 2
- F220** Words in s. 47(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 14\(b\)\(i\)](#)
- F221** Words in s. 47(3)(d) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [120](#)
- F222** Words in s. 47(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 14\(b\)\(ii\)](#)
- F223** S. 47(6) added (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [ss. 32\(4\)](#), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), [Sch. Pt. 4](#)
- F224** Words in s. 47(6) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 22\(4\)](#); S.I. 2003/120, art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F225** S. 47(7) added (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 6](#); S.I. 2002/153, art. 2(g)

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

- C50** Ss. 46-48 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [49\(1\)](#)
- C51** S. 47(2)(b) applied (with modifications) (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), [6\(3\)](#)

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

**48 Reduced benefits where minimum payments or minimum contributions paid.**

- (1) Subject to subsection (3), this subsection applies where for any period—
- (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or
  - (b) minimum contributions have been paid in respect of an earner under section 43.
- (2) Where subsection (1) applies then, for the purposes of section 46—
- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;

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- <sup>F226</sup>(b) . . . . .
- (c) in prescribed circumstances <sup>F227</sup> . . . any [<sup>F228</sup>widow, widower or surviving civil partner] of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;
- and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of [<sup>F229</sup>section] 47(2) of the Social Security Contributions and Benefits Act 1992<sup>M12</sup> and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.
- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.

#### Textual Amendments

- F226** S. 48(2)(b) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 140(2), 180(1), **Sch. 7 Pt. III**; [S.I. 1996/778](#), art. 2(2), Sch. Pt. 2
- F227** Words in s. 48(2)(c) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 140(2), 180(1), **Sch. 7 Pt. III**; [S.I. 1996/778](#), art. 2(2), Sch. Pt. 2
- F228** Words in s. 48(2)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 15**
- F229** Word in s. 48(2) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), **Sch. 1 para. 58**; [S.I. 1994/2926](#), art. 2(4), Sch. Pt. 4

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

- C50** Ss. 46-48 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **49(1)**
- C52** S. 48 excluded (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), ss. **140(3)**, 180(1); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2 (with art. 10)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

#### Marginal Citations

- M12** 1992 c. 4.

<sup>F230</sup>*Effect of reduced contributions and rebates on social security benefits*

#### Textual Amendments

- F230** S. 48A inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. **140(1)**, 180(1); [S.I. 1996/778](#), art. 2(5)(a), Sch. Pt. 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2



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## 48A Additional pension and other benefits

- (1) In relation to any tax week where—
- (a) the amount of a Class 1 contribution [<sup>F231</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 or 42A, or
  - (b) an amount is paid under section 45(1) in respect of the earnings paid to or for the benefit of an earner,
- section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no [<sup>F232</sup>such] primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).
- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).
- (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.
- (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
- (5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) [<sup>F233</sup>or (5A)] of that Act.]

### Textual Amendments

**F231** Words in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(a\)](#)

**F232** Word in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(b\)](#)

**F233** Words in s. 48A(5) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 38\(1\), 86\(1\)\(b\)\(2\)](#) (with [ss. 38\(2\), 83\(6\)](#))

### Modifications etc. (not altering text)

**C53** S. 48A(1) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), [regs. 1\(1\), 49\(1\)](#)

**C54** S. 48A(5) modified (1.11.2000) by [The Social Security \(Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions\) Regulations 2000 \(S.I. 2000/2736\)](#), [regs. 1\(1\), 3\(1\)](#)

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*[<sup>F234</sup>Women, married women and widows]*

**Textual Amendments**

**F234** S. 49 and cross heading substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\), s. 180\(2\)\(a\), Sch. 4 para. 16](#)

**[<sup>F234</sup>49 Women, married women and widows.**

The Secretary of State may make regulations modifying, in such manner as he thinks proper—

- (a) this Chapter in its application to women born on or after 6th April 1950, and
- (b) sections 41, 42, 46(1), 47(2) and (5) and 48, in their application to women who are or have been married]

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**CHAPTER III**

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE  
SCHEME STATUS: STATE SCHEME PREMIUMS

*Approval of arrangements for schemes ceasing to be certified*

**50 Powers of [<sup>F235</sup>Inland Revenue] to approve arrangements for scheme ceasing to be certified.**

(1) In the case of an occupational pension scheme or a personal pension scheme which is or has been certified as a contracted-out or, as the case may be, an appropriate scheme, the [<sup>F235</sup>Inland Revenue] may, for the event of, or in connection with, its ceasing to be such a scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

- (a) in the case of an occupational pension scheme other than a money purchase contracted-out scheme—
  - (i) of earners’ accrued rights to guaranteed minimum pensions under the scheme [<sup>F236</sup>or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day];
  - (ii) of the liability for the payment of [<sup>F237</sup>such pensions] in respect of persons who have then become entitled to receive them;
  - [<sup>F238</sup>(iii) of safeguarded rights under the scheme;]
- (b) in the case of a money purchase contracted-out scheme or a personal pension scheme, of protected [<sup>F239</sup>, or safeguarded,] rights under the scheme.

[<sup>F240</sup>(1A) The power of the [<sup>F235</sup>Inland Revenue] to approve arrangements under this section—

- (a) includes power to approve arrangements subject to conditions, and
- (b) may be exercised either generally or in relation to a particular scheme.

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- (1B) Arrangements may not be approved under this section unless any prescribed conditions are met]
- (2) If the scheme ceases to be a contracted-out scheme or an appropriate scheme (whether by being wound up or otherwise) and the [<sup>F235</sup>Inland Revenue] either—
- [<sup>F241</sup>have] withdrawn [<sup>F241</sup>their] approval of previously approved arrangements relating to it; or
  - [<sup>F241</sup>have] declined to approve arrangements relating to it,
- the [<sup>F235</sup>Inland Revenue] may issue a certificate to that effect.
- (3) A certificate issued under subsection (2)(a) or (b) shall be cancelled by the [<sup>F235</sup>Inland Revenue] if [<sup>F242</sup>they subsequently approve] the arrangements.
- (4) Regulations may provide that where the [<sup>F235</sup>Inland Revenue][<sup>F243</sup>have] approved arrangements under subsection (1) in respect of an occupational pension scheme (other than a money purchase scheme) any provision of this Part (other than sections 18, 19, 26 to 33 and 43 to 45) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.
- (5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.
- (6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme which is not a money purchase contracted-out scheme may be withdrawn at any time, notwithstanding that the scheme has been wound up.

<sup>F244</sup>(7) .....

#### Textual Amendments

- F235** Words in s. 50 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 51(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F236** Words in s. 50(1)(a)(i) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 45(a)(i)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 4(1))
- F237** Words in s. 50(1)(a)(ii) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 45(a)(ii)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 4(1))
- F238** S. 50(1)(a)(iii) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 12 para. 29(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F239** Words in s. 50(1)(b) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 12 para. 29(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F240** S. 50(1A)(1B) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 45(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(1))
- F241** Words in s. 50(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 51(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F242** Words in s. 50(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 51(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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- F243** Word in s. 50(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 51\(5\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F244** S. 50(7) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 45\(c\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(1))

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

- C55** S. 50(1)(a)(ii) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\), regs. 1\(1\), 59](#)
- C56** S. 50(1B) excluded (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\), regs. 1\(1\), 74](#)

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**51 Calculation of guaranteed minimum pensions preserved under approved arrangements.**

- (1) This section applies where—
- (a) an earner’s guaranteed minimum pension rights or accrued rights to guaranteed minimum pensions under a scheme [<sup>F245</sup>satisfy prescribed conditions], and
  - (b) one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.
- (2) Where this section applies then, except in such circumstances as may be prescribed, section 16(1) shall have effect, subject to the following provisions, that is to say—
- (a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the <sup>M13</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M14</sup>Social Security Administration Act 1992 to come into force before those five tax years; and
  - (b) any relevant earnings factors derived from contributions or earnings in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
    - (i) constitutes or begins before the relevant contributions year, or
    - (ii) begins after the final relevant year in relation to the earner.
- (3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.
- (4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 16(2).
- (5) In this section “relevant year” and “final relevant year” have the same meanings as in section 16.

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### Textual Amendments

**F245** Words in s. 51(1)(a) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 46](#); [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. V](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#)

### Modifications etc. (not altering text)

**C57** S. 51(1)-(3) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [67](#)

**C58** S. 51(1)-(3) excluded (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [69](#)

### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### Marginal Citations

**M13** [1975 c. 60](#).

**M14** [1992 c. 5](#).

## *Supervision of formerly certified schemes*

### 52 Supervision of schemes which have ceased to be certified.

(1) Section 53 shall apply for the purpose of making provision for securing the continued supervision of occupational pension schemes as respects which subsection (2) applies and section 54 shall apply for the purpose of making corresponding provision in relation to personal pension schemes as respects which subsection (3) applies.

(2) This subsection applies as respects any occupational pension scheme, other than a public service pension scheme, where—

- [<sup>F246</sup>(a) the scheme has ceased to be a contracted-out scheme, and
- (b) any persons remain who fall within any of the following categories.]

[<sup>F247</sup>(2A) Those categories are—

- (a) any persons entitled to receive, or having accrued rights to—
  - (i) guaranteed minimum pensions, or
  - (ii) pensions under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out,

(b) any persons who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it]

[<sup>F248</sup>(c) any persons who have safeguarded rights under the scheme or are entitled to any benefit giving effect to safeguarded rights under it.]

(3) This subsection applies as respects any personal pension scheme where—

- [<sup>F249</sup>(a) the scheme has ceased to be an appropriate scheme, and
- (b) any persons remain who have protected [<sup>F250</sup>, or safeguarded,] rights under the scheme or are entitled to any benefit giving effect to protected [<sup>F250</sup>, or safeguarded,] rights under it]

[<sup>F251</sup>(4) . . . . .]

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F251(5) .....

F251(6) .....

#### Textual Amendments

- F246** S. 52(2)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F247** S. 52(2A) added (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F248** S. 52(2A)(c) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 30(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F249** S. 52(3)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F250** Words in s. 52(3)(b) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 30(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F251** S. 52(4)-(6) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 47(c), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### 53 Supervision: former contracted-out schemes.

[<sup>F252</sup>(1) The [<sup>F253</sup>Inland Revenue] may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the [<sup>F253</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable—

- (a) in England and Wales, in a county court as if it were an order of that court, and
- (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order]

F254(2) .....

[<sup>F255</sup>(3) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(2A)(a) or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the [<sup>F253</sup>Inland Revenue] may allow].

F256(4) .....

F256(5) .....

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**Textual Amendments**

- F252** S. 53(1)-(1B) substituted for s. 53(1) (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 48\(a\)](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)
- F253** Words in s. 53 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 52](#); [S.I. 1999/527, art. 2\(b\), Sch. 2 \(with arts. 3-6\)](#)
- F254** S. 53(2) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 48\(b\), Sch. 7 Pt. III](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)
- F255** S. 53(3) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 48\(c\)](#); [S.I. 1996/778, art. 2\(5\)\(a\), Sch. Pt. V](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)
- F256** S. 53(4)(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 48\(d\), Sch. 7 Pt. III](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**54 Supervision: former appropriate personal pension schemes.**

[<sup>F257</sup>(1) The [<sup>F258</sup>Inland Revenue] may direct the trustees or managers of the scheme to take or refrain from taking such steps as the [<sup>F258</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable—  
 (a) in England and Wales, in a county court as if it were an order of that court, and  
 (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order.]

[<sup>F257</sup>(2) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(3)(b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the [<sup>F258</sup>Inland Revenue] may allow].

<sup>F259</sup>(3) . . . . .

**Textual Amendments**

- F257** S. 54(1)(1A)(1B)(2) substituted for s. 54(1)(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 49\(a\)](#); [S.I. 1996/778, art. 2\(5\)\(a\), Sch. Pt. V](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)
- F258** Words in s. 54 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 53](#); [S.I. 1999/527, art. 2\(b\), Sch. 2 \(with arts. 3-6\)](#)

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**F259** S. 54(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 49\(b\), Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

*State scheme premiums*

**55 Payment of state scheme premiums on termination of certified status.**

<sup>F260</sup>(1) .....

[<sup>F261</sup>(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme (other than a money purchase contracted-out scheme),
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has served for less than two years in the employment,

the prescribed person [<sup>F262</sup>shall, if subsection (2B) applies, pay and otherwise] may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

(2A) The circumstances referred to in subsection (2) are that—

- (a) the earner’s service in the employment ceases otherwise than on the earner’s death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner’s death,
- (c) the earner’s service in the employment ceases on the earner’s death and the earner dies leaving a [<sup>F263</sup>widow, widower or surviving civil partner],
- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pension scheme;

<sup>F264</sup> ... ]

[<sup>F265</sup>(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

(2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.]

<sup>F266</sup>(3) .....

<sup>F266</sup>(4) .....

<sup>F266</sup>(5) .....

<sup>F266</sup>(6) .....



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### Textual Amendments

- F260** S. 55(1) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 50](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))
- F261** S. 55(2)(2A) substituted for s. 52(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), [ss. 141\(1\)](#), 180(1); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. V](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))
- F262** Words in s. 55(2) inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(a\)](#); S.I. 2001/4049, art. 2(3)(a)
- F263** Words in s. 55(2A)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 16](#)
- F264** Words in s. 55(2A) repealed (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(b\)](#), [Sch. 13 Pt. I](#); S.I. 2001/4049, art. 2(3)(a)
- F265** S. 55(2B)(2C) inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(c\)](#); S.I. 2001/4049, art. 2(3)(a)
- F266** S. 55(3)-(6) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 50](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

### Modifications etc. (not altering text)

- C59** S. 55(2B) excluded (6.4.2002) by S.I. 1996/1172, [reg. 51\(1A\)](#) (as substituted by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#), [regs. 1](#), [2\(12\)\(a\)](#))

### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, [art. 2](#)

## 56 Provisions supplementary to s. 55.

- <sup>F267</sup>(1) .....
- (2) A premium under section 55 shall be paid by the prescribed person to the [<sup>F268</sup>Inland Revenue] within the prescribed period <sup>F269</sup> ...
- <sup>F270</sup>(3) .....
- (4) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the reference in section 55(2) to employment which is contracted-out by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.
- <sup>F271</sup>(5) .....
- [<sup>F272</sup>(6) Subject to regulations under paragraph 1 of Schedule 2, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 55(2A) as ceasing immediately before the death]

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#### Textual Amendments

- F267** S. 56(1) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 51\(a\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))
- F268** Words in s. 56(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 54](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F269** Words in s. 56(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 51\(a\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))
- F270** S. 56(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 51\(a\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))
- F271** S. 56(5) repealed (6.4.2002) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(e)(2), [Sch. 9 Pt. III\(11\)](#) (with s. 83(6)); S.I. 2002/437, art. 3(3)
- F272** S. 56(5)(6) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 51\(b\)](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### 57 Elections to pay contributions equivalent premiums.

- (1) An election under section 55(2) must be made within the prescribed period and in the prescribed manner.
- (2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.
- (3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.
- (4) If [<sup>F273</sup>the Inland Revenue consider] that the prescribed person is contravening subsection (2), [<sup>F273</sup>they] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.

#### Textual Amendments

- F273** Words in s. 57(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 55](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### 58 Amount of premiums payable under s. 55.

- <sup>F274</sup>(1) .....

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F274(2) .....

F274(3) .....

[<sup>F275</sup>(4) Subject to subsection (4A), the amount of the contributions equivalent premium shall be equal to the sum of the following amounts—

- (a) the amount of every reduction made under section 41 (as from time to time in force) in the amount of Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme; and
- (b) the total amount by which the reductions falling within paragraph (a) would have been larger if the amount of the contributions falling to be reduced had in each case been at least equal to the amount of the reduction of those contributions provided for by section 41.

(4A) The amounts brought into account in accordance with subsection (4)(b) shall not include any amount which, by virtue of regulations made under section 41(1D) so as to avoid the payment of trivial or fractional amounts, is an amount that was not payable by the Inland Revenue to the secondary contributor.]

F276(5) .....

F276(6) .....

(7) Section 56(4) applies for the purposes of subsection (4) as it applies for the purposes of section 55(2).

**Textual Amendments**

**F274** S. 58(1)-(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 52](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

**F275** S. 58(4)(4A) substituted for s. 58(4) (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), [Sch. 5 para. 5\(1\)](#) (with s. 83(6), [Sch. 5 para. 4](#))

**F276** S. 58(5)(6) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 52](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

<sup>F277</sup>**59** **Alternative basis for revaluation of earnings factors for calculation of certain premiums.**

.....

**Textual Amendments**

**F277** S. 59 repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 53](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

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## 60 Effect of payment of premiums on rights.

F278(1) .....

F278(2) .....

F278(3) .....

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [F279 55(2A)(a) and (b), (d) and (e)] shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme [F280 or (in relation to service on or after the principal appointed day) rights to pensions under the scheme so far as attributable to the amount of the premium].

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section [F281 55(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s [F282 widow, widower or surviving civil partner].

F283(6) .....

F283(7) .....

F283(8) .....

F283(9) .....

F283(10) .....

### Textual Amendments

**F278** S. 60(1)-(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 54\(a\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F279** Words in s. 60(4) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 54\(b\)\(i\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F280** Words in s. 60(4) added (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 54\(b\)\(ii\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F281** Word in s. 60(5) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 54\(c\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F282** Words in s. 60(5) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 17](#)

**F283** S. 60(6)-(10) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 54\(d\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 61 Deduction of contributions equivalent premium from refund of scheme contributions.

(1) This section applies where—

[F284(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and]

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- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
  - (c) a contributions equivalent premium falls to be paid by any person in respect of him.
- (2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to [<sup>F285</sup>any actual reductions of] primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.
- (5) Where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
  - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,
- the amount which may be recovered under this section shall be increased by such amount as may be prescribed.
- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where—
- [<sup>F286</sup>(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment]
  - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
  - (c) a contributions equivalent premium falls to be paid in respect of him; and
  - (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment,
- then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to

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service in the employment on the [<sup>F287</sup>cessation] of which the premium falls to be paid (and subsection (7) shall apply accordingly).

- (9) This section shall apply in relation to such a refund as is referred to in subsection (1)(b) which becomes payable after the [<sup>F288</sup>cessation] of an earner’s service in contracted-out employment as it applies to such a refund becoming payable on the [<sup>F288</sup>cessation] of an earner’s service in such employment.
- (10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).
- (11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme; or
  - (b) is made or to be made out of those resources but by way of distribution on a winding up; or
  - (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.

#### Textual Amendments

- F284** S. 61(1)(a) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(a\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F285** Words in s. 61(2) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), [Sch. 5 para. 5\(2\)](#) (with s. 83(6), Sch. 5 para. 4)
- F286** S. 61(8)(a) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(b\)\(i\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F287** Word in s. 61(8) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(b\)\(ii\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F288** Word in s. 61(9) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(c\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 62 No recovery of state scheme premiums from earners etc.

- (1) Notwithstanding any contract to the contrary, a person shall not be entitled—
- (a) to recover any part of a [<sup>F289</sup>contributions equivalent] premium from any earner in respect of whom it is payable; or
  - (b) except in accordance with section 61, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

<sup>F290</sup>(2) .....

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### Textual Amendments

- F289** Words in s. 62(1) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 56\(a\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F290** S. 62(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 56\(b\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## 63 Further provisions concerning calculations relating to premiums.

- (1) The following amounts shall be certified by the [<sup>F291</sup>Inland Revenue]—
- <sup>F292</sup>(a) .....
- [<sup>F293</sup>(b) the sum of the amounts specified in section 58(4);]
- <sup>F294</sup>(c) .....
- (d) the amount mentioned in section 61(2).
- <sup>F295</sup>(2) .....
- (3) If the [<sup>F291</sup>Inland Revenue]—
- <sup>F296</sup>(a) .....
- (b) [<sup>F297</sup>are satisfied] that records of earnings relevant for determining the amount mentioned in [<sup>F298</sup>section 58(4)] have not been maintained or retained or are otherwise unobtainable,
- then [<sup>F297</sup>they may] for that purpose—
- (i) compute, in such manner as [<sup>F297</sup>they think] fit, an amount which shall be regarded as the amount of those earnings; or
- (ii) take their amount to be such sum as he may specify in the particular case,
- <sup>F299</sup>...
- <sup>F300</sup>(4) .....
- (5) For the purposes of subsection (1) the [<sup>F291</sup>Inland Revenue] may make such adjustments as [<sup>F301</sup>they think] necessary for avoiding fractional amounts.

### Textual Amendments

- F291** Words in s. 63 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 56\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F292** S. 63(1)(a) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 57\(a\)\(i\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F293** S. 63(1)(b) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 86\(1\)\(b\)\(2\), Sch. 5 para. 5\(3\)](#) (with s. 83(6), Sch. 5 para. 4)
- F294** S. 63(1)(c) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 57\(a\)\(iii\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

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- F295** S. 63(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F296** S. 63(3)(a) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(c)(i), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F297** Words in s. 63(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 56(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F298** Words in s. 63(3)(b) substituted (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 57(c)(ii)**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F299** Words in s. 63(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(c)(iii), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F300** S. 63(4) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(d), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F301** Words in s. 63(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 56(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

**F302 64 Actuarial tables for purposes of calculations relating to premiums.**

.....

**Textual Amendments**

- F302** S. 64 repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 58, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F303 65 Inclusion of former and future earners for some purposes of this Chapter.**

.....

**Textual Amendments**

- F303** S. 65 repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 59, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F304 66 Power to apply certain provisions to widowers.**

.....



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### Textual Amendments

**F304** S. 66 repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995](#) (c. 26), s. 180(1), Sch. 5 para. 60, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

## 67 Non-payment of [<sup>F305</sup>contributions equivalent premiums].

- (1) If a person fails to pay any [<sup>F305</sup>contributions equivalent premium] which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.
- (2) Where—
  - (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
  - (b) the premium remains unpaid at the date of the conviction,
 he shall be liable to pay to the [<sup>F306</sup>Inland Revenue] a sum equal to the amount which he failed to pay.
- (3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay [<sup>F305</sup>contributions equivalent premiums] within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

### Textual Amendments

**F305** Words in s. 67 substituted (6.4.1997) (with savings for existing state scheme premiums) by virtue of [Pensions Act 1995](#) (c. 26), s. 180(1), **Sch. 5 para. 61**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F306** Words in s. 67(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999](#) (c. 2), s. 28(2)(a), **Sch. 1 para. 57**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

## 68 Unpaid premiums: supplementary.

- (1) Where in England and Wales a person charged with an offence to which section 67(2) applies is convicted of that offence in his absence under section [<sup>F307</sup>12(5)] of the <sup>M15</sup>Magistrates' Courts Act 1980, then if—
  - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 67(4) has been duly served specifying the other premiums in respect of which the prosecutor intends to give evidence; and

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- (b) the [<sup>F308</sup>designated officer for] the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,

section 67(3) and (4) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

- (2) In England and Wales where—

- (a) a person is convicted of an offence to which section 67(2) applies; and  
 (b) an order is made under [<sup>F309</sup>section 12 of the Powers of Criminal Courts (Sentencing) Act 2000] discharging him absolutely or conditionally,

subsection (1) and section 67(2) to (4) shall apply as if it were a conviction for all purposes.

- (3) In Scotland where—

- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and  
 (b) an order is made under the <sup>M16</sup>Criminal Procedure (Scotland) Act 1975 discharging the offender absolutely or placing him on probation,

section 67(2) to (4) shall apply as if—

- (i) the conviction on indictment were a conviction for all purposes; or  
 (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

- (4) In England or Wales any sum which a person is liable to pay under subsection (1) or section 67(2) to (4) shall be recoverable from him as a penalty.

- (5) [<sup>F310</sup>Contributions equivalent premiums] recovered by the [<sup>F311</sup>Inland Revenue] under those provisions shall be treated for all purposes as premiums paid to the [<sup>F311</sup>Inland Revenue] in respect of the person in respect of whom they were originally payable.

#### Textual Amendments

**F307** Word in s. 68(1) substituted (1.9.1998) by [Magistrates' Courts \(Procedure\) Act 1998 \(c. 15\), ss. 4\(2\)\(b\), 5\(2\)](#); S.I. 1998/1837, art. 2

**F308** Words in s. 68(1)(b) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 361](#); S.I. 2005/910, art. 3(y)

**F309** Words in s. 68(2) substituted (25.8.2000) by [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\), s. 168\(1\), Sch. 9 para. 157](#)

**F310** Words in s. 68 substituted (6.4.1997) (with savings for existing state scheme premiums) by virtue of [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 61](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F311** Words in s. 68(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 58](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

#### Marginal Citations

**M15** 1980 c. 43.

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M16 1975 c. 21.

## [<sup>F312</sup>PART IIIA

### SAFEGUARDED RIGHTS

#### Textual Amendments

**F312** Pt. 3A inserted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 36, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

#### 68A Safeguarded rights.

- (1) Subject to subsection (2), the safeguarded rights of a member of an occupational pension scheme or a personal pension scheme are such of his rights to future benefits under the scheme as are attributable (directly or indirectly) to a pension credit in respect of which the reference rights are, or include, contracted-out rights or safeguarded rights.
- (2) If the rules of an occupational pension scheme or a personal pension scheme so provide, a member's safeguarded rights are such of his rights falling within subsection (1) as—
  - (a) in the case of rights directly attributable to a pension credit, represent the safeguarded percentage of the rights acquired by virtue of the credit, and
  - (b) in the case of rights directly attributable to a transfer payment, represent the safeguarded percentage of the rights acquired by virtue of the payment.
- (3) For the purposes of subsection (2)(a), the safeguarded percentage is the percentage of the rights by reference to which the amount of the credit is determined which are contracted-out rights or safeguarded rights.
- (4) For the purposes of subsection (2)(b), the safeguarded percentage is the percentage of the rights in respect of which the transfer payment is made which are contracted-out rights or safeguarded rights.
- (5) In this section—
 

“contracted-out rights” means such rights under, or derived from—

  - (a) an occupational pension scheme contracted-out by virtue of section 9(2) or (3), or
  - (b) an appropriate personal pension scheme,

as may be prescribed;

“reference rights”, in relation to a pension credit, means the rights by reference to which the amount of the credit is determined.

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

- C60** S. 68A modified (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), 2(2)(3)
- C61** S. 68A(2)(a) applied (1.5.2001) by The National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300), Sch. 2A para. 2 (as inserted by S.I. 2001/1428, reg. 1, Sch. 1 para. 3)

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- C62** S. 68A(2)(a) applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Scotland\) Regulations 1995 \(S.I. 1995/365\)](#), [Sch. 1A para. 5](#) (as inserted by [S.S.I. 2001/465](#), reg. 1(2), [Sch. 1 para. 4](#))
- C63** S. 68A(2)(a) applied (6.4.2005) by [The Armed Forces Pension Scheme Order 2005 \(S.I. 2005/438\)](#), art. 1, [Sch. 1 rule D.13\(2\)](#)

## **68B Requirements relating to safeguarded rights.**

Regulations may prescribe requirements to be met in relation to safeguarded rights by an occupational pension scheme or a personal pension scheme [<sup>F313</sup>including provision for such rights to be extinguished or reduced in consequence of a civil recovery order made in respect of such rights].

### **Textual Amendments**

- F313** Words in s. 68B inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 22\(5\)](#); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

## **68C Reserve powers in relation to non-complying schemes.**

- (1) This section applies to—
  - (a) any occupational pension scheme, other than a public service pension scheme, and
  - (b) any personal pension scheme.
- (2) If any scheme to which this section applies does not comply with a requirement prescribed under section 68B and there are any persons who—
  - (a) have safeguarded rights under the scheme, or
  - (b) are entitled to any benefit giving effect to such rights under the scheme,
 the Inland Revenue may direct the trustees or managers of the scheme to take or refrain from taking such steps as they may specify in writing for the purpose of safeguarding the rights of persons falling within paragraph (a) or (b).
- (3) A direction under subsection (2) shall be final and binding on the trustees or managers to whom the direction is given and any person claiming under them.
- (4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (2) at the instance of the trustees or managers, or any person claiming under them.
- (5) A direction under subsection (2) shall be enforceable—
  - (a) in England and Wales, in a county court, as if it were an order of that court, and
  - (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order.

## **68D Power to control transfer or discharge of liability.**

Regulations may prohibit or restrict the transfer or discharge of any liability under an occupational pension scheme or a personal pension scheme in respect of safeguarded rights except in prescribed circumstances or on prescribed conditions.]

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## PART IV

### PROTECTION FOR EARLY LEAVERS

#### CHAPTER I

##### PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

#### 69 Scope of Chapter I: the preservation requirements.

- (1) This Chapter has effect in relation to the preservation of benefit under occupational pension schemes to which it applies.
- (2) In this Act “the preservation requirements” means the requirements specified in or under sections 71 to 82.
- (3) This Chapter applies to any occupational pension scheme whose resources are derived in whole or in part from—
  - (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
    - (i) under an actual or contingent legal obligation; or
    - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
  - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

#### 70 Interpretation.

- (1) In this Chapter—
  - “scheme” means an occupational pension scheme to which this Chapter applies;
  - “relevant employment”, in relation to a scheme, means any employment to which the scheme applies;
  - “long service benefit”, in relation to a scheme, means the benefits which will be payable under the scheme, in accordance with legal obligation, to or in respect of a member of the scheme on the assumption—
    - (a) that he remains in relevant employment, and
    - (b) that he continues to render service which qualifies him for benefits,

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until he attains normal pension age; and in this definition “benefits” means—

- (i) retirement benefit for the member himself at normal pension age, or
- (ii) benefit for the member’s [<sup>F314</sup>wife, husband, civil partner, widow, widower, or surviving civil partner], or dependants, or others, on his attaining that age or his later death, or
- (iii) both such descriptions of benefit.

- (2) In this Act, unless the context otherwise requires, “pensionable service”, in relation to a scheme and a member of it, means, subject to subsection (3), service in relevant employment which qualifies the member (on the assumption that it continues for the appropriate period) for long service benefit under the scheme.
- (3) There shall be taken into account as pensionable service only actual service, that is to say—
- (a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service; and
  - (b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.

#### **Textual Amendments**

**F314** Words in s. 70(1) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 11**

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

#### **Commencement Information**

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

## **71 Basic principle as to short service benefit.**

- (1) A scheme must make such provision that where a member’s pensionable service is terminated before normal pension age and—
- (a) he has at least 2 years’ qualifying service, or
  - (b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,
- he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.
- (2) The benefit to which a member is entitled under subsection (1) is referred to in this Act as “short service benefit”.
- [<sup>F315</sup>(3) Subject to subsection (4), short service benefit must be made payable as from an age which is no greater than—
- (a) the age of 65, or
  - (b) if in the member’s case normal pension age is greater than 65, normal pension age.]

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- (4) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time after it as long service benefit payable on or in respect of his death would be payable.
- (5) In applying subsections (3) and (4), no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.
- (6) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.
- (7) In subsection (1) "2 years' qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—
  - (a) in pensionable service under the scheme; or
  - (b) in service in employment which was contracted-out by reference to the scheme; or
  - (c) in linked qualifying service under another scheme.
- (8) For the purposes of subsection (7), no regard shall be had to whether or not the service was of the same description in the whole of the 2 years.
- (9) A period of service previously terminated is not to count towards the 2 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

#### Textual Amendments

**F315** S. 71(3) substituted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 263(1), 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7

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

**C64** Ss. 69-76 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, Sch. 2 para. 3

**C65** S. 71 modified (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), 2(2)(3)

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 72 No discrimination between short service and long service beneficiaries.

- (1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.
- (2) Subsection (1) does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, unless the rule—
  - (a) was made after the termination of a member's pensionable service; and
  - (b) results, or is capable of resulting, in any treatment less favourable for him than that to which he would have been entitled but for the rule.

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(3) Subsection (1) does not apply to a rule which merely confers discretion on the scheme's trustees or managers, or others, so long as it is not a rule requiring the discretion to be exercised in any discriminatory manner against members in respect of their short service benefit.

[<sup>F316</sup>(4) This section is subject to subsections (3) and (6) of section 71 (age at which short service benefit is to be payable).]

#### Textual Amendments

**F316** S. 72(4) added (6.4.2005) by Pensions Act 2004 (c. 35), ss. 263(2), 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7

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

**C64** Ss. 69-76 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, Sch. 2 para. 3

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### 73 Form of short service benefit and its alternatives.

- (1) Subject to subsection (2) and section 81, a member's short service benefit must be—
  - (a) payable directly out of the resources of the scheme; or
  - (b) assured to him by such means as may be prescribed.
- (2) Subject to subsections (3) to (5), a scheme may, instead of providing short service benefit, provide—
  - (a) for the member's accrued rights (including any transfer credits allowed under the scheme)—
    - (i) to be transferred to another occupational pension scheme with a view to acquiring transfer credits for the member under the other scheme, or
    - (ii) to be transferred to a personal pension scheme <sup>F317</sup>... with a view to acquiring rights for the member under the rules of the scheme <sup>F317</sup>...; or
  - (b) for such alternatives to short service benefit as may be prescribed.
- (3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter IV of this Part.
- (4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for short service benefit—
  - (a) if the member consents; or
  - (b) in such other cases as may be prescribed.
- (5) An alternative prescribed under subsection (2)(b) may only include payment by way of return of contributions—
  - (a) if they relate to a period of service before 6th April 1975; or
  - (b) if there has been such a payment relating to a period of service before that date and the contributions relate to a period of service of less than 5 years after that date.



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#### Textual Amendments

**F317** Words in s. 73(2)(a)(ii) repealed (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 3\(2\)\(a\)](#), [Sch. 13 Pt. 1](#); [S.I. 2000/1047](#), art. 2(2)(b), [Sch. Pt. 2](#)

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 74 Computation of short service benefit.

- (1) Subject to the provisions of this section, a scheme must provide for short service benefit to be computed on the same basis as long service benefit.
- (2) For that purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.
- (3) Subsection (1) does not apply to so much of any benefit as accrues at a higher rate, or otherwise more favourably, in the case—
  - (a) of members with a period of pensionable service of some specified minimum length, or
  - (b) of members remaining in pensionable service up to some specified minimum age.
- (4) Subsection (1) does not apply to so much of any benefit as is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.
- (5) Regulations may provide that subsection (1) shall not apply to any category of schemes or members, or description of benefit.
- (6) So far as any short service benefit is not required to be computed in accordance with subsection (1), it must be computed on the basis of uniform accrual, so that at the time when pensionable service is terminated, it bears the same proportion to long service benefit as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.
- (7) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before, the time when his pensionable service is terminated.
- (8) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**75 Credits.**

(1) In this section—

“supplementary credits”, in relation to a scheme and a member’s entitlement to its benefits, means any increase of benefit or additional benefit to which the member may become entitled—

- (a) in consequence of any provision made by or under the scheme after he becomes a member of it (to the extent that it applies to any previous pensionable service of his); or
- (b) by reference to previous service of his (whether or not pensionable service); or
- (c) in such other circumstances as may be prescribed,

including under paragraph (b) any transfer credits;

“purchased credits” means supplementary credits for which, under the rules of the scheme, a member may or must make a payment in whole or in part (whether by means of additional contributions, or of deduction from benefit, or otherwise, and whether separately for each credit or by one or more payments for one or more credits);

“bonus credits” means supplementary credits other than purchased credits or transfer credits.

(2) Subject to subsections (3) to (7), if a scheme provides for long service benefit to include supplementary credits, it must—

- (a) provide for such credits to be included in short service benefit, and
- (b) provide for all credits to be so included.

(3) Where purchased credits have not been paid for in full at or before termination of pensionable service, the short service benefit must include the appropriate proportion of the credits.

(4) In subsection (3) “the appropriate proportion of the credits” means—

- (a) if they were to be paid for by a fixed amount, the same proportion as the amount paid bears to the full amount payable; and
- (b) otherwise, the same proportion as the period between the time when the first payment became due and the termination of the member’s pensionable service bears to the whole period over which payment was to be made.

(5) If the benefit includes bonus credits, or credits for which payment is to be made by deduction from that or another benefit, the credits to be included in the benefit and (where applicable) the amount of the deduction must be computed on the assumption—

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- (a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age; and
  - (b) that the amount of any such credit, and also of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.
- (6) Where any such deduction is a percentage of benefit, the percentage must be the same for short service as for long service benefit.
- (7) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**76 Pension increases.**

- (1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards revaluation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.
- (2) Where the provision for increasing long service benefit involves the exercise of a discretion, a corresponding discretion must be conferred in relation to short service benefit.
- (3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.
- (4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, if the rate is at least 3 per cent. a year compound.

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

**C64** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**F31877 Assignment, surrender and commutation of benefit.**

.....

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**Textual Amendments**

**F318** Ss. 77-80 repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 8)

**F318** **78 Forfeiture, etc.**

.....

**Textual Amendments**

**F318** Ss. 77-80 repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 8)

**F318** **79 Charges, liens and set-offs.**

.....

**Textual Amendments**

**F318** Ss. 77-80 repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 8)

**F318** **80 Power to modify ss. 77 to 79 as respects alternative benefits.**

.....

**Textual Amendments**

**F318** Ss. 77-80 repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 8)

**81 Discharge of liability where short service or alternative benefits secured by insurance policies or annuity contracts.**

A transaction to which section 19 applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person short service benefit or any alternative to short service benefit—

- (a) if it is carried out not earlier than the time when that person's pensionable service terminates; and
- (b) if and to the extent that it results in short service benefit or any alternative to short service benefit for or in respect of that person being appropriately secured (within the meaning of that section); and
- (c) if and to the extent that the requirements set out in paragraph (a) or (c) of section 19(5) are satisfied.

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

**C66** S. 81 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**82 Supplementary regulations.**

- (1) Regulations may provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of any specified provision contained in sections 71 to 79.
- (2) Regulations may make provision as to the circumstances in which, for the purposes of sections 70 to 79—
  - (a) a period of a person’s service in two or more different employments is to be treated as a period of service in one or more of those employments; or
  - (b) a person’s service in any employment is to be treated as terminated or not terminated.

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

**C67** S. 82 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), **art. 2**

**CHAPTER II**

**REVALUATION OF ACCRUED BENEFITS (EXCLUDING GUARANTEED MINIMUM PENSIONS)**

**83 Scope of Chapter II.**

- (1) This Chapter applies for the purpose of revaluing—
  - (a) [<sup>F319</sup>relevant] benefits payable to or in respect of a member of an occupational pension scheme where—
    - (i) his pensionable service ends on or after 1st January 1986;
    - (ii) on the date on which his pensionable service ends (in this Chapter referred to as “the termination date”) he has accrued rights to benefit under the scheme;
    - (iii) the period beginning with the day after the termination date and ending with the date on which he attains normal pension age (in this Chapter referred to as “the pre-pension period”) is at least 365 days; and
    - (iv) in the case of benefit payable to any other person in respect of the member, the member dies after attaining normal pension age; and

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- (b) [<sup>F319</sup>relevant] benefits payable to or in respect of a member of a personal pension scheme—
- (i) in respect of whom contributions to the scheme have ceased to be paid; and
  - (ii) who has accrued rights to benefit under the scheme.
- [<sup>F320</sup>(1A) The following are relevant benefits for the purposes of subsection (1)—
- (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
  - (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service.]
- (2) In calculating 365 days for the purpose of subsection (1)(a)(iii), any day which is 29th February shall be disregarded.
- (3) In subsection (1)(b)—
- (a) the reference to a personal pension scheme does not include a scheme which is comprised in an annuity contract made before 4th January 1988; and
  - (b) the reference to contributions includes any minimum contributions.
- [<sup>F321</sup>(4) For the purposes of this section, an occupational pension scheme is salary related if—
- (a) it is not a money purchase scheme, and
  - (b) it does not fall within a prescribed class.]

#### Textual Amendments

- F319** Words in s. 83(1) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 12 para. 31\(2\)](#); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F320** S. 83(1A) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 12 para. 31\(3\)](#); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F321** S. 83(4) inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), [Sch. 12 para. 31\(4\)](#); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C68** Ss. 83-86 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 84 Basis of revaluation.

- (1) Subject to subsections (2) and (3), in the case of such benefits as are mentioned in section 83(1)(a), any pension or other retirement benefit payable under the scheme in question to the member and any pension or other benefit payable under it to any other person in respect of him, is to be revalued by the final salary method.
- (2) If—
- (a) any such benefit is an average salary benefit or flat rate benefit; and

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- (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the average salary method or, as the case may be, the flat rate method,  
then the benefit shall be revalued using that method.
- (3) If any benefit such as is mentioned in paragraph (a) of section 83(1) is a money purchase benefit, and in the case of such benefit as is mentioned in paragraph (b) of that section, the benefit shall be revalued using the money purchase method.
- (4) In this section—  
“average salary benefit” means benefit the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;  
“flat rate benefit” means any benefit the rate or amount of which is calculated by reference solely to the member’s length of service;  
“average salary method”, “final salary method”, “flat rate method” and “money purchase method” have the meanings given in Schedule 3.
- (5) The fact that a scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of him to be increased during the pre-pension period—  
(a) by the percentages specified during that period under section 151(1) of the <sup>M17</sup>Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes); <sup>F322</sup> ... [<sup>F323</sup>or  
(b) under any arrangement which maintains the value of the pension or other benefit by reference to the rise in the retail prices index during that period,]  
does not in itself result in conflict with this section, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member’s [<sup>F324</sup>widow, widower or surviving civil partner] has not been deducted.
- [<sup>F325</sup>(6) In subsection (5)(b), “retail prices index” means—  
(a) the general index of retail prices (for all items) published by the Office for National Statistics, or  
(b) where that index is not published for a month, any substituted index or figures published by that Office.]

#### Textual Amendments

**F322** Words in s. 84(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 62, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F323** S. 84(5)(b) and word inserted (18.11.2004) by Pensions Act 2004 (c. 35), **ss. 281(2), 322(2)(b)** (with s. 313)

**F324** Words in s. 84(5) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 12**

**F325** S. 84(6) added (18.11.2004) by Pensions Act 2004 (c. 35), **ss. 281(3), 322(2)(b)** (with s. 313)

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

**C68** Ss. 83-86 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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### Marginal Citations

M17 1992 c. 5.

## 85 Revaluation not to apply to substituted benefit.

Nothing in this Chapter is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of section 73(2)(b) [<sup>F326</sup>or 101D(2)(b)] by way of complete substitute for another pension or benefit.

### Textual Amendments

**F326** Words in s. 85 inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 32**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

### Modifications etc. (not altering text)

**C68** Ss. 83-86 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 86 Supplementary provisions.

- (1) In making any calculation for the purposes of this Chapter in relation to any occupational pension scheme—
  - (a) any commutation, forfeiture or surrender of,
  - (b) any charge or lien on, and
  - (c) any set-off against,
 the whole or part of a pension shall be disregarded.
- (2) The same money may not be treated as providing both the increase in benefit required by this Chapter and the benefit required by Chapter III.

### Modifications etc. (not altering text)

**C68** Ss. 83-86 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**



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## CHAPTER III

### PROTECTION OF INCREASES IN GUARANTEED MINIMUM PENSIONS (“ANTI-FRANKING”)

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

- C69** Pt. IV Ch. III modified (1.4.1998) by [The Local Government Pension Scheme Regulations 1997 \(S.I. 1997/1612\)](#), regs. 1, **90**
- C70** Pt. IV Ch. III excluded (12.2.2001 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 14** (with s. 83(6)); S.I. 2000/3166, art. 2(5) (as amended (28.3.2001) by S.I. 2001/1252, art. 3)

#### 87 General protection principle.

- (1) This subsection applies where—
- (a) there is an interval between—
    - (i) the date on which an earner ceases to be in employment which is contracted-out by reference to an occupational pension scheme which is not a money purchase contracted-out scheme (“the cessation date”); and
    - (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
  - (b) the relevant sum exceeds his guaranteed minimum on the day after the cessation date; and
  - (c) on the commencement of payment date or at any time after it his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the cessation date.
- (2) This subsection applies where—
- (a) there is an interval between the earner’s cessation date and whichever of the following is the earlier—
    - (i) the date of his death; or
    - (ii) his commencement of payment date;
  - (b) the relevant sum exceeds one half of the earner’s guaranteed minimum on the day after the cessation date; and
  - (c) at any time when a pension under the occupational pension scheme is required to be paid to the earner’s [<sup>F327</sup>widow, widower or surviving civil partner, the widow's, widower's or surviving civil partner's (as the case may be)] guaranteed minimum pension under the scheme exceeds one half of the earner’s guaranteed minimum on the day after the cessation date.
- (3) Where subsection (1) or (2) applies, the weekly rate of the pension payable to the member at any time when that pension is required to be paid or, as the case may be, payable to the [<sup>F328</sup>widow, widower or surviving civil partner] at any such time as is mentioned in subsection (2)(c) shall be an amount not less—
- (a) in a case where by virtue of section 73(2)(b) a pension is provided by way of complete substitute for short service benefit or, as the case may be, for [<sup>F329</sup>widow's, widower's or surviving civil partner's] pension, than the weekly rate of that pension; and
  - (b) in any other case, than the relevant aggregate.

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- (4) In subsection (3) “the relevant aggregate” means the aggregate of the following—
- (a) the relevant sum;
  - (b) the excess mentioned in subsection (1)(c) or, as the case may be, subsection (2)(c);
  - (c) any amount which is an appropriate addition at the time in question; and
  - (d) where the scheme provides that part of the earner’s or, as the case may be, the [F330widow’s, widower’s or surviving civil partner’s] pension shall accrue after the cessation date by reason of the earner’s employment after that date, the later earnings addition.
- (5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before 1st January 1985, they are to be disregarded for the purposes of subsections (1)(c), (2)(c) and (4)(b).
- (6) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.
- (7) This section does not apply to a pension to which a person is entitled in respect of employment if—
- (a) the earner left the employment or left it for the last time before 1st January 1985; or
  - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him before that date.

#### **Textual Amendments**

- F327** Words in s. 87(2)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 18\(a\)](#)
- F328** Words in s. 87(3) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 18\(b\)](#)
- F329** Words in s. 87(3)(a) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 18\(c\)](#)
- F330** Words in s. 87(4)(d) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 18\(c\)](#)

#### **Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## **88 The relevant sum.**

- (1) For the purposes of this Chapter “the relevant sum” means—
- (a) in a case where subsection (1) of section 87 applies—
    - (i) if the earner reaches normal pension age on or before the cessation date, an amount equal to the weekly rate of his pension on the day after the cessation date; and

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- (ii) if he reaches normal pension age after the cessation date, an amount equal to the weekly rate of any short service benefit which has accrued to him on the cessation date or, where no such benefit has then accrued, any other benefit to which this sub-paragraph applies and which has then accrued to him; and
- (b) in a case where subsection (2) of that section applies, an amount equal to the weekly rate at which, on the prescribed assumptions, a pension would have begun to be paid to the [<sup>F331</sup>widow, widower or surviving civil partner] if that person had satisfied the conditions for entitlement to a pension which are specified in the scheme.
- (2) Paragraph (a) of subsection (1) has effect subject to subsection (5) and to sections 87(5) and 91(1), and paragraph (b) of subsection (1) has effect subject to section 87(5).
- (3) The benefit other than short service benefit to which subsection (1)(a)(ii) applies is benefit—
- (a) which would have been provided as either the whole or part of the earner’s short service benefit; or
- (b) of which the earner’s short service benefit would have formed part, if section 71(1)(a) had effect with the substitution of a reference to the service which the earner had on the cessation date for the reference to 2 years’ qualifying service.
- (4) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if section 71(1) had effect as mentioned in subsection (3).
- (5) If the payment of any part of the earner’s pension is postponed beyond the cessation date, the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the cessation date if there had been no such postponement.

#### Textual Amendments

**F331** Words in s. 88(1)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 19](#)

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 89 The appropriate addition.

- (1) For the purposes of this Chapter “appropriate addition” means—
- (a) where a scheme provides that part of an earner’s or, as the case may be, a [<sup>F332</sup>widow's, widower's or surviving civil partner's] pension shall accrue after the cessation date by reason of the earner’s employment after that date, an amount equal to the part which has so accrued; and
- (b) where a scheme provides that an earner’s or, as the case may be, a [<sup>F333</sup>widow's, widower's or surviving civil partner's] pension which has accrued before that date shall be enhanced after that date if payment of the earner’s pension is postponed, the amount by which the unguaranteed element of the pension has been enhanced by reason of the postponement.

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- (2) For the purposes of subsection (1)(b) the unguaranteed element of a pension is—
- (a) in the case of an earner’s pension, the excess of the pension on the day after the cessation date over the earner’s guaranteed minimum on that day; and
  - (b) in the case of the [<sup>F334</sup>widow's, widower’s or surviving civil partner's] pension, the excess of that pension on that day over one half of the earner’s guaranteed minimum on that day.

#### Textual Amendments

- F332** Words in s. 89(1)(a) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 20](#)
- F333** Words in s. 89(1)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 20](#)
- F334** Words in s. 89(2)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 20](#)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

## 90 The later earnings addition.

- (1) For the purposes of this Chapter “the later earnings addition” means the amount (if any) by which the assumed later unguaranteed element exceeds the unguaranteed element.
- (2) In subsection (1)—
- (a) “the unguaranteed element” means the amount by which the relevant sum exceeds the earner’s guaranteed minimum on the day after his cessation date or, in the case of a [<sup>F335</sup>widow's, widower’s or surviving civil partner's] pension, one half of that minimum; and
  - (b) “the assumed later unguaranteed element” means the amount by which the relevant sum would exceed the earner’s guaranteed minimum (or, in the case of a [<sup>F336</sup>widow's, widower’s or surviving civil partner's] pension, one half of that minimum) on the assumptions mentioned in subsection (3).
- (3) The assumptions mentioned in subsection (2) are—
- (a) that the relevant sum were calculated on the basis that the weekly rate of the pension or benefit which determines that sum had been calculated by reference to the level of earnings by reference to which that rate would have been calculated if the earner’s cessation date had fallen on the earlier of—
    - (i) the earner’s commencement of payment date, or
    - (ii) the date on which the earner ceased to be in pensionable service under the scheme; and
  - (b) that the earner’s guaranteed minimum were such sum as bears the same proportion to the assumed later unguaranteed element as the guaranteed minimum mentioned in subsection (2)(a) bears to the unguaranteed element.

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#### Textual Amendments

- F335** Words in s. 90(2)(a) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 21](#)
- F336** Words in s. 90(2)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 21](#)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## 91 Special provision where employment continues after it ceases to be contracted-out by reference to scheme.

(1) If—

- (a) an earner’s employment ceases to be contracted-out by reference to an occupational pension scheme but the scheme continues to apply to it; or
- (b) an earner transfers from employment which is contracted-out by reference to an occupational pension scheme to employment to which the scheme applies but which is not contracted-out by reference to it,

the amount of any short service or other benefit which has accrued to the earner shall be computed for the purposes of section 88(1)(a)(ii) as it would be computed if he had ceased on the cessation date to be in employment to which the scheme applies.

(2) If—

- (a) a benefit under a scheme is conditional on an earner attaining a particular age or having a particular length of service; and
- (b) one of the events mentioned in subsection (1) occurs before he has fulfilled the condition; but
- (c) he continues to be in employment to which the scheme applies until he has done so,

the earner shall be treated for the purposes of the previous provisions of this Chapter as if that benefit had accrued to him.

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## 92 Supplementary provisions.

(1) In making any calculation for the purposes of this Chapter—

- (a) any commutation, forfeiture or surrender of,
- (b) any charge or lien on, and
- (c) any set-off against,

the whole or part of a pension shall be disregarded.

(2) In calculating an earner’s guaranteed minimum for the purposes of this Chapter his earnings factor shall be taken to be that factor as increased, except as provided by

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subsection (3), by the last order under section 21 of the <sup>M18</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M19</sup>Social Security Administration Act 1992 to come into force before the end of the tax year in which the cessation date falls.

- (3) If an earner's cessation date falls in the tax year in which he attains pensionable age, subsection (2) shall have effect in relation to him as if for the words from "tax year" onwards there were substituted the words "final relevant year".
- (4) In this section "final relevant year" has the same meaning as in section 16.
- (5) Any reference in this Chapter to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

#### Marginal Citations

**M18** 1975 c. 60.

**M19** 1992 c. 5.

## CHAPTER IV

### TRANSFER VALUES

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

**C71** Pt. IV Ch. IV applied (31.5.1994) by [The Railway Pensions \(Protection and Designation of Schemes\) Order 1994 \(S.I. 1994/1432\)](#), arts. 1(1), **6(4)**

### 93 Scope of Chapter IV.

- (1) This Chapter applies—
  - <sup>F337</sup>(a) to any member of an occupational pension scheme—
    - (i) whose pensionable service has terminated at least one year before normal pension age, and
    - (ii) who on the date on which his pensionable service terminated had accrued rights to benefit under the scheme, except a member of a salary related occupational pension scheme whose pensionable service terminated before 1st January 1986 and in respect of whom prescribed requirements are satisfied]; and
  - (b) to any member of a personal pension scheme (other than a scheme which is comprised in an annuity contract made before 4th January 1988) who has accrued rights to benefit under the scheme.

<sup>F338</sup>(1ZA) In subsection (1), references to accrued rights to benefit do not include rights which are attributable (directly or indirectly) to a pension credit.]

<sup>F339</sup>(1A) For the purposes of this section and the following provisions of this Chapter, an occupational pension scheme is salary related if—

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- (a) the scheme is not a money purchase scheme, and
  - (b) the scheme does not fall within a prescribed class.
- (1B) Regulations may—
- (a) provide for this Chapter not to apply in relation to a person of a prescribed description, or
  - (b) apply this Chapter with prescribed modifications to occupational pension schemes—
    - (i) which are not money purchase schemes, but
    - (ii) where some of the benefits that may be provided are money purchase benefits.]
- (2) Any reference to a member of an occupational pension scheme or a personal pension scheme in the following provisions of this Chapter is a reference to a member of such a scheme to whom this Chapter applies.

#### Textual Amendments

- F337** S. 93(1)(a) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 152(2)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F338** S. 93(1ZA) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 33**; S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. 4**
- F339** S. 93(1A)(1B) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 152(3)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

- C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C73** S. 93 modified (1.12.2000) by The Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048), regs. 1(1), **3**
- C74** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### [<sup>F340</sup>93A Salary related schemes: right to statement of entitlement

- (1) The trustees or managers of a salary related occupational pension scheme must, on the application of any member, provide the member with a written statement (in this Chapter referred to as a “statement of entitlement”) of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of him under the applicable rules.

[ In subsection (1), the reference to benefits which have accrued does not include <sup>F341</sup>(1A) benefits which are attributable (directly or indirectly) to a pension credit.]

- (2) In this section—  
“the applicable rules” has the same meaning as in section 94;

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- “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
- (a) within the prescribed period beginning with the date of the application, and
  - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (3) Regulations may make provision in relation to applications for a statement of entitlement, including, in particular, provision as to the period which must elapse after the making of such an application before a member may make a further such application.
- (4) If, in the case of any scheme, a statement of entitlement has not been provided under this section, section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to any trustee or manager who has failed to take all such steps as are reasonable to secure compliance with this section.]

#### Textual Amendments

**F340** S. 93A inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 153, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F341** S. 93A(1A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 34**; S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. 4**

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

**C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**

**C74** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

## 94 Right to cash equivalent.

- (1) Subject to the following provisions of this Chapter—
- (a) a member of an occupational pension scheme [<sup>F342</sup>other than a salary related scheme] acquires a right, when his pensionable service terminates [<sup>F343</sup>(whether before or after 1st January 1986)] , to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the applicable rules; and
  - [<sup>F344</sup>(aa) a member of a salary related occupational pension scheme who has received a statement of entitlement and has made a relevant application within three months beginning with the guarantee date in respect of that statement acquires a right to his guaranteed cash equivalent]
  - (b) a member of a personal pension scheme acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the rules of the scheme.

[<sup>F345</sup>(1A) For the purposes of subsection (1)(aa), a person’s “guaranteed cash equivalent” is the amount stated in the statement of entitlement mentioned in that subsection.]

[<sup>F346</sup>(1B) In subsection (1), references to benefits which have accrued do not include benefits which are attributable (directly or indirectly) to a pension credit.]



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(2) In this section—

“the applicable rules” means—

- (a) any provision which the rules of the scheme do not contain but which a scheme must contain if it is to conform with the requirements of Chapter I; and
- (b) the rules of the scheme, except so far as Chapter II or III overrides them; and
- (c) any provision of Chapter II or III which overrides any of the rules of the scheme;

[<sup>F347</sup>“the guarantee date” has the same meaning as in section 93A(2)]

“the relevant date” means, subject to regulations under section 98(4)—

- (a) the date of the relevant application, or
- (b) in the case of an occupational pension scheme, if it is later, the termination date;

“the relevant application” means any application which the member has made under section 95 and not withdrawn.

[<sup>F348</sup>(3) Regulations may provide that, in prescribed circumstances, subsection (1)(aa) does not apply to members of salary related occupational pension schemes or applies to them with prescribed modifications.]

#### Textual Amendments

- F342** Words in s. 94(1)(a) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(1)(a)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F343** Word in s. 94(1)(a) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(1)(b)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F344** S. 94(1)(aa) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(2)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F345** S. 94(1A) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(3)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F346** S. 94(1B) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 35**; S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. 4**
- F347** Words in s. 94(2) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(4)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F348** S. 94(3) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **154(5)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

- C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C74** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 95 Ways of taking right to cash equivalent.

- (1) A member of an occupational pension scheme or a personal pension scheme who acquires a right to a cash equivalent under [<sup>F349</sup>paragraph (a), (aa) or (b) of section 94(1)] may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent to which he has acquired a right in whichever of the ways specified in subsection (2) or, as the case may be, subsection (3) he chooses.
- (2) In the case of a member of an occupational pension scheme, the ways referred to in subsection (1) are—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of a personal pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (c) for purchasing from one or more [<sup>F350</sup>insurers] such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
  - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) In the case of a member of a personal pension scheme, the ways referred to in subsection (1) are—
- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of another personal pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (c) for subscribing to other pension arrangements which satisfy prescribed requirements.
- <sup>F351</sup>(4) .....
- (5) Except in such circumstances as may be prescribed—
- (a) subsection (2) is to be construed as if paragraph (d) were omitted; and
  - (b) subsection (3) is to be construed as if paragraph (c) were omitted.

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- (6) Without prejudice to the generality of subsections (2) and (3), the powers conferred by those subsections include power to provide that a scheme or pension arrangement or, in the case of subsection (2), an annuity must satisfy requirements of the Inland Revenue.
- (7) A member of an occupational pension scheme may only exercise the right conferred by this section on or before the last option date.
- (8) In subsection (7) “the last option date” means, subject to regulations under section 98, the date which falls—
- (a) one year before the date on which the member attains normal pension age; or
  - (b) six months after the termination date,
- whichever is the later.
- (9) An application to the trustees or managers of the scheme under subsection (1) is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

#### Textual Amendments

- F349** Words in s. 95(1) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 3**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F350** Word in s. 95(2)(c) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **121**
- F351** S. 95(4) repealed (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), Sch. 5 para. 7, **Sch. 9 Pt. III(7)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(iv)

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

- C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C74** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 96 Further provisions concerning exercise of option under s. 95.

- (1) A member may exercise the option conferred by subsection (1) of section 95 in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so—
- (a) in relation to the whole of his cash equivalent; or
  - (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).
- (2) This subsection applies where—
- (a) the trustees or managers—
    - (i) of an occupational pension scheme which is not a contracted-out scheme, or
    - (ii) of a personal pension scheme which is not an appropriate scheme,  
F352  
...

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<sup>F352</sup>(iii) . . . . .

are able or willing to accept a transfer payment only in respect of a member's rights other than his accrued rights to guaranteed minimum pensions, [<sup>F353</sup>his accrued rights so far as attributable to service in contracted-out employment on or after the principal appointed day] or his protected rights; and

- (b) the member has not required the trustees or managers of the scheme from which he is being transferred to use the portion of his cash equivalent which represents those accrued or protected rights in any of the ways specified in subsection (2) or, as the case may be, subsection (3) of section 95.

- (3) Where subsection (2) applies, this section and sections 94, 95 and 97 are to be construed as conferring on the member an option only in respect of the balance of the cash equivalent to which the member would otherwise be entitled, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability—

- (a) in the case of a transfer from an occupational pension scheme, in respect of the member's and the member's [<sup>F354</sup>widow's, widower's or surviving civil partner's (as the case may be)] [<sup>F355</sup>pensions, being guaranteed minimum pensions or pensions so far as attributable to service in contracted-out employment on or after the principal appointed day] or the member's protected rights; and

- (b) in the case of a transfer from a personal pension scheme, of the member's protected rights.

[<sup>F356</sup>(4) Where a member of an occupational pension scheme or a personal pension scheme—

- (a) is entitled to give a notice under section 101F(1) to the trustees or managers of the scheme, or

- (b) would be entitled to do so, but for section 101G(1),

he may not, if the scheme so provides, make an application to them under section 95 unless he also gives them a notice under section 101F(1).]

#### Textual Amendments

**F352** S. 96(2)(a)(iii) and word repealed (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by **Welfare Reform and Pensions Act 1999 (c. 30)**, s. 89(5)(a), **Sch. 2 para. 3(2)(b)**, **Sch. 13 Pt. I**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. 2

**F353** Words in s. 96(2)(a) inserted (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), **Sch. 5 para. 63(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F354** Words in s. 96(3)(a) substituted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053)**, art. 1(3), **Sch. para. 13**

**F355** Words in s. 96(3)(a) substituted (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), **Sch. 5 para. 63(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F356** S. 96(4) inserted (1.12.2000) by **Welfare Reform and Pensions Act 1999 (c. 30)**, s. 89(1), **Sch. 12 para. 36**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

**C72** Ss. 93-101 modified (1.4.1998) by **The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366)**, regs. 1, **116-118**

**C74** Ss. 93-98 modified (30.12.2005) by **The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381)**, regs. 1, 14, **Sch. 2 para. 3**

**C75** S. 96(2)(3) applied (15.7.1994) by **The European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994 (S.I. 1994/1662)**, arts. 1, **19(3)**

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 97 Calculation of cash equivalents.

- (1) Cash equivalents are to be calculated and verified in the prescribed manner.
- (2) Regulations may provide—
  - (a) that in calculating cash equivalents [<sup>F357</sup>except guaranteed cash equivalents] account shall be taken—
    - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under section 95;
    - (ii) in a case where subsection (2) of section 96 applies, of the need to deduct an appropriate amount to provide for the liabilities mentioned in subsection (3) of that section;
  - [<sup>F358</sup>(aa) for a cash equivalent, including a guaranteed cash equivalent, to be reduced so as to take account of the extent (if any) to which an entitlement has arisen under the scheme to the present payment of the whole or any part of—
    - (i) any pension; or
    - (ii) any benefit in lieu of pension; and]
  - (b) that in prescribed circumstances a cash equivalent shall be increased or reduced.
- (3) Without prejudice to the generality of subsection (2), the circumstances that may be specified by virtue of paragraph (b) of that subsection include—
  - (a) in the case of an occupational pension scheme, the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Chapter or regulations made under it;
  - (b) failure by the trustees or managers of the scheme to do what is needed to carry out what a member of the scheme requires within 6 months of [<sup>F359</sup>the appropriate date]; and
  - (c) the state of the funding of the scheme.
- [<sup>F360</sup>(3A) For the purposes of subsection (3), the “appropriate date”—
  - (a) in the case of a salary related occupational pension scheme, is the guarantee date (within the meaning of section 93A), and
  - (b) in any other case, is the date on which the trustees receive an application from the member under section 95.]
- (4) Regulations under subsection (2) may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

### Textual Amendments

**F357** Words in s. 97(2)(a) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 4(a)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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**F358** S. 97(2)(aa) substituted for word (28.7.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 8(1)** (with s. 83(6))

**F359** Words in s. 97(3)(b) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 4(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F360** S. 97(3A) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 4(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

**C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**

**C74** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 98 Variation and loss of rights under s. 94.

- (1) Regulations may provide that a member of an occupational pension scheme [<sup>F361</sup>other than a salary related scheme] who continues in employment to which the scheme applies after his pensionable service in that employment terminates—
- (a) only acquires a right to the cash equivalent of such part of the benefits specified in section 94(1) as may be prescribed; or
  - (b) acquires no right to a cash equivalent.

- [<sup>F362</sup>(1A) Regulations may provide that a member of a salary related occupational pension scheme who continues in employment to which the scheme applies after his pensionable service in that employment terminates—
- (a) acquires a right to only part of his guaranteed cash equivalent, or
  - (b) acquires no right to his guaranteed cash equivalent.]

- (2) Regulations may provide for the purposes of subsection (1) [<sup>F363</sup>or (1A)] that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.

- (3) Regulations may provide that where—
- (a) by virtue of regulations under subsection (1) or (2), a member of an occupational pension scheme [<sup>F364</sup>other than a salary related scheme] does not, on the termination of his pensionable service in an employment to which a scheme applies, acquire a right at the relevant date to the cash equivalent of the whole or a part of the benefits specified in section 94(1); [<sup>F365</sup>or
  - (aa) by virtue of regulations under subsection (1A) or (2), a member of a salary related occupational pension scheme does not, on such a termination, acquire a right to the whole or any part of his guaranteed cash equivalent,
- and his employment terminates at least one year before normal pension age] that right shall accrue to him on the date when that employment terminates and be valued accordingly.

- (4) In relation to any case to which regulations under subsection (3) apply, they may substitute—

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- (a) a new definition of “the relevant date” for the definition in section 94(2); and
  - (b) a new definition of “the last option date” for the definition in section 95(8).
- (5) Where the whole or any part of the [<sup>F366</sup>relevant] benefits payable to a member of a personal pension scheme under the scheme have become payable on or before the relevant date, the right which he acquires under section 94 is only to the cash equivalent of [<sup>F367</sup>benefits] which have not become payable.
- (6) A member of an occupational pension scheme or a personal pension scheme loses the right to any cash equivalent under this Chapter if the scheme is wound up.
- (7) A member of an occupational pension scheme also loses that right [<sup>F368</sup>if]—
- <sup>F369</sup>(a) .....
  - (b) he fails to exercise the option conferred by section 95 on or before the last option date (within the meaning of subsection (7) of that section).
- (8) In this section  
[<sup>F370</sup>“relevant benefits” means any benefits not attributable (directly or indirectly) to a pension credit; and]  
“the relevant date” has the same meaning as in section 94(2).

#### Textual Amendments

- F361** Words in s. 98(1) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 5(a)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F362** S. 98(1A) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 5(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F363** Words in s. 98(2) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 5(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F364** Words in s. 98(3)(a) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 5(d)(i)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F365** S. 98(3)(aa) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 5(d)(ii)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F366** Word in s. 98(5) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(2)(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F367** Word in s. 98(5) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(2)(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F368** Word in s. 98(7) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 8(2)(a)** (with s. 83(6), Sch. 5 para. 8(4)); S.I. 2000/3166, art. 2(3)(b)(v)
- F369** S. 98(7)(a) repealed (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), Sch. 5 para. 8(2)(b), **Sch. 9 Pt. III(8)** (with s. 83(6), Sch. 5 para. 8(4)); S.I. 2000/3166, art. 2(3)(b)(v)(e)
- F370** Words in s. 98(8) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**

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**C74** Ss. 93-98 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

**99 Trustees' duties after exercise of option.**

(1) Where—

- (a) a member has exercised the option conferred by section 95; and
- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,

the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 96(2), to the extent that an obligation to provide such guaranteed minimum pensions or give effect to such protected rights continues to subsist.

(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95, they shall do what is needed to carry out what the member requires—

- [<sup>F371</sup>(a) in the case of a member of a salary related occupational pension scheme, within 6 months of the guarantee date, or (if earlier) by the date on which the member attains normal pension age,
- (b) in the case of a member of any other occupational pension scheme, within 6 months of the date on which they receive the application, or (if earlier) by the date on which the member attains normal pension age, or
- (c) in the case of a member of a personal pension scheme, within 6 months of the date on which they receive the application.]

(3) If—

- (a) disciplinary proceedings or proceedings before a court have been begun against a member of an occupational pension scheme at any time before the expiry of the period of 12 months beginning with the termination date; and
- (b) it appears to the trustees or managers of the scheme that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited; and
- (c) the date before which they would (apart from this subsection) be obliged under subsection (2) to carry out what the member requires is earlier than the end of the period of 3 months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),

then, subject to the following provisions of this section, they must instead do so before the end of that period of 3 months.

[<sup>F372</sup>(3A) In this section, “guarantee date” has the same meaning as in section 93A.]

[<sup>F373</sup>(4) The Regulatory Authority may, in prescribed circumstances, grant an extension of the period within which the trustees or managers of the scheme are obliged to do what is needed to carry out what a member of the scheme requires.]

[<sup>F373</sup>(4A) Regulations may make provision in relation to applications for extensions under subsection (4).]



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<sup>F374</sup>(6) .....

[<sup>F375</sup>(7) Where the trustees or managers of an occupational pension scheme have not done what is needed to carry out what a member of the scheme requires within six months of the date mentioned in paragraph (a) or (b) of subsection (2)—

- (a) they must, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
- (b) section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that it was so done.

(8) Regulations may provide that in prescribed circumstances subsection (7) shall not apply in relation to an occupational pension scheme.]

#### Textual Amendments

- F371** S. 99(2)(a)-(c) substituted for s. 99(2)(a) (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 6(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F372** S. 99(3A) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 6(b)**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2** (with art. 5)
- F373** S. 99(4)(4A) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 6(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 5)
- F374** S. 99(6) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**
- F375** S. 99(7)(8) added (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 6(e)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 5)

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

- C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C76** S. 99 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 paras. 3, 4**
- C77** S. 99(1) modified (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), **3(1)**
- C78** S. 99(2)(a) modified (6.4.2005) by The Pensions Regulator (Freezing Orders and Consequential Amendments) Regulations 2005 (S.I. 2005/686), regs. 1(1), **3(2)**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 100 Withdrawal of applications.

(1) Subject to [<sup>F376</sup>subsections (2) and (2A)], a member of a scheme may withdraw an application under section 95 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.

(2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the

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member's cash equivalent in a way specified in subsection (2) or, as the case may be, subsection (3) of section 95.

[<sup>F377</sup>(2A) If the making of the application depended on the giving of a notice under section 101F(1), the application may only be withdrawn if the notice is also withdrawn.]

- (3) A member who withdraws an application may make another.
- (4) A notice to the trustees or managers of a scheme under this section is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

#### Textual Amendments

**F376** Words in s. 100(1) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 38(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

**F377** S. 100(2A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 38(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

**C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**

**C79** S. 100 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### 101 Supplementary provisions.

In making any calculation for the purposes of this Chapter—

- (a) any charge or lien on, and  
 (b) any set-off against,

the whole or part of a pension shall be disregarded.

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

**C72** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**

**C80** S. 101 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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## [<sup>F378</sup>PART IVA

### REQUIREMENTS RELATING TO PENSION CREDIT BENEFIT

#### Textual Amendments

**F378** Pt. 4A inserted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 37, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

## CHAPTER I

### PENSION CREDIT BENEFIT UNDER OCCUPATIONAL SCHEMES

#### 101A Scope of Chapter I.

- (1) This Chapter applies to any occupational pension scheme whose resources are derived in whole or part from—
  - (a) payments to which subsection (2) applies made or to be made by one or more employers of earners to whom the scheme applies, or
  - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.
- (2) This subsection applies to payments—
  - (a) under an actual or contingent legal obligation, or
  - (b) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money.

#### 101B Interpretation.

In this Chapter—

“scheme” means an occupational pension scheme to which this Chapter applies;

“pension credit rights” means rights to future benefits under a scheme which are attributable (directly or indirectly) to a pension credit;

“pension credit benefit”, in relation to a scheme, means the benefits payable under the scheme to or in respect of a person by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit;

“normal benefit age”, in relation to a scheme, means the earliest age at which a person who has pension credit rights under the scheme is entitled to receive a pension by virtue of those rights (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise).

#### 101C Basic principle as to pension credit benefit.

- (1) Normal benefit age under a scheme must be between 60 and 65.

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- (2) A scheme must not provide for payment of pension credit benefit in the form of a lump sum at any time before normal benefit age, except in such circumstances as may be prescribed.

#### **101D Form of pension credit benefit and its alternatives.**

- (1) Subject to subsection (2) and section 101E, a person's pension credit benefit under a scheme must be—
- (a) payable directly out of the resources of the scheme, or
  - (b) assured to him by such means as may be prescribed.
- (2) Subject to subsections (3) and (4), a scheme may, instead of providing a person's pension credit benefit, provide—
- (a) for his pension credit rights under the scheme to be transferred to another occupational pension scheme or a personal pension scheme with a view to acquiring rights for him under the rules of the scheme, or
  - (b) for such alternatives to pension credit benefit as may be prescribed.
- (3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter II of this Part.
- (4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for pension credit benefit—
- (a) if the person entitled to the benefit consents, or
  - (b) in such other cases as may be prescribed.

#### **101E Discharge of liability where pension credit or alternative benefits secured by insurance policies or annuity contracts.**

- (1) A transaction to which section 19 applies discharges the trustees or managers of a scheme from their liability to provide pension credit benefit or any alternative to pension credit benefit for or in respect of a member of the scheme if and to the extent that—
- (a) it results in pension credit benefit, or any alternative to pension credit benefit, for or in respect of the member being appropriately secured (within the meaning of that section),
  - (b) the transaction is entered into with the consent of the member or, if the member has died, of the member's widow or widower [<sup>F379</sup>or surviving civil partner], and
  - (c) such requirements as may be prescribed are met.
- (2) Regulations may provide that subsection (1)(b) shall not apply in prescribed circumstances.

#### **Textual Amendments**

**F379** Words in s. 101E(1)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 148](#); S.I. 2005/3175, art. 2(2)

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## CHAPTER II

### TRANSFER VALUES

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

**C81** Pt. 4A Ch. 2 applied (with retrospective effect from 1.12.2000) by [The National Health Service Superannuation Scheme \(Scotland\) \(Additional Voluntary Contributions\) Regulations 1998 \(S.I. 1998/1451\)](#), [Sch. 2 para. 5](#) (as inserted by [S.S.I. 2001/465](#), reg. 1(2), [sch. 2 para. 6](#))

#### **101F Power to give transfer notice.**

- (1) An eligible member of a qualifying scheme may by notice in writing require the trustees or managers of the scheme to use an amount equal to the cash equivalent of his pension credit benefit for such one or more of the authorised purposes as he may specify in the notice.
- (2) In the case of a member of an occupational pension scheme, the authorised purposes are—
  - (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme,
  - (b) to purchase from one or more [<sup>F380</sup>insurers] such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy the prescribed requirements, and
  - (c) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.
- (3) In the case of a member of a personal pension scheme, the authorised purposes are—
  - (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme, and
  - (b) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.
- (4) The cash equivalent for the purposes of subsection (1) shall—
  - (a) in the case of a salary related occupational pension scheme, be taken to be the amount shown in the relevant statement under section 101H, and
  - (b) in any other case, be determined by reference to the date the notice under that subsection is given.
- (5) The requirements which may be prescribed under subsection (2) or (3) include, in particular, requirements of the Inland Revenue.
- (6) In subsections (2) and (3), references to an eligible scheme are to a scheme—
  - (a) the trustees or managers of which are able and willing to accept payment in respect of the member's pension credit rights, and
  - (b) which satisfies the prescribed requirements.
- (7) In this Chapter, “transfer notice” means a notice under subsection (1).

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### Textual Amendments

**F380** Word in s. 101F(2)(b) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **122**

## 101G Restrictions on power to give transfer notice.

- (1) In the case of a salary related occupational pension scheme, the power to give a transfer notice may only be exercised if—
  - (a) the member has been provided with a statement under section 101H, and
  - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (2) The power to give a transfer notice may not be exercised in the case of an occupational pension scheme if—
  - (a) there is less than a year to go until the member reaches normal benefit age, or
  - (b) the pension to which the member is entitled by virtue of his pension credit rights, or benefit in lieu of that pension, or any part of it has become payable.
- (3) Where an eligible member of a qualifying scheme—
  - (a) is entitled to make an application under section 95 to the trustees or managers of the scheme, or
  - (b) would be entitled to do so, but for the fact that he has not received a statement under section 93A in respect of which the guarantee date is sufficiently recent, he may not, if the scheme so provides, exercise the power to give them a transfer notice unless he also makes an application to them under section 95.
- (4) The power to give a transfer notice may not be exercised if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.

## 101H Salary related schemes: statements of entitlement.

- (1) The trustees or managers of a qualifying scheme which is a salary related occupational pension scheme shall, on the application of an eligible member, provide him with a written statement of the amount of the cash equivalent of his pension credit benefit under the scheme.
- (2) For the purposes of subsection (1), the amount of the cash equivalent shall be determined by reference to a date falling within—
  - (a) the prescribed period beginning with the date of the application, and
  - (b) the prescribed period ending with the date on which the statement under that subsection is provided to the applicant.
- (3) Regulations may make provision in relation to applications under subsection (1) and may, in particular, restrict the making of successive applications.
- (4) If trustees or managers to whom subsection (1) applies fail to perform an obligation under that subsection, section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to secure that the obligation was performed.

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## **101I Calculation of cash equivalents.**

Cash equivalents for the purposes of this Chapter shall be calculated and verified in the prescribed manner.

## **101J Time for compliance with transfer notice.**

(1) Trustees or managers of a qualifying scheme who receive a transfer notice shall comply with the notice—

- (a) in the case of an occupational pension scheme, within 6 months of the valuation date or, if earlier, by the date on which the member to whom the notice relates reaches normal benefit age, and
- (b) in the case of a personal pension scheme, within 6 months of the date on which they receive the notice.

(2) The Regulatory Authority may, in prescribed circumstances, extend the period for complying with the notice.

<sup>F381</sup>(3) .....

(4) Where the trustees or managers of an occupational pension scheme have failed to comply with a transfer notice before the end of the period for compliance—

- (a) they shall, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
- (b) section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the notice was complied with before the end of the period for compliance.

(5) If trustees or managers to whom subsection (4)(a) applies fail to perform the obligation imposed by that provision, section 10 of the Pensions Act 1995 shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the obligation was performed.

(6) Regulations may—

- (a) make provision in relation to applications under subsection (2), and
- (b) provide that subsection (4) shall not apply in prescribed circumstances.

(7) In this section, “valuation date”, in relation to a transfer notice given to the trustees or managers of an occupational pension scheme, means—

- (a) in the case of a salary related scheme, the date by reference to which the amount shown in the relevant statement under section 101H is determined, and
- (b) in the case of any other scheme, the date the notice is given.

### **Textual Amendments**

**F381** S. 101J(3) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), Sch. 13; S.I. 2005/695, art. 2(7), Sch. 1

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### **101K Withdrawal of transfer notice.**

- (1) Subject to subsections (2) and (3), a person who has given a transfer notice may withdraw it by giving the trustees or managers to whom it was given notice in writing that he no longer requires them to comply with it.
- (2) A transfer notice may not be withdrawn if the trustees or managers have already entered into an agreement with a third party to use the whole or part of the amount they are required to use in accordance with the notice.
- (3) If the giving of a transfer notice depended on the making of an application under section 95, the notice may only be withdrawn if the application is also withdrawn.

### **101L Variation of the amount required to be used.**

- (1) Regulations may make provision for the amount required to be used under section 101F(1) to be increased or reduced in prescribed circumstances.
- (2) Without prejudice to the generality of subsection (1), the circumstances which may be prescribed include—
  - (a) failure by the trustees or managers of a qualifying scheme to comply with a notice under section 101F(1) within 6 months of the date by reference to which the amount of the cash equivalent falls to be determined, and
  - (b) the state of funding of a qualifying scheme.
- (3) Regulations under subsection (1) may have the effect of extinguishing an obligation under section 101F(1).

### **101M Effect of transfer on trustees' duties.**

Compliance with a transfer notice shall have effect to discharge the trustees or managers of a qualifying scheme from any obligation to provide the pension credit benefit of the eligible member who gave the notice.

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

**C82** S. 101M modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), **3(2)**

### **101N Matters to be disregarded in calculations.**

In making any calculation for the purposes of this Chapter—

- (a) any charge or lien on, and
- (b) any set-off against,

the whole or part of a pension shall be disregarded.

### **101O Service of notices.**

A notice under section 101F(1) or 101K(1) shall be taken to have been given if it is delivered to the trustees or managers personally or sent by post in a registered letter or by recorded delivery service.



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## **101P Interpretation of Chapter II.**

(1) In this Chapter—

“eligible member”, in relation to a qualifying scheme, means a member who has pension credit rights under the scheme;

“normal benefit age”, in relation to an eligible member of a qualifying scheme, means the earliest age at which the member is entitled to receive a pension by virtue of his pension credit rights under the scheme (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise);

“pension credit benefit”, in relation to an eligible member of a qualifying scheme, means the benefits payable under the scheme to or in respect of the member by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit;

“pension credit rights”, in relation to a qualifying scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“qualifying scheme” means a funded occupational pension scheme and a personal pension scheme;

“transfer notice” has the meaning given by section 101F(7).

(2) For the purposes of this Chapter, an occupational pension scheme is salary related if—

- (a) it is not a money purchase scheme, and
- (b) it does not fall within a prescribed class.

(3) In this Chapter, references to the relevant statement under section 101H, in relation to a transfer notice given to the trustees or managers of a salary related occupational pension scheme, are to the statement under that section on which the giving of the notice depended.

(4) For the purposes of this section, an occupational pension scheme is funded if it meets its liabilities out of a fund accumulated for the purpose during the life of the scheme.

## **101Q Power to modify Chapter II in relation to hybrid schemes.**

Regulations may apply this Chapter with prescribed modifications to occupational pension schemes—

- (a) which are not money purchase schemes, but
- (b) where some of the benefits that may be provided are money purchase benefits.]

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**PART V**

**ANNUAL INCREASES OF PENSIONS IN PAYMENT**

**CHAPTER I**

**PENSIONS UNDER FINAL SALARY SCHEMES ETC.**

**F382 102 Scope of Chapter I: annual increase of certain occupational pensions.**

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**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 25, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#) (with art. 6)

**F382 103 Annual increase of later service component.**

.....

**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 25, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#) (with art. 6)

**F382 104 Annual increase of earlier service component where scheme is in surplus.**

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**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 25, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#) (with art. 6)

**F382 105 Proportional increase where first period is less than 12 months.**

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**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 25, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#) (with art. 6)

**F382 106 Restriction on increase where member is under 55.**

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**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 25, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 6)

**<sup>F382</sup>107 Application of Chapter I to pensions not attributable to pensionable service.**

.....

**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 25, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 6)

**<sup>F382</sup>108 No payments to employers from non-complying schemes.**

.....

**Textual Amendments**

**F382** Ss. 102-108 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 25, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 6)

## CHAPTER II

### GUARANTEED MINIMUM PENSIONS

**109 Annual increase of guaranteed minimum pensions.**

- (1) The Secretary of State shall in each tax year review the general level of prices in Great Britain for the period of 12 months commencing at the end of the period last reviewed under this section.
- (2) Where it appears to the Secretary of State that that level has increased at the end of the period under review, he shall lay before Parliament the draft of an order specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for [<sup>F383</sup>the tax years in the relevant period] for—
  - (a) earners who have attained pensionable age; and
  - (b) [<sup>F384</sup>widows, widowers and surviving civil partners].
- (3) The percentage shall be—
  - (a) the percentage by which that level has increased at the end of the period under review; or
  - (b) 3 per cent.,whichever is less.

[<sup>F385</sup>(3A) The relevant period is the period—

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- (a) beginning with the tax year 1988-89, and
  - (b) ending with the last tax year that begins before the principal appointed day for the purposes of Part III of the Pensions Act 1995]
- (4) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (5) An order under this section shall be so framed as to bring the alterations to which it relates into force on the first day of the next tax year after that in which the order is made.
- (6) Where the benefits mentioned in section 46(1) to (7) are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of that section as not taking effect until the day on which those benefits are next increased.

**Textual Amendments**

**F383** Words in s. 109(2) substituted (4.2.1997) by Pensions Act 1995 (c. 26), ss. 55(a), 180(1) (with s. 121(5)); S.I. 1997/216, art. 2(2)

**F384** Words in s. 109(2)(b) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 22**

**F385** S. 109(3A) inserted (4.2.1997) by Pensions Act 1995 (c. 26), ss. 55(b), 180(1) (with s. 121(5)); S.I. 1997/216, art. 2(2)

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

**C83** S. 109 modified (6.4.2000) by The Guaranteed Minimum Pensions Increase Order 2000 (S.I. 2000/425), arts. 1, 2

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**Commencement Information**

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

**110 Requirement as to resources for annual increase of guaranteed minimum pensions.**

- (1) Except as permitted by [<sup>F386</sup>section 53 of the Pensions Act 1995], the trustees or managers of a scheme may not make an increase in a person’s pension which is required by virtue of section 109 out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—
- (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the next tax year; or
  - (b) the payment is to a person as the [<sup>F387</sup>widow, widower or surviving civil partner] of an earner who died before attaining pensionable age and is in respect of the tax year in which the person became a [<sup>F387</sup>widow, widower or surviving civil partner], and the increase is the one required to be made in the next tax year.

<sup>F388</sup>(2) .....

<sup>F388</sup>(3) .....

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F388(4) .....

#### Textual Amendments

- F386** Words in s. 110(1) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 53(4)(b), 180(1) (with s. 121(5)); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F387** Words in s. 110(1)(b) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), Sch. 1 para. 23
- F388** S. 110(2)-(4) repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 53(4)(a), 180(1), Sch. 7 Pt. 1 (with s. 121(5)); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## PART VI

### FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

#### 111 Voluntary contributions.

- (1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that an occupational pension scheme or a personal pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—
- must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
  - must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
  - must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him; and
  - must secure that the value of the additional benefits is reasonable, having regard—
    - to the amount of the voluntary contributions; and
    - to the value of the other benefits under the scheme.
- (2) The requirements specified in this section are in this Act referred to as “the voluntary contributions requirements”.
- (3) This section does not apply in relation to any pension payable under the <sup>M20</sup>Judicial Pensions and Retirement Act 1993, the <sup>M21</sup>Judicial Pensions Act 1981 or the <sup>M22</sup>Sheriffs’ Pensions (Scotland) Act 1961; and accordingly none of the provisions of this Act shall, in so far as it has effect in relation to the voluntary contributions requirements, apply to any such pension.

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

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#### **Marginal Citations**

**M20** 1993 c. 8.

**M21** 1981 c. 20.

**M22** 1961 c. 42.

#### **[<sup>F389</sup>111A] Monitoring of employers' payments to personal pension schemes.**

- (1) This section applies where—
  - (a) an employee is a member of a personal pension scheme; and
  - (b) direct payment arrangements exist between the employee and his employer.
- (2) In this section “direct payment arrangements” means arrangements under which contributions fall to be paid by or on behalf of the employer towards the scheme—
  - (a) on the employer’s own account (but in respect of the employee); or
  - (b) on behalf of the employee out of deductions from the employee’s earnings.
- (3) The employer must secure that there is prepared, maintained and from time to time revised a record of the direct payment arrangements which complies with subsection (4).
- (4) The record must—
  - (a) show the rates and due dates of contributions payable under the direct payment arrangements, and
  - (b) satisfy prescribed requirements.
- (5) The employer must, within the prescribed period after the preparation or any revision of the record, send a copy of the record or (as the case may be) of the revised record to the trustees or managers of the scheme.
- (6) Except in prescribed circumstances, the trustees or managers of the scheme must, where any contribution shown by the record to be payable under the direct payment arrangements has not been paid on or before its due date, give notice of that fact, within the prescribed period, to the Regulatory Authority and the employee.
- (7) The trustees or managers of the scheme must before the end of prescribed intervals send the employee a statement setting out the amounts and dates of the payments made under the direct payment arrangements during a prescribed period.
- (8) If—
  - (a) the employer fails to take all such steps as are reasonable to secure compliance with subsection (3) or (5), or
  - (b) a contribution payable under the direct payment arrangements is not paid to the trustees or managers of the scheme on or before its due date,
 section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.
- (9) If subsection (6) or (7) is not complied with, section 10 of the Pensions Act 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.
- (10) If—
  - (a) subsection (6) or (7) is not complied with, and
  - (b) the scheme—

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- (i) is established under a trust, and
  - (ii) is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (stakeholder schemes),section 3 of the Pensions Act 1995 (power of the Regulatory Authority to remove trustees) applies to any trustee of the scheme who has failed to take all such steps as are reasonable to secure compliance.
- (11) A person shall not be required by virtue of subsection (8)(b) above to pay a penalty under section 10 of the Pensions Act 1995 in respect of a failure if in respect of that failure he has been—
  - (a) required to pay a penalty under that section by virtue of section 3(7) of the Welfare Reform and Pensions Act 1999 (failures in respect of stakeholder pensions), or
  - (b) convicted of an offence under subsection (12) below.
- (12) A person is guilty of an offence if he is knowingly concerned in the fraudulent evasion of the direct payment arrangements so far as they are arrangements for the payment by him or any other person of any such contribution towards the scheme as is mentioned in subsection (2)(b).
- (13) A person guilty of an offence under subsection (12) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.
- (14) No prosecution shall be brought against the Crown for an offence under subsection (12), but that subsection applies to persons in the public service of the Crown as to other persons.
- (15) In this section “due date”, in relation to a contribution payable under the direct payment arrangements, means—
  - (a) if the contribution falls to be paid on the employer’s own account, the latest day under the arrangements for paying it;
  - (b) if the contribution falls to be paid on behalf of the employee, the last day of a prescribed period.
- (16) Regulations may provide for this section to apply with such modifications as may be prescribed in a case where—
  - (a) the direct payment arrangements give effect to a requirement arising under subsection (5) of section 3 of the Welfare Reform and Pensions Act 1999 (deduction and payment of employee’s contributions to stakeholder scheme), and
  - (b) in accordance with regulations under that subsection, that requirement is for the employer to pay contributions to a person prescribed by such regulations (instead of to the trustees or managers of the scheme).
- (17) Nothing in this section shall be taken as varying the provisions of the direct payment arrangements or as affecting their enforceability.

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### Textual Amendments

**F389** Ss. 111A, 111B inserted (11.11.1999 for specified purposes, 6.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [ss. 9, 89\(5\)\(a\)](#); [S.I. 2000/2958](#), [art. 2\(1\)](#)

## **111B Obtaining information for purposes of section 111A and corresponding Northern Ireland legislation.**

- (1) Any person appearing to the Regulatory Authority to be a person who holds, or is likely to hold, information which is relevant to the issue—
  - (a) whether any provision made by or under section 111A is being, or has been, complied with by an employer or the trustees or managers of a personal pension scheme,
  - (b) whether, in the case of any direct payment arrangements existing between an employee and his employer, there has been such a failure to pay a contribution as is mentioned in subsection (8)(b) of that section, or
  - (c) whether an offence has been committed under subsection (12) of that section in relation to any such arrangements,
 must, if required to do so by the Regulatory Authority by notice in writing, produce any document which is so relevant.
- (2) To comply with subsection (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.
- (3) An inspector may, for the purposes of investigating any of the matters set out in subsection (1)(a) to (c), at any reasonable time enter premises liable to inspection and, while there—
  - (a) may make such examination and inquiry as may be necessary for such purposes,
  - (b) may require any person on the premises to produce for his inspection, or secure the production for his inspection of, any document relevant—
    - (i) to compliance with any provision made by or under section 111A, or with the direct payment arrangements, or
    - (ii) to the issue whether an offence has been committed under subsection (12) of that section in relation to those arrangements, and
  - (c) may, as to any matter so relevant, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.
- (4) An inspector applying for admission to any premises in pursuance of subsection (3) must, if so required, produce his certificate of appointment.
- (5) For the purposes of subsection (3) premises are liable to inspection if the inspector has reasonable grounds to believe that—
  - (a) employees of the employer are employed there,
  - (b) documents relevant to the administration of—
    - (i) the employer’s business,
    - (ii) the direct payment arrangements, or
    - (iii) the scheme to which those arrangements relate,



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- are kept there, or
- (c) either of the following is being carried out there, namely—
- (i) the administration of the employer’s business, the arrangements or the scheme, or
  - (ii) work connected with the administration of the employer’s business, the arrangements or the scheme,
- unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (6) Section 100 of the Pensions Act 1995 (warrants) shall have effect as if references to section 98(1) or 99(1)(b) of that Act included references to subsection (1) or (3)(b).
- (7) Sections 101 to 103 of that Act (penalties, savings and reports) shall have effect as if references which are or include references to section 98 or 99 of that Act included references to this section.
- (8) In this section—
- “direct payment arrangements” has the same meaning as in section 111A;
  - “document” includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form;
  - “inspector” means a person appointed by the Regulatory Authority as an inspector.
- (9) References in this section to, or to any provision of, section 111A include references to corresponding provisions of Northern Ireland legislation; and in this section as it has effect in relation to those corresponding provisions, “employee” and “employer” have the meaning they have for the purposes of those provisions.]

**Textual Amendments**

**F389** Ss. 111A, 111B inserted (11.11.1999 for specified purposes, 6.4.2001 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [ss. 9, 89\(5\)\(a\)](#); [S.I. 2000/2958](#), [art. 2\(1\)](#)

<sup>F390</sup>**112 Restrictions on investment of scheme’s resources in employer-related assets.**

.....

**Textual Amendments**

**F390** S. 112 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), [s. 180\(1\)](#), [Sch. 3 para. 26](#), [Sch. 7 Pt. I](#); [S.I. 1997/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

**113 Disclosure of information about schemes to members etc.**

- (1) The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme or a personal pension scheme with respect to keeping the persons mentioned in subsection (2) informed—

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- (a) of its constitution;
  - (b) of its administration and finances;
  - (c) of the rights and obligations that arise or may arise under it;
  - [<sup>F391</sup>(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]
  - (d) of any other matters that appear to the Secretary of State to be relevant to occupational pension schemes or personal pension schemes in general or to schemes of a description to which the scheme in question belongs.
- (2) The persons referred to in subsection (1) are—
- (a) members and, in the case of an occupational pension scheme, prospective members of the scheme;
  - (b) spouses [<sup>F392</sup>or civil partners] of members and, in the case of an occupational pension scheme, of prospective members;
  - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
  - (d) in the case of an occupational pension scheme, independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.
- (3) Without prejudice to the generality of section 182(2), the regulations may distinguish between—
- (a) cases in which information is to be given as of course; and
  - (b) cases in which information need only be given on request or in other prescribed circumstances.
- [<sup>F393</sup>(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.]
- (4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d).

#### Textual Amendments

- F391** S. 113(1)(ca) substituted for word (1.1.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 52(1)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(a)
- F392** Words in s. 113(2)(b) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 14**
- F393** S. 113(3A)(3B) inserted (1.1.2001 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 52(2)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(a)

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**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

<sup>F394</sup>**114 Additional documents for members etc. and Registrar.**

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**Textual Amendments**

**F394** S. 114 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 3 para. 27, Sch. 7 Pt. I; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#) (with art. 7)

**115 Powers as respects failure to comply with information requirements.**

- (1) If the trustees or managers of an occupational pension scheme or a personal pension scheme, having made default in complying with regulations under section 113 or 114(1)(b), fail to make good the default within 14 days after the service on them of a notice requiring them to do so, an order may be made under this subsection.
- (2) The Secretary of State may by regulations specify forms for notices under subsection (1).
- (3) An order under subsection (1) is an order directing the trustees or managers to make good the default within such time as may be specified in the order.
- (4) The power to make such an order shall be exercisable by the appropriate court on the application of any person mentioned in subsection (5).
- (5) The persons referred to in subsection (4) are—
  - (a) the Secretary of State;
  - (b) any person authorised by the Secretary of State to make an application under this section; and
  - (c) any aggrieved person.
- (6) In this section “the appropriate court” means—
  - (a) in England and Wales, a county court; and
  - (b) in Scotland, the sheriff.
- (7) An application to the sheriff shall be made by summary application.
- (8) An order under this section may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

<sup>F395</sup>**116 Regulations as to auditors.**

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#### Textual Amendments

**F395** S. 116 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 28, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. II

### 117 Regulations as to form and content of advertisements.

Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### <sup>F396</sup>118 Equal access requirements.

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#### Textual Amendments

**F396** S. 118 repealed (1.1.1996) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 29, [Sch. 7 Pt. I](#); [S.I. 1995/3104](#), art. 2(3)

## PART VII

### INSOLVENCY OF EMPLOYERS

#### CHAPTER I

##### INDEPENDENT TRUSTEES

### <sup>F397</sup>119 Requirement for independent trustee where employer becomes insolvent etc.

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#### Textual Amendments

**F397** Ss. 119-122 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 30, [Sch. 7 Pt. I](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. II

### <sup>F397</sup>120 Members' powers to apply to court to enforce duty under s. 119.

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**Textual Amendments**

**F397** Ss. 119-122 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 30, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F397** **121 Further provisions as to appointment and powers of independent trustees.**

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**Textual Amendments**

**F397** Ss. 119-122 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 30, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F397** **122 Duty of insolvency practitioner or official receiver to give information to scheme trustees.**

.....

**Textual Amendments**

**F397** Ss. 119-122 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 30, Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. II

**CHAPTER II**

**PAYMENT BY SECRETARY OF STATE OF UNPAID SCHEME CONTRIBUTIONS**

**123 Interpretation of Chapter II.**

- (1) For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in England and Wales—
- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
  - (b) he has died and his estate falls to be administered in accordance with an order under section 421 of the <sup>M23</sup>Insolvency Act 1986; or
  - (c) where the employer is a company—
    - (i) a winding-up order <sup>F398</sup>... is made or a resolution for voluntary winding up is passed with respect to it [<sup>F399</sup>or the company enters administration],
    - (ii) a receiver or manager of its undertaking is duly appointed,
    - (iii) possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or
    - (iv) a voluntary arrangement proposed for the purpose of Part I of the <sup>M23</sup>Insolvency Act 1986 is approved under that Part.

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- (2) For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in Scotland—
- (a) sequestration of his estate is awarded or he executes a trust deed for his creditors or enters into a composition contract;
  - (b) he has died and a judicial factor appointed under section 11A of the <sup>M24</sup>Judicial Factors (Scotland) Act 1889 is required by that section to divide his insolvent estate among his creditors; or
  - (c) where the employer is a company—
    - (i) a winding-up order <sup>F400</sup>... is made or a resolution for voluntary winding up is passed with respect to it [<sup>F401</sup>or the company enters administration],
    - (ii) a receiver of its undertaking is duly appointed, or
    - (iii) a voluntary arrangement proposed for the purpose of Part I of the <sup>M23</sup>Insolvency Act 1986 is approved under that Part.
- (3) In this Chapter—
- “contract of employment”, “employee”, “employer” and “employment” and other expressions which are defined in [<sup>F402</sup>the Employment Rights Act 1996] have the same meaning as in that Act;
- “holiday pay” means—
- (a) pay in respect of holiday actually taken; or
  - (b) any accrued holiday pay which under the employee’s contract of employment would in the ordinary course have become payable to him in respect of the period of a holiday if his employment with the employer had continued until he became entitled to a holiday;
- <sup>F403</sup> ...
- <sup>F404</sup>(4) .....
- (5) Any reference in this Chapter to the resources of a scheme is a reference to the funds out of which the benefits provided by the scheme are from time to time payable.

#### Textual Amendments

- F398** Words in s. 123(1)(c)(i) omitted (15.9.2003) by virtue of [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 22(a)(i)** (with art. 6)
- F399** Words in s. 123(1)(c)(i) added (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 22(a)(ii)** (with art. 6)
- F400** Words in s. 123(2)(c)(i) omitted (15.9.2003) by virtue of [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 22(b)(i)** (with art. 6)
- F401** Words in s. 123(2)(c)(i) added (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), **Sch. para. 22(b)(ii)** (with art. 6)
- F402** Words in s. 123(3) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\)](#), s. 243, **Sch. 1 para. 61(2)** (with ss. 191-201)
- F403** Words in s. 123(3) repealed (22.9.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), Sch. 12 para. 19(a), **Sch. 13**; [S.I. 2005/2447](#), art. 2(3)
- F404** S. 123(4) repealed (22.9.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), Sch. 12 para. 19(b), **Sch. 13**; [S.I. 2005/2447](#), art. 2(3)

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

**C84** S. 123 applied (6.4.1997) by Pensions Act 1995 (c. 26), ss. 81(8), 180(1) (with s. 121(5)); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

#### Marginal Citations

**M23** 1986 c. 45.

**M24** 1889 c. 39.

## 124 Duty of Secretary of State to pay unpaid contributions to schemes.

- (1) If, on an application made to him in writing by the persons competent to act in respect of an occupational pension scheme or a personal pension scheme, the Secretary of State is satisfied—
- that an employer has become insolvent; and
  - that at the time he did so there remained unpaid relevant contributions falling to be paid by him to the scheme,

then, subject to the provisions of this section and section 125, the Secretary of State shall pay into the resources of the scheme the sum which in his opinion is payable in respect of the unpaid relevant contributions.

- (2) In this section and section 125 “relevant contributions” means contributions falling to be paid by an employer to an occupational pension scheme or a personal pension scheme, either on his own account or on behalf of an employee; and for the purposes of this section a contribution shall not be treated as falling to be paid on behalf of an employee unless a sum equal to that amount has been deducted from the pay of the employee by way of a contribution from him.

- (3) <sup>F405</sup>Subject to subsection (3A),] the sum payable under this section in respect of unpaid contributions of an employer on his own account to an occupational pension scheme or a personal pension scheme shall be the least of the following amounts—
- the balance of relevant contributions remaining unpaid on the date when he became insolvent and payable by the employer on his own account to the scheme in respect of the 12 months immediately preceding that date;
  - the amount certified by an actuary to be necessary for the purpose of meeting the liability of the scheme on dissolution to pay the benefits provided by the scheme to or in respect of the employees of the employer;
  - an amount equal to 10 per cent. of the total amount of remuneration paid or payable to those employees in respect of the 12 months immediately preceding the date on which the employer became insolvent.

<sup>F406</sup>(3A) Where the scheme in question is a money purchase scheme, the sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection]

- (4) For the purposes of subsection (3)(c), “remuneration” includes holiday pay, statutory sick pay, statutory maternity pay under Part V of the <sup>M25</sup>Social Security Act 1986 or Part XII of the <sup>M26</sup>Social Security Contributions and Benefits Act 1992 <sup>F407</sup>and any payment such as is referred to in section 184(2) of the Employment Rights Act 1996].

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- (5) Any sum payable under this section in respect of unpaid contributions on behalf of an employee shall not exceed the amount deducted from the pay of the employee in respect of the employee's contributions to the scheme during the 12 months immediately preceding the date on which the employer became insolvent.
- [<sup>F408</sup>(6) In this section “on his own account”, in relation to an employer, means on his own account but to fund benefits for, or in respect of, one or more employees.]

#### Textual Amendments

- F405** Words in s. 124(3) inserted (2.10.1995) by Pensions Act 1995 (c. 26), **ss. 90, 180(1)** (with s. 121(5)); S.I. 1995/2548, art. 2
- F406** S. 124(3A) inserted (2.10.1995) by Pensions Act 1995 (c. 26), **ss. 90, 180(1)** (with s. 121(5)); S.I. 1995/2548, art. 2
- F407** Words in s. 124(4) substituted (22.8.1996) by Employment Rights Act 1996 (c. 18), s. 243, **Sch. 1 para. 61(3)** (with ss. 191-201)
- F408** S. 124(6) inserted (22.9.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 20**; S.I. 2005/2447, art. 2(3)(a)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### Marginal Citations

- M25** 1986 c. 50.  
**M26** 1992 c. 4.

### 125 Certification of amounts payable under s. 124 by insolvency officers.

- (1) This section applies where one of the officers mentioned in subsection (2) (“the relevant officer”) has been or is required to be appointed in connection with an employer's insolvency.
- (2) The officers referred to in subsection (1) are—
- (a) a trustee in bankruptcy;
  - (b) a liquidator;
  - (c) an administrator;
  - (d) a receiver or manager; or
  - (e) a trustee under a composition or arrangement between the employer and his creditors or under a trust deed for his creditors executed by the employer;
- and in this subsection “trustee”, in relation to a composition or arrangement, includes the supervisor of a voluntary arrangement proposed for the purposes of and approved under Part I or VIII of the <sup>M27</sup>Insolvency Act 1986.
- (3) Subject to subsection (5), where this section applies the Secretary of State shall not make any payment under section 124 in respect of unpaid relevant contributions until he has received a statement from the relevant officer of the amount of relevant contributions which appear to have been unpaid on the date on which the employer became insolvent and to remain unpaid; and the relevant officer shall on request by the Secretary of State provide him as soon as reasonably practicable with such a statement.



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- (4) Subject to subsection (5), an amount shall be taken to be payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124 only if it is so certified by the relevant officer.
- (5) If the Secretary of State is satisfied—
- (a) that he does not require a statement under subsection (3) in order to determine the amount of relevant contributions that was unpaid on the date on which the employer became insolvent and remains unpaid, or
  - (b) that he does not require a certificate under subsection (4) in order to determine the amounts payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124,
- he may make a payment under that section in respect of the contributions in question without having received such a statement or, as the case may be, such a certificate.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**Marginal Citations**

**M27** 1986 c. 45.

**126 Complaint to industrial tribunal.**

- (1) Any persons who are competent to act in respect of an occupational pension scheme or a personal pension scheme and who have applied for a payment to be made under section 124 into the resources of the scheme may present a complaint to an industrial tribunal that—
- (a) the Secretary of State has failed to make any such payment; or
  - (b) any such payment made by him is less than the amount which should have been paid.
- (2) Such a complaint must be presented within the period of three months beginning with the date on which the decision of the Secretary of State on that application was communicated to the persons presenting it or, if that is not reasonably practicable, within such further period as is reasonable.
- (3) Where an industrial tribunal finds that the Secretary of State ought to make a payment under section 124, it shall make a declaration to that effect and shall also declare the amount of any such payment which it finds that the Secretary of State ought to make.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**127 Transfer to Secretary of State of rights and remedies.**

- (1) Where in pursuance of section 124 the Secretary of State makes any payment into the resources of an occupational pension scheme or a personal pension scheme in respect of any contributions to the scheme, any rights and remedies in respect of those

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contributions belonging to the persons competent to act in respect of the scheme shall, on the making of the payment, become rights and remedies of the Secretary of State.

(2) Where the Secretary of State makes any such payment as is mentioned in subsection (1) and the sum (or any part of the sum) falling to be paid by the employer on account of the contributions in respect of which the payment is made constitutes—

- (a) a preferential debt within the meaning of the <sup>M28</sup>Insolvency Act 1986 for the purposes of any provision of that Act (including any such provision as applied by an order made under that Act) or any provision of the <sup>M29</sup>Companies Act 1985; or
- (b) a preferred debt within the meaning of <sup>M30</sup>the Bankruptcy (Scotland) Act 1985 for the purposes of any provision of that Act (including any such provision as applied by section 11A of the <sup>M31</sup>Judicial Factors (Scotland) Act 1889),

then, without prejudice to the generality of subsection (1), there shall be included among the rights and remedies which become rights and remedies of the Secretary of State in accordance with that subsection any right arising under any such provision by reason of the status of that sum (or that part of it) as a preferential or preferred debt.

(3) In computing for the purposes of any provision referred to in subsection (2)(a) or (b) the aggregate amount payable in priority to other creditors of the employer in respect of—

- (a) any claim of the Secretary of State to be so paid by virtue of subsection (2); and
- (b) any claim by the persons competent to act in respect of the scheme,

any claim falling within paragraph (a) shall be treated as if it were a claim of those persons; but the Secretary of State shall be entitled, as against those persons, to be so paid in respect of any such claim of his (up to the full amount of the claim) before any payment is made to them in respect of any claim falling within paragraph (b).

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

#### Marginal Citations

**M28** [1986 c. 45.](#)

**M29** [1985 c. 6.](#)

**M30** [1985 c. 66.](#)

**M31** [1889 c. 39.](#)

## CHAPTER III

### PRIORITY IN BANKRUPTCY

#### 128 Priority in bankruptcy etc.

Schedule 4 shall have effect for the purposes of paragraph 8 of Schedule 6 to the <sup>M32</sup>Insolvency Act 1986 and paragraph 4 of Schedule 3 to the <sup>M33</sup>Bankruptcy (Scotland) Act 1985 (by virtue of which sums to which Schedule 4 to this Act applies are preferential or, as the case may be, preferred debts in cases of insolvency).

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**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

**Marginal Citations**

**M32** 1986 c. 45.

**M33** 1985 c. 66.

**PART VIII**

RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

**129 Overriding requirements.**

- (1) Subject to subsection (2), the provisions of Chapters II, III and IV of Part IV, <sup>F409</sup>Chapters I and II of Part IVA, <sup>F410</sup>... section 110(1), <sup>F410</sup>... and any regulations made <sup>F410</sup>... under section 113 or 114 <sup>F410</sup>... override any provision of a scheme to which they apply to the extent that it conflicts with them.
- (2) Chapter II of Part IV (as it applies to occupational pension schemes), <sup>F411</sup> and Chapter III of that Part] do not override a protected provision of a scheme <sup>F412</sup>....
- (3) In subsection (2) “protected provision” means—
  - <sup>F413</sup>(a) .....
  - <sup>F414</sup>(b) .....
  - (c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 20(1);
  - (d) any provision of a scheme to the extent that it deals with commutation, suspension or forfeiture of the whole or part of a pension; and
  - (e) any provision of a scheme whereby, as respects so much of a <sup>F415</sup>widow's, widower's or surviving civil partner's] pension as exceeds the guaranteed minimum pension—
    - (i) no pension or a pension at a reduced rate is payable if the earner and the <sup>F416</sup>widow, widower or surviving civil partner] married <sup>F417</sup>or, as the case may be, formed a civil partnership] not more than six months before the earner's death;
    - (ii) the whole or any part of the pension is not paid to the <sup>F416</sup>widow, widower or surviving civil partner], but instead comparable benefits are provided for one or more dependants of the deceased earner; or
    - (iii) no pension, or a pension at a reduced rate, is payable to the <sup>F416</sup>widow, widower or surviving civil partner] (or, where a provision such as is mentioned in sub-paragraph (ii) operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner.
- (4) For the purposes of the application of Chapter II of Part IV to schemes which are not contracted-out, subsection (3) shall have effect with the omission—
  - (a) from paragraph (c), of the words from “authorised” to the end; and
  - (b) from paragraph (e), of the words from “as respects” to “guaranteed minimum pension”.

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### Textual Amendments

- F409** Words in s. 129(1) inserted (1.12.2000) by **Welfare Reform and Pensions Act 1999 (c. 30)**, s. 89(1), **Sch. 12 para. 39(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F410** Words in s. 129(1) repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 31(a), **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F411** Words in s. 129(2) substituted (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), **Sch. 3 para. 31(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F412** Words in s. 129(2) repealed (6.4.2005) by **Pensions Act 2004 (c. 35)**, s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1
- F413** S. 129(3)(a) repealed (6.4.1997) by **Pensions Act 1995 (c. 26)**, s. 180(1), Sch. 3 para. 31(c), **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F414** S. 129(3)(b) repealed (6.4.2005) by **Pensions Act 2004 (c. 35)**, s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1
- F415** Words in s. 129(3)(e) substituted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053)**, art. 1(3), **Sch. para. 15(a)**
- F416** Words in s. 129(3)(e) substituted (5.12.2005) by **The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053)**, art. 1(3), **Sch. para. 15(b)**
- F417** Words in s. 129(3)(e)(i) inserted (5.12.2005) by **The Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005 (S.I. 2005/3029)**, art. 1(2)(c), **Sch. 1 para. 2**

### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by **S.I. 1994/86, art. 2**

## 130 Extra-statutory benefits.

It is hereby declared that—

- (a) nothing in Part III precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes and, in particular, nothing in section 16(3) is to be taken as preventing the scheme from providing increases above the alternative minima there mentioned; and
- (b) nothing in the provisions of Chapter II or IV of Part IV precludes a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.

### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by **S.I. 1994/86, art. 2**

## 131 Relationship of preservation requirements and scheme rules.

It is hereby declared that nothing in Chapter I of Part IV—

- (a) applies with direct effect to any scheme, or to the rights or liabilities of any person in, under or by virtue of a scheme; or
- (b) precludes a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in that Chapter) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.

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**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**132 Duty to bring schemes into conformity with indirectly-applying requirements.**

Where the rules of an occupational pension scheme to which the preservation requirements,<sup>F418</sup> ... or the voluntary contributions requirements apply or the rules of a personal pension scheme to which the voluntary contributions requirements apply do not comply with those requirements it shall be the responsibility of—

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration,

to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

**Textual Amendments**

**F418** Words in s. 132 repealed (1.1.1996) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 3 para. 32, Sch. 7 Pt. I; S.I. 1995/3104, art. 2\(3\)](#)

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

<sup>F419</sup>**133 Advice of the Board as to conformity of schemes with requirements.**

.....

**Textual Amendments**

**F419** Ss. 133-135 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 64, Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)

<sup>F419</sup>**134 Determination of questions whether schemes conform with requirements.**

.....

**Textual Amendments**

**F419** Ss. 133-135 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 64, Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. II](#)

<sup>F419</sup>**135 Persons competent to make applications under s. 134.**

.....

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**Textual Amendments**

**F419** Ss. 133-135 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 64, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**PART IX**

MODIFICATION AND WINDING UP OF SCHEMES

*Modification*

<sup>F420</sup>**136 Applications to the Board to modify schemes (other than public service schemes).**

.....

**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

<sup>F420</sup>**137 Persons competent to make applications under s. 136.**

.....

**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

<sup>F420</sup>**138 Further provisions concerning the Board’s powers under s. 136.**

.....

**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

<sup>F420</sup>**139 Other functions of the Board as respects modification of schemes.**

.....

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**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

**F420** **140 Effect of orders under ss. 136 and 139.**

.....

**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

**F420** **141 Modification of public service schemes.**

.....

**Textual Amendments**

**F420** Ss. 136-141 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 9)

*Winding up*

**F421** **142 Powers of the Board to wind up schemes.**

.....

**Textual Amendments**

**F421** Ss. 142, 143 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F421** **143 Winding up of public service schemes.**

.....

**Textual Amendments**

**F421** Ss. 142, 143 repealed (6.4.1997) by Pensions Act 1995 (c. 26), ss. 161, 180(1), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F422** **144 Deficiencies in the assets of a scheme on winding up.**

.....

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### Textual Amendments

**F422** S. 144 repealed (6.4.1997) (with a saving for schemes that began to wind up before 19.12.1996 and in respect of debts which arose at any applicable time before 6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 3 para. 38](#), [Sch. 7 Pt. I](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#) (with art. 11(3))

## PART X

### INVESTIGATIONS: THE PENSIONS OMBUDSMAN

#### 145 The Pensions Ombudsman.

- (1) For the purpose of conducting investigations in accordance with this Part or any corresponding legislation having effect in Northern Ireland there shall be a commissioner to be known as the Pensions Ombudsman.
- (2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold <sup>F423</sup>and vacate] office upon such terms and conditions as the Secretary of State may think fit.
- <sup>F424</sup>(3) The Pensions Ombudsman may resign or be removed from office in accordance with those terms and conditions.]
- <sup>F425</sup>(4A) The Pensions Ombudsman may (with the approval of the Secretary of State as to numbers) appoint such persons to be employees of his as he thinks fit, on such terms and conditions as to remuneration and other matters as the Pensions Ombudsman may with the approval of the Secretary of State determine.
- (4B) The Secretary of State may, on such terms as to payment by the Pensions Ombudsman as the Secretary of State thinks fit, make available to the Pensions Ombudsman such additional staff and such other facilities as he thinks fit.
- (4C) Any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part, may be performed by any—
  - (a) employee appointed by the Pensions Ombudsman under subsection (4A), or
  - (b) member of staff made available to him by the Secretary of State under subsection (4B),
 who is authorised for that purpose by the Pensions Ombudsman.]
- (5) The Secretary of State may—
  - (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine<sup>F426</sup>...; and
  - (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.
- (6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for each financial year, and shall submit it to the Secretary of State as soon as practicable afterwards.



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- (7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6).

#### Extent Information

**E1** S. 145 extends to U.K. except s. 145(4)(5)(b) which extend only to G.B. see s. 192(2)

#### Textual Amendments

**F423** Words in s. 145(2) inserted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 274(1), 322(1) (with s. 313); S.I. 2004/3350, art. 2, Sch.

**F424** S. 145(3) substituted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 274(2), 322(1) (with s. 313); S.I. 2004/3350, art. 2, Sch.

**F425** S. 145(4A)-(4C) substituted for s. 145(4) (2.10.1995) by Pensions Act 1995 (c. 26), ss. 156, 180(1); S.I. 1995/2548, art. 2

**F426** Words in s. 145(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 7, Sch. 7 Pt. IV; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### [<sup>F427</sup>145A] Deputy Pensions Ombudsmen

- (1) The Secretary of State may appoint one or more persons to act as a deputy to the Pensions Ombudsman (“a Deputy Pensions Ombudsman”).
- (2) Any such appointment is to be upon such terms and conditions as the Secretary of State thinks fit.
- (3) A Deputy Pensions Ombudsman—
- is to hold and vacate office in accordance with the terms and conditions of his appointment, and
  - may resign or be removed from office in accordance with those terms and conditions.
- (4) A Deputy Pensions Ombudsman may perform the functions of the Pensions Ombudsman—
- during any vacancy in that office,
  - at any time when the Pensions Ombudsman is for any reason unable to discharge his functions, or
  - at any other time, with the consent of the Secretary of State.
- (5) References to the Pensions Ombudsman in relation to the performance of his functions are accordingly to be construed as including references to a Deputy Pensions Ombudsman in relation to the performance of those functions.
- (6) The Secretary of State may—
- pay to or in respect of a Deputy Pensions Ombudsman such amounts—
    - by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or
    - by way of provision for any such benefits,as the Secretary of State may determine, and

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- (b) reimburse the Pensions Ombudsman in respect of any expenses incurred by a Deputy Pensions Ombudsman in the performance of any of the Pensions Ombudsman's functions.]

#### Textual Amendments

**F427** S. 145A inserted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 274(3), 322(1) (with s. 313); S.I. 2004/3350, art. 2, Sch.

### 146 Functions of the Pensions Ombudsman.

- (1) <sup>F428</sup>The Pensions Ombudsman may investigate and determine the following <sup>F429</sup>matters]—

- (a) a complaint made to him by or on behalf of an actual or potential beneficiary of an occupational or personal pension scheme who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of a person responsible for the management of the scheme,
- (b) a complaint made to him—
- (i) by or on behalf of a person responsible for the management of an occupational pension scheme who in connection with any act or omission of another person responsible for the management of the scheme, alleges maladministration of the scheme, or
- (ii) by or on behalf of the trustees or managers of an occupational pension scheme who in connection with any act or omission of any trustee or manager of another such scheme, allege maladministration of the other scheme,

and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates <sup>F430</sup>are references to the other scheme referred to in that sub-paragraph],

- <sup>F431</sup> [ 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,]
- (c) any dispute of fact or law <sup>F432</sup>... in relation to an occupational or personal pension scheme between—
- (i) a person responsible for the management of the scheme, and
- (ii) an actual or potential beneficiary,

and which is referred to him by or on behalf of the actual or potential beneficiary, and

- (d) any dispute of fact or law <sup>F433</sup>... between the trustees or managers of an occupational pension scheme and—
- (i) another person responsible for the management of the scheme, or
- (ii) any trustee or manager of another such scheme,

<sup>F434</sup>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,

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- (e) any dispute not falling within paragraph (f) between different trustees of the same occupational pension scheme,
- (f) [<sup>F435</sup>any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—
  - (i) other trustees of the scheme, or
  - (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, 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.]]

[<sup>F436</sup>(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.]

(2) [<sup>F428</sup>Complaints and references made to the Pensions Ombudsman must be made to him in writing.]

(3) [<sup>F428</sup>For the purposes of this Part, the following persons (subject to subsection (4)) are responsible for the management of an occupational pension scheme [<sup>F437</sup>or a personal pension scheme]—

- (a) the trustees or managers, and
- (b) the employer;

but, in relation to a person falling within one of those paragraphs, references in this Part to another person responsible for the management of the same scheme are to a person falling within the other paragraph.

<sup>F438</sup>(3A) . . . . .]

(4) [<sup>F428</sup>Regulations may provide that, subject to any prescribed modifications or exceptions, this Part shall apply in the case of an occupational or personal pension scheme in relation to any prescribed person or body of persons where the person or body—

- (a) is not a trustee or manager or employer, but
- (b) is concerned with the financing or administration of, or the provision of benefits under, the scheme,

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as if for the purposes of this Part he were a person responsible for the management of the scheme]

[<sup>F439</sup>(4A) For the purposes of subsection (4) a person or body of persons is concerned with the administration of an occupational or personal pension scheme where the person or body is responsible for carrying out an act of administration concerned with the scheme.]

(5) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before 1st October 1990 (the date on which the provisions under which his office was constituted came into force).

(6) The Pensions Ombudsman shall not investigate or determine a complaint or dispute—

- [<sup>F440</sup>(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;]
- (b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or
- (c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.

(7) The persons who, for the purposes of this Part are [<sup>F441</sup>actual or potential beneficiaries] in relation to a scheme are—

- (a) a member of the scheme,
- (b) the [<sup>F442</sup>widow, widower or surviving civil partner], or any surviving dependant, of a deceased member of the scheme;
- [<sup>F443</sup>(ba) a person who is entitled to a pension credit as against the trustees or managers of the scheme;]
- (c) where the complaint or dispute relates to the question—
  - (i) whether a person who claims to be such a person as is mentioned in [<sup>F444</sup>paragraph (a), (b) or (ba)] is such a person, or
  - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,
 the person so claiming.

(8) In this Part—

“employer”, in relation to a pension scheme, includes a person—

- (a) who is or has been an employer in relation to the scheme, or
- (b) who is or has been treated under section 181(2) as an employer in relation to the scheme for the purposes of any provision of this Act, or under section 176(2) of the <sup>M34</sup>Pension Schemes (Northern Ireland) Act 1993 as an employer in relation to the scheme for the purposes of any provision of that Act;

[<sup>F445</sup>“independent trustee”, in relation to a scheme, means—

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(a) a trustee of the scheme appointed under [<sup>F446</sup>section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)],

(b) a person appointed under section 7(1) of that Act to replace a trustee falling within paragraph (a) or this paragraph;]

“member”, in relation to a pension scheme, includes a person—

(a) who is or has been in pensionable service under the scheme, or

(b) who is or has been treated under section 181(4) as a member in relation to the scheme for the purposes of any provision of this Act or under section 176(3) of the <sup>M34</sup>Pension Schemes (Northern Ireland) Act 1993 as a member in relation to the scheme for the purposes of any provision of that Act;

“Northern Ireland public service pension scheme” means a public service pension scheme within the meaning of section 176(1) of that Act;

“pensionable service” in this subsection includes pensionable service as defined in section 176(1) of that Act;

“trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

#### Textual Amendments

- F428** S. 146(1)-(4) substituted for s. 146(1)-(4) (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 157(2)**, 180(1); S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F429** Word in s. 146(1) substituted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(9)(a)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F430** Words in s. 146(1)(b) substituted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(9)(b)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F431** S. 146(1)(ba) inserted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(2)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F432** Words in s. 146(1)(c) repealed (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **Sch. 9 Pt. III(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)(e)
- F433** Words in s. 146(1)(d) repealed (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(9)(c)**, 86(1)(b)(2), **Sch. 9 Pt. III(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)(e)
- F434** Words in s. 146(1) substituted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(3)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F435** S. 146(1)(f) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 24(a)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F436** S. 146(1A)(1B) inserted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(4)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F437** Words in s. 146(3) inserted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(5)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F438** S. 146(3A) repealed (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **Sch. 9 Pt. III(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(2)(e)
- F439** S. 146(4A) inserted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 275(1)**, 322(1) (with **ss. 275(2)(3)**, 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F440** S. 146(6)(a) substituted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(6)**, 86(1)(b)(2) (with **ss. 53(10)**, 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F441** Words in s. 146(7) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(3)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

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- F442** Words in s. 146(7)(b) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 16**
- F443** S. 146(7)(ba) inserted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(7)(a)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F444** Words in s. 146(7)(c)(i) substituted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(7)(b)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F445** Words in s. 146(8) inserted (1.12.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 53(8)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2000/3166, art. 2(2)(c)
- F446** Words in s. 146(8) substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 24(c)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### Marginal Citations

- M34** 1993 c. 49.

### 147 Death, insolvency or disability of authorised complainant.

- (1) Where an [<sup>F447</sup>actual or potential beneficiary] dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) applies—
- (a) any complaint or dispute (whenever arising) which the [<sup>F447</sup>actual or potential beneficiary] might otherwise have made or referred under this Part may be made or referred by the appropriate person, and
  - (b) anything in the process of being done by or in relation to the [<sup>F447</sup>actual or potential beneficiary] under or by virtue of this Part may be continued by or in relation to the appropriate person,
- and any reference in this Part, except this section, to an [<sup>F447</sup>actual or potential beneficiary] shall be construed as including a reference to the appropriate person.
- (2) For the purposes of subsection (1) “the appropriate person” means—
- (a) where the [<sup>F448</sup>actual or potential beneficiary] has died, his personal representatives; or
  - (b) in any other case, a member of [<sup>F448</sup>his] family, or some body or individual suitable to represent him.
- (3) Where a person is acting as an insolvency practitioner in relation to [<sup>F449</sup>a person by whom, or on whose behalf, a complaint or reference has been made under this Part], investigations under this Part shall be regarded for the purposes of the <sup>M35</sup>Insolvency Act 1986 and the <sup>M36</sup>Bankruptcy (Scotland) Act 1985 as legal proceedings.
- (4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

#### Textual Amendments

- F447** Words in s. 147(1) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(4)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F448** Words in s. 147(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(4)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

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**F449** Words in s. 147(3) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(5), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

#### Marginal Citations

**M35** 1986 c. 45.

**M36** 1985 c. 66.

### 148 Staying court proceedings where a complaint is made or a dispute is referred.

- (1) This section applies where—
  - (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and
  - (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.
- (2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgement of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.
- (3) In Scotland, where this section applies any party to the legal proceedings may—
  - (a) if the proceedings are in the Court of Session, at any time—
    - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
    - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
  - (b) if the proceedings are in the sheriff court, at any time—
    - (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
    - (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken,apply to the court for a sist of process.
- (4) On an application under subsection (2) or (3) the court may make an order staying or, in Scotland, sisting the proceedings if it is satisfied—
  - (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
  - (b) that the applicant was at the time when the legal proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the investigation.
- (5) For the purposes of this section the parties to an investigation are—
  - <sup>[F450]</sup>(a) the person by whom, or on whose behalf, the complaint or reference has been made,]

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- [<sup>F450</sup>(b) any person responsible for the management of the scheme to which the complaint or reference relates]
- <sup>F451</sup>(ba) .....
- <sup>F452</sup>(bb) .....
- (c) any person against whom allegations are made in the complaint or reference; and
- (d) any person claiming under a person falling within paragraphs (a) to (c).

**Textual Amendments**

- F450** S. 148(5)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(6), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F451** S. 148(5)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(a), 322(1), Sch. 13 Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F452** S. 148(5)(bb) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(a), 322(1), Sch. 13 Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

**149 Procedure on an investigation.**

- (1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part, he shall give—
  - (a) [<sup>F453</sup>any person (other than the person by whom, or on whose behalf, the complaint or reference was made) responsible for the management of the scheme to which the complaint or reference relates], and
  - (b) any other person against whom allegations are made in the complaint or reference,
 an opportunity to comment on any allegations contained in the complaint or reference.

<sup>F454</sup>(1) .....

<sup>F455</sup>(1A) .....

<sup>F456</sup>(1B) .....

- (2) The Secretary of State may make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part.

- (3) The rules may include provision—

- (a) requiring any oral hearing held in connection with such an investigation to take place in public, except in such cases as may be specified in the rules; <sup>F457</sup>...
- (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation, as defined in section 148(5); [<sup>F458</sup>[<sup>F459</sup>and]

<sup>F460</sup>(ba) .....

- (c) for the payment by the Ombudsman of such travelling and other allowances (including compensation for loss of remunerative time) as the Secretary of State may determine, to—



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- (i) actual or potential beneficiaries of a scheme to which a complaint or reference relates, or
  - (ii) persons appearing and being heard on behalf of such actual or potential beneficiaries,who attend at the request of the Ombudsman any oral hearing held in connection with an investigation into the complaint or dispute.]<sup>F461</sup> ...
- <sup>F461</sup>(d) .....
- (4) Subject to any provision made by the rules, the procedure for conducting such an investigation shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.
- [<sup>F462</sup>(5) The Pensions Ombudsman may disclose any information which he obtains for the purposes of an investigation under this Part to any person to whom subsection (6) applies, if the Ombudsman considers that the disclosure would enable or assist that person to discharge any of his functions.
- (6) This subsection applies to the following—
  - (a) the Regulatory Authority,
  - [<sup>F463</sup>(b) the Board of the Pension Protection Fund,
  - (ba) the Ombudsman for the Board of the Pension Protection Fund,]
  - (c) the Registrar,
  - (d) any department of the Government (including the government of Northern Ireland),
  - (e) the [<sup>F464</sup>Financial Services Authority],
  - <sup>F465</sup>(f) .....
  - <sup>F465</sup>(g) .....
  - [<sup>F466</sup>(h) a person appointed under—
    - (i) Part 14 of the Companies Act 1985,
    - (ii) section 167 of the Financial Services and Markets Act 2000,
    - (iii) subsection (3) or (5) of section 168 of that Act, or
    - (iv) section 284 of that Act,to conduct an investigation;]
  - (j) an inspector appointed by the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986,
  - [<sup>F467</sup>(k) a body designated under section 326(1) of the Financial Services and Markets Act 2000; and
  - (l) a recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).]
  - [<sup>F468</sup>(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.]
  - [<sup>F469</sup>(o) a body corporate established in accordance with paragraph 2(1) of Schedule 17 to the Financial Services and Markets Act 2000 (the scheme operator of the ombudsman scheme);
  - (p) an ombudsman as defined in paragraph 1 of that Schedule (interpretation).]
- (7) The Secretary of State may by order—

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- (a) amend subsection (6) by adding any person or removing any person for the time being specified in that subsection, or
- (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in that subsection.]

<sup>F470</sup>(8) . . . . .

### Textual Amendments

- F453** Words in s. 149(1)(a) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(7)**, 180(1); S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F454** S. 149(1) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(b), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- F455** S. 149(1A) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(b), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- F456** S. 149(1B) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(b), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- F457** Word in s. 149(3)(a) repealed (1.6.1996 for specified purposes, 16.10.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 158(b), 180(1), **Sch. 7 Pt. IV**; S.I. 1996/1412, art. 2(2), **Sch. Pt. 2**; S.I. 1996/2637, art. 4; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F458** S. 149(3)(c) and word inserted (1.6.1996 for specified purposes, 16.10.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 158(a)**, 180(1); S.I. 1996/1412, art. 2(2), **Sch. Pt. 2**; S.I. 1996/2637, art. 4; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F459** S. 149(3)(ba) substituted for word (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 54(4)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F460** S. 149(3)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(c), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- F461** S. 149(3)(d) and word repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(d), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- F462** S. 149(5)-(7) added (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 159(1)**, 180(1); S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F463** S. 149(6)(b)(ba) substituted for s. 149(6)(b) (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 25(a)**; S.I. 2005/275, art. 2(7), **Sch. Pt. 7** (with art. 3(1))
- F464** Words in s. 149(6)(e) substituted (1.6.1998) by Bank of England Act 1998 (c. 11), s. 45, **Sch. 5 para. 69(2)**; S.I. 1998/1120, art. 2
- F465** S. 149(6)(f)(g) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(a)**
- F466** S. 149(6)(h) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(b)**
- F467** S. 149(6)(k)(l) substituted for s. 149(6)(k)-(m) (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **123(c)**
- F468** S. 149(6)(n) inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 25(b)**; S.I. 2005/275, art. 2(7), **Sch. Pt. 7** (with art. 3(1))
- F469** S. 149(6)(o)(p) added (1.11.2005) by The Pensions Ombudsman (Disclosure of Information) (Amendment of Specified Persons) Order 2005 (S.I. 2005/2743), arts. 1, **2**
- F470** S. 149(8) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(e), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), **Sch. Pt. 7**

### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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## 150 Investigations: further provisions.

- (1) For the purposes of an investigation under this Part or under any corresponding legislation having effect in Northern Ireland, the Pensions Ombudsman may require—
  - (a) [<sup>F471</sup>any person responsible for the management of the scheme to which the complaint or reference relates], or
  - (b) any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation,to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.
- (3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.
- (4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of any act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.
- (5) Where an offence is certified under subsection (4) the court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.
- (6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may with the approval of the Treasury determine.
- (7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.
- (8) In this section “the court” means—
  - (a) in England and Wales, a county court;
  - (b) in Scotland, the sheriff.
- (9) Subsections (4) and (5) shall be construed, in their application to Scotland, as if contempt of court were categorised as an offence in Scots law.

### Textual Amendments

**F471** Words in s. 150(1)(a) substituted (6.4.1997) by Pensions Act 1995 (c. 26), ss. 157(8), 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

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## 151 Determinations of the Pensions Ombudsman.

(1) Where the Pensions Ombudsman has conducted an investigation under this Part he shall send a written statement of his determination of the complaint or dispute in question—

<sup>F472</sup>(a) to the person by whom, or on whose behalf, the complaint or reference was made, and]

<sup>F472</sup>(b) to any person (if different) responsible for the management of the scheme to which the complaint or reference relates]<sup>F473</sup> ...

<sup>F473</sup><sup>F474</sup>(c) ] .....

and any such statement shall contain the reasons for his determination.

(2) Where the Pensions Ombudsman makes a determination under this Part or under any corresponding legislation having effect in Northern Ireland, he may direct <sup>F475</sup>any person responsible for the management of the scheme to which the complaint or reference relates] to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) or otherwise in writing.

(3) Subject to subsection (4), the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2), shall be final and binding on—

<sup>F476</sup>(a) the person by whom, or on whose behalf, the complaint or reference was made,]

<sup>F476</sup>(b) any person (if different) responsible for the management of the scheme to which the complaint or reference relates,]<sup>F477</sup> and]

<sup>F478</sup>(ba) .....

<sup>F479</sup>(bb) .....

<sup>F476</sup>(c) any person claiming under a person falling within <sup>F480</sup>paragraph (a) or (b)]<sup>F481</sup> ...]

(4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3).

(5) Any determination or direction of the Pensions Ombudsman shall be enforceable—

(a) in England and Wales, in a county court as if it were a judgment or order of that court, and

(b) in Scotland, <sup>F482</sup>in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]

(6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part and of the result of that investigation.

(7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—

(a) in submitting or publishing a report under section 145(6) or subsection (6) of this section

<sup>F483</sup>(aa) in disclosing any information under section 149(5)], or

(b) in sending to any person a statement under subsection (1) or a direction under subsection (2),

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shall be absolutely privileged.

#### Textual Amendments

- F472** S. 151(1)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(9)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F473** S. 151(1)(c) and word repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(f), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F474** S. 151(1)(c) and word inserted (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 54(7)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F475** Words in s. 151(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(10)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F476** S. 151(3)(a)(b)(c) substituted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 157(11)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F477** S. 151(3)(ba)(bb) substituted for word (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 54(8)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F478** S. 151(3)(ba) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(g), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F479** S. 151(3)(bb) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(g), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F480** Words in s. 151(3)(c) substituted (1.3.2002 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 54(8)**, 86(1)(b)(2) (with ss. 54(9), 83(6)); S.I. 2002/437, art. 3(1)(g)
- F481** Words in s. 151(3)(c) repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 276(2)(h), 322(1), **Sch. 13** Note; S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F482** Words in s. 151(5)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 8**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F483** S. 151(7)(aa) inserted (6.4.1997) by Pensions Act 1995 (c. 26), **ss. 159(2)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### <sup>F484</sup>151A Interest on late payment of benefit

Where under this Part the Pensions Ombudsman directs a person responsible for the management of an occupational or personal pension scheme to make any payment in respect of benefit under the scheme which, in his opinion, ought to have been paid earlier, his direction may also require the payment of interest at the prescribed rate]

#### Textual Amendments

- F484** S. 151A inserted (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 160**, 180(1); S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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**152 Power to make special county court rules.**

- (1) The Secretary of State may make rules—
  - (a) regulating the practice, and the forms of proceedings, which are to be followed in county courts in any proceedings under or by virtue of this Part; and
  - (b) prescribing the scales of costs to be paid in connection with any such proceedings.
- (2) Without prejudice to the generality of subsection (1), rules under this section may, to any extent and with or without modifications, apply any county court rules to proceedings under or by virtue of this Part.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**PART XI**

GENERAL AND MISCELLANEOUS PROVISIONS

*Modification powers*

**153 Power to modify certain provisions of this Act.**

- (1) The Secretary of State may by regulations direct that Chapters II, III and IV of Part IV <sup>F485</sup>...shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.
- (2) Regulations may modify Chapter I of Part IV—
  - (a) in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment;
  - (b) in such manner as the Secretary of State thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member’s benefit in the event of the scheme being wound up;
  - (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Secretary of State considers to be necessary for particular cases or classes of case;
 and regulations under paragraph (a) may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.

<sup>F486</sup>(3) .....

<sup>F486</sup>(4) .....

- (5) The Secretary of State may make regulations modifying <sup>F487</sup>... section 129 (so far as it applies to that Chapter) or section 144, in their application—
  - (a) to any occupational pension scheme which applies to earners in employments under different employers;

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- (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme; <sup>F488</sup>or]
- (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme; <sup>F489</sup> ...
- <sup>F489</sup>(d) .....
- <sup>F490</sup>(6) .....
- <sup>F490</sup>(7) .....
- (8) The Secretary of State may by order provide that any enactment in Chapter II of Part VII which is specified in the order—
  - (a) shall not apply to persons or to employments of such classes as may be prescribed in the order; or
  - (b) shall apply to persons or employments of such classes as may be so prescribed subject, but without prejudice to paragraph (a), to such exceptions or modifications as may be so prescribed;and in this subsection “employments” has the same meaning as in that Chapter.

#### Textual Amendments

- F485** Words in s. 153(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(a), Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F486** S. 153(3)(4) repealed (1.1.1996) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(b), Sch. 7 Pt. I; S.I. 1995/3104, art. 2(3)
- F487** Words in s. 153(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(c), Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F488** Word in s. 153(5)(b) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(c); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F489** S. 153(5)(d) and preceding word repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(c), Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F490** S. 153(6)(7) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 39(d), Sch. 7 Pt. I; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### 154 Application of enactments as respects personal pension schemes.

- (1) Regulations may provide that any provision of this Act <sup>F491</sup>or of sections 22 to 26 and 40 of the Pensions Act 1995] which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.
- (2) This subsection applies to section 66, section 111 so far as it relates to occupational pension schemes, (and Part VIII and section 153 so far as they have effect for the purposes of section 111 as it so relates), sections 117, 123 to 127, 155, 157, 160 and 161.

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#### Textual Amendments

**F491** Words in s. 154(1) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 3 para. 40**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### *Information about schemes*

#### **155 Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.**

Regulations may require the furnishing by prescribed persons to the Secretary of State [<sup>F492</sup>or the Inland Revenue]<sup>F493</sup> ... of such information as he [<sup>F494</sup>or they require] for the purposes of <sup>F495</sup> ... [<sup>F495</sup>Part III], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), section 117 and section 159 (so far as it relates to protected rights payments).

#### Textual Amendments

**F492** Words in s. 155 inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 59(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**F493** Words in s. 155 repealed (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 65(a), **Sch. 7 Pt. III**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F494** Words in s. 155 inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 59(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**F495** Words in s. 155 substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 65(c)**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### <sup>F496</sup>**156 Information for purposes of contracting-out.**

- (1) The Secretary of State or the Inland Revenue may give to the trustees or managers of an occupational pension scheme or appropriate scheme such information as appears to the Secretary of State or Inland Revenue appropriate to give to them for the purpose of enabling them to comply with their obligations under Part III.
- (2) The Secretary of State or Inland Revenue may also give to such persons as may be prescribed any information that they could give under subsection (1) to trustees or managers of a scheme.]



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#### Textual Amendments

**F496** S. 156 substituted (1.1.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), [Sch. 5 para. 9](#) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(vi)

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### 157 Power of Secretary of State to obtain information in connection with applications under s. 124.

- (1) Where an application is made to the Secretary of State under section 124 in respect of contributions to an occupational pension scheme or personal pension scheme falling to be made, by an employer, the Secretary of State may require—
  - (a) the employer to provide him with such information as the Secretary of State may reasonably require for the purpose of determining whether the application is well founded; and
  - (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Secretary of State any such document in that person's custody or under his control which is of such a description as the Secretary of State may require.
- (2) Any such requirement shall be made in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.
- (3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) This section shall be construed as if it were in Chapter II of Part VII.

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

### 158 Disclosure of information between government departments etc.

- (1) No obligation as to secrecy imposed by statute or otherwise on [<sup>F497</sup>Revenue and Customs officials] shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—
  - (a) to the Secretary of State,
  - (b) to the Department of Health and Social Services for Northern Ireland, or
  - (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161) or of any corresponding enactment of Northern Ireland legislation.

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[<sup>F498</sup>(1A) No obligation as to secrecy imposed by statute or otherwise on [<sup>F497</sup>Revenue and Customs officials] shall prevent information obtained or held for the purposes of Part III of this Act from being disclosed—

- (a) to the Secretary of State,
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information,

in connection with the operation of this Act or of any corresponding enactment of Northern Ireland legislation.]

<sup>F499</sup>(2) .....

<sup>F499</sup>(3) .....

(4) In relation to persons who are carrying on or have carried on [<sup>F500</sup>wholly or partly in the United Kingdom] a trade, profession or vocation income from which is chargeable to tax under [<sup>F501</sup>Part 2 of the Income Tax (Trading and Other Income) Act 2005 or] Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.

(5) [<sup>F502</sup>Subsections (1) and (1A)] extend only to disclosure by or under the authority of the Inland Revenue.

(6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1) [<sup>F503</sup>or (1A)], <sup>F504</sup>... shall not be further disclosed to any other person, except where the further disclosure is made—

- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
- (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161); or
- (c) for the purposes of [<sup>F505</sup>Chapter II of Part I of the Social Security Act 1998] or any corresponding provisions of Northern Ireland legislation; <sup>F506</sup>... [<sup>F507</sup>or
- (ca) for the purposes of Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 or any corresponding provisions of Northern Ireland legislation.]

<sup>F506</sup>(d) .....

(7) The Secretary of State, [<sup>F508</sup>and the Inland Revenue] may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—

- (a) persons employed in [<sup>F509</sup>the Department for Work and Pensions], [<sup>F510</sup>or]
- (b) [<sup>F497</sup>Revenue and Customs officials], <sup>F511</sup>...

<sup>F511</sup>(c) .....

shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.

<sup>F512</sup>(8) .....

[<sup>F513</sup>(9) In this section “Revenue and Customs officials” has the meaning given by section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality).]

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### Textual Amendments

- F497** Words in s. 158 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 51(a)**; S.I. 2005/1126, art. 2(2)(h)
- F498** S. 158(1A) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 6 para. 7(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F499** S. 158(2)(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 66(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F500** Words in s. 158(4) inserted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 468(a)** (with Sch. 2)
- F501** Words in s. 158(4) inserted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 468(b)** (with Sch. 2)
- F502** Words in s. 158(5) substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 6 para. 7(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F503** Words in s. 158(6) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 6 para. 7(4)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F504** Words in s. 158(6) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 66(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F505** Words in s. 158(6)(c) substituted (5.7.1999 for specified purposes, 29.11.1999 for specified purposes) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 129**; S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3, 5, Sch. 12); S.I. 1999/3178, art. 2(1)(a)(2), Sch. 1 (with art. 4, Schs. 21-23)
- F506** S. 158(6)(d) and preceding word repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 66(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F507** S. 158(6)(ca) and preceding word inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 6 para. 7(4)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F508** Words in s. 158(7) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 66(c)(i)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F509** Words in s. 158(7) substituted (27.6.2002) by The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397), **Sch. para. 9(2)**
- F510** Word in s. 158(7) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 66(c)(ii)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F511** S. 158(7)(c) and preceding word repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 66(c)(iii), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F512** S. 158(8) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 66(d), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F513** S. 158(9) added (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 51(b)**; S.I. 2005/1126, art. 2(2)(h)

### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### [<sup>F514</sup>158A] Other disclosures by the Secretary of State.

- (1) The Secretary of State may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on him or on persons employed in [<sup>F515</sup>the Department for Work and Pensions], disclose [<sup>F516</sup>any regulated information] to any person specified in the first column of the following Table if he considers that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.

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TABLE

<i>Persons</i>	<i>Functions</i>
F517	F517
. . .	. . .
The Bank of England.	[ <sup>F518</sup> Any of its functions].
[ <sup>F519</sup> The Financial Services Authority.	[ <sup>F520</sup> Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000.]]
The Regulatory Authority.	Functions under this Act [ <sup>F521</sup> , the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments.]
[ <sup>F522</sup> The Pensions Ombudsman.	Functions conferred by or by virtue of this Act or any enactment in force in Northern Ireland corresponding to it.
The Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.
The Ombudsman for the Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.]
[ <sup>F523</sup> A person appointed under—	Functions in relation to that investigation]
(a) section 167 of the Financial Services and Markets Act 2000,	
(b) subsection (3) or (5) of section 168 of that Act, or	
(c) section 284 of that Act, to conduct an investigation.	
[ <sup>F523</sup> A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.]
[ <sup>F523</sup> A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.]
F517	F517
. . .	. . .
F517	F517
. . .	. . .

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<i>Persons</i>	<i>Functions</i>
F517	F517
...	...
F517	F517
...	...
F517	F517
...	...
F517	F517
...	...

[ In subsection (1), “regulated information” means information received by the Secretary of State in connection with his functions under—

- (a) this Act,
- (b) the Pensions Act 1995, or
- (c) the Pensions Act 2004,

other than information supplied to him under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement planning purposes etc).]

[ The Inland Revenue may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on them or on their officers, disclose any information received by them in connection with their functions under Part III of this Act to any person specified in the first column of the Table in subsection (1) if they consider that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.]

(2) The Secretary of State may by order—

- (a) amend the Table in subsection (1) by—
  - (i) adding any person exercising regulatory functions and specifying functions in relation to that person,
  - (ii) removing any person for the time being specified in the Table, or
  - (iii) altering the functions for the time being specified in the Table in relation to any person, or
- (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in the Table]

#### Textual Amendments

- F514** S. 158A inserted (6.4.1996) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 6 para. 9](#); S.I. 1996/778, art. 2(4), Sch. Pt. 4
- F515** Words in s. 158A(1) substituted (27.6.2002) by [The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 \(S.I. 2002/1397\)](#), [Sch. para. 9\(3\)](#)
- F516** Words in s. 158A(1) substituted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 26\(2\)](#); S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))
- F517** Words in s. 158A(1) Table repealed (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [124\(2\)](#)
- F518** Words in s. 158A(1) Table substituted (1.6.1998) by [Bank of England Act 1998 \(c. 11\)](#), s. 45, [Sch. 5 para. 69\(3\)](#); S.I. 1998/1120, art. 2

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- F519** Words in s. 158A(1) Table inserted (1.6.1998) by Bank of England Act 1998 (c. 11), s. 45, **Sch. 5 para. 69(3)**; S.I. 1998/1120, art. 2
- F520** Words in s. 158A(1) Table substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **124(3)**
- F521** Words in s. 158A(1) Table substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 26(3)(a)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))
- F522** Words in s. 158A(1) Table substituted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 26(3)(b)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))
- F523** Words in s. 158A(1) Table inserted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **124(4)**
- F524** S. 158A(1AA) inserted (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 26(4)**; S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))
- F525** S. 158A(1A) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 6 para. 8**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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

- C85** S. 158A modified (3.9.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Pre-Commencement Modifications) Order 2001 (S.I. 2001/2966), arts. 1, **10**

*Avoidance of certain transactions and provisions*

**159 Inalienability of guaranteed minimum pension and protected rights payments.**

(1) Where—

- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; and
- (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;

then—

- (i) every assignment of or charge on that pension or those payments, and
- (ii) every agreement to assign or charge that pension or those payments,

shall be void.

(2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b).

(3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

(4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.

[<sup>F526</sup>(4A) Where a person—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
- (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),

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no order shall be made by any court the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by either of those subsections.

(4B) Subsection (4A) does not prevent the making of an attachment of earnings order under the Attachment of Earnings Act 1971.]

<sup>F527</sup>(5) . . . . .

(6) In the application of this section to Scotland—

- (a) references to assignment shall be construed as references to assignation and “assign” shall be construed accordingly; and
- (b) the reference to a person’s bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the <sup>M37</sup>Solicitors (Scotland) Act 1980.

#### Textual Amendments

- F526** S. 159(4A)(4B) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 3 para. 41**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F527** S. 159(5) repealed (6.4.2002) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 13 Pt. I**; S.I. 2002/153, art. 2(1)(i)

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

- C86** S. 159 excluded by 1985 c. 66, s. 36C(1) (as inserted (6.4.1996 for specified purposes) by Pensions Act 1995 (c. 26), **ss. 95(2)**, 180(1) (with s. 121(5)); S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5)
- C87** S. 159 excluded by Insolvency Act 1986 (c. 45), **s. 342C(1)** (as inserted (6.4.1996 for specified purposes) by Pensions Act 1995 (c. 26), **ss. 95(1)**, 180(1) (with s. 121(5)); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. 5**)
- C88** S. 159 excluded (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by Insolvency Act 1986 (c. 45), **s. 342C(2)** (as substituted by Welfare Reform and Pensions Act 1999 (c. 30), **ss. 15**, 89(5)(a); S.I. 2002/153, **art. 2(e)**)
- C89** S. 159 excluded (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by 1985 c. 66, s. 36C(2) (as substituted by Welfare Reform and Pensions Act 1999 (c. 30), **ss. 16**, 89(5)(a); S.I. 2002/153, art. 2(f))
- C90** S. 159 excluded (26.3.2002 for specified purposes, 6.4.2002 in so far as not already in force) by 1985 c. 66, s. 36F(2)(a) (as inserted by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 69**; S.I. 2002/818, art. 3(b))
- C91** S. 159 excluded (26.3.2002 for specified purposes, 6.4.2002 in so far as not already in force) by Insolvency Act 1986 (c. 45), **s. 342F(5)(a)** (as inserted by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 71**; S.I. 2002/818, **art. 3(b)**)
- C92** S. 159 excluded (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 273(5)(a)**, 458(1); S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- C93** S. 159(4) excluded (27.6.1996 for specified purposes) by Pensions Act 1995 (c. 26), **ss. 166(5)(a)**, 180(1) (with s. 167(4)); S.I. 1996/1675, art. 3 (with arts. 4, 5)
- C94** S. 159(4)(4A) excluded (1.8.1996) by Pensions Act 1995 (c. 26), **ss. 166**, 180(1); S.I. 1996/1675, **art. 3(b)**
- C95** S. 159(4)(4A) excluded (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), **ss. 44(1)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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### Marginal Citations

M37 1980 c. 46.

## [<sup>F528</sup>159A] No forfeiture on bankruptcy of rights under personal pension schemes.

- (1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.
- (2) For the purposes of this section—
  - (a) a person shall be treated as having a right under a personal pension scheme where—
    - (i) he is entitled to a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (sharing of rights on divorce etc. [<sup>F529</sup>or on dissolution etc. of a civil partnership]),
    - (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part IV of that Act), and
    - (iii) the person so responsible has not discharged his liability in respect of the credit; and
  - (b) forfeiture shall be taken to include any manner of deprivation or suspension.]

### Textual Amendments

**F528** S. 159A inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 14(1), 89(5)(a); S.I. 2002/153, art. 2(d)

**F529** Words in s. 159A(2)(a)(i) inserted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), Sch. para. 17

## 160 Terms of contracts of service or schemes restricting choice to be void.

- (1) Subject to such exceptions as may be prescribed—
  - (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—
    - (i) of a personal or occupational pension scheme,
    - (ii) of a particular personal or occupational pension scheme, or
    - (iii) of one or other of a number of particular personal or occupational pension schemes,
 shall be void; and
  - (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—
    - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
    - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,
 shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.
- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—



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- (a) to make contributions to a personal or occupational pension scheme; or
- (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**161 Provisions excluding Chapter II of Part VII to be void.**

Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII of this Act; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**162 Removal of restrictions on friendly societies' pension business.**

- (1) The Secretary of State may make such regulations as he thinks appropriate for enabling a friendly society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.
- (2) The power to make regulations under this section shall extend to enabling friendly societies to conduct group insurance business freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—
  - (a) “the relevant legislation” means the <sup>M38</sup>Friendly Societies Act 1974, the <sup>M39</sup>Friendly Societies Act 1992 and section 464 of the <sup>M40</sup>Income and Corporation Taxes Act 1988;
  - (b) “friendly society”, has the same meaning as in the Friendly Societies Act 1992; and
  - (c) “group insurance business” means—
    - (i) in relation to a registered friendly society, group insurance business within the meaning of section 65A of the Friendly Societies Act 1974, and
    - (ii) in relation to an incorporated friendly society, group insurance business within the meaning of section 11 of the Friendly Societies Act 1992,

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and in this paragraph “registered friendly society” and “incorporated friendly society” have the same meaning as in that Act of 1992.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**Marginal Citations**

**M38** 1974 c. 46.

**M39** 1992 c. 40.

**M40** 1988 c. 1.

**163 Exemption of certain schemes from rule against perpetuities.**

- (1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.
- (2) This section applies to—
  - (a) a public service pension scheme;
  - (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;
  - (c) a personal pension scheme which is an appropriate scheme; and
  - (d) an occupational or personal pension scheme which satisfies prescribed requirements.
- (3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the <sup>M41</sup>Perpetuities and Accumulations Act 1964 (“wait and see”)) already require to be treated as void before this section applies to the scheme.
- (4) Regulations under subsection (2)(d) may require a scheme—
  - (a) to contain provisions in any prescribed form, or to any prescribed effect; or
  - (b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.
- (5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the <sup>F530</sup>... [<sup>F530</sup>Secretary of State]<sup>F530</sup>... [<sup>F530</sup>considers] to be reasonable in the case of a particular scheme.
- (7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.

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(8) Subsection (7) is without prejudice to any rights which vested while this section applied.

[<sup>F531</sup>(9) Regulations may provide for a scheme, whose fund was registered under the <sup>M42</sup>Superannuation and other Trust Funds (Validation) Act 1927 immediately before the repeal of that Act took effect, to retain the benefit of that Act subject to prescribed conditions and either indefinitely or for a prescribed period.]

#### Textual Amendments

**F530** Word in s. 163(6) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 21**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. 5**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

**F531** S. 163(9) omitted (temp. until the coming into force of what remains of 1973 c. 38, s. 69(7)) (7.2.1994) by virtue of Pension Schemes Act 1993 (c. 48), s. 193(2), **Sch. 9 paras. 1, 2** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

#### Marginal Citations

**M41** 1964 c. 55.

**M42** 1927 c. 41.

### *Special classes of earner*

#### **164 Crown employment.**

(1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—

(a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;

(b) the remaining provisions of this Act except for—

(i) sections <sup>F532</sup>... <sup>F533</sup>... 153(2), 158(1) to (5), 162, 163, <sup>F532</sup>... and 176<sup>F532</sup>...;

(ii) Chapter II of Part VII and sections 157 and 161;

(iii) section 166 and the provisions mentioned in subsection (2).

(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.

(3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.

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- (4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the provisions within subsection (1)(b) and those within subsection (2) (except for sections 154 and 166) as an employed earner in respect of his membership of those forces.
- (5) The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.
- <sup>F534</sup>(6) .....
- (7) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

#### Textual Amendments

**F532** Words in s. 164(1)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 67, [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F533** Words in s. 164(1)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 6 para. 10, [Sch. 7 Pt. IV](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2

**F534** S. 164(6) repealed (22.8.1996) by [Employment Rights Act 1996 \(c. 18\)](#), s. 243, [Sch. 3 Pt. I](#) (with ss. 191-201)

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### 165 Application of certain provisions to cases with foreign element.

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft;
  - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
  - (c) in prescribed employment in connection with continental shelf operations.
- (2) The provisions referred to in subsection (1) are—
- (a) [<sup>F535</sup>Part III], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166; and
  - (b) sections 41 and 42, subsections (1), (6) and (7) of section 46 (and subsection (8) of that section so far as it has effect for the purposes of those subsections), and sections 47(2) and (5) and 48.
- (3) Subject to subsection (4), regulations under subsection (1) may in particular provide—
- (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
  - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;

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- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
  - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with regulations.
- (4) Paragraph (b) of subsection (3) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of that subsection do not apply as respects the application of those provisions to such persons as are mentioned in paragraph (b) or (c) of subsection (1).
- (5) Without prejudice to the generality of subsection (1)(c), regulations made by virtue of that subsection as respects any provision mentioned in subsection (2)(b) may provide for that provision to apply to such a person as is mentioned in that subsection notwithstanding that he does not fall within the description of an employed or self-employed earner or does not fulfil conditions as to residence or presence in Great Britain.
- (6) Without prejudice to the generality of section 153(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.
- (7) Chapter II of Part VII and section 157 do not apply—
- (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
  - (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel,
- and sections 124 and 125 do not apply to employment as a merchant seaman, but [<sup>F536</sup>section 201 of the Employment Rights Act 1996] (power to extend employment protection legislation) applies to Chapter II of Part VII and section 157 as it does to the provisions of that Act.
- (8) In this section—
- “continental shelf operations” means any activities which, if paragraphs (a) and (d) of [<sup>F537</sup>subsection (8) of section 11 of the Petroleum Act 1998] (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section; and
  - “employment as a merchant seaman” has the meaning given in [<sup>F538</sup>section 199(5) of the Employment Rights Act 1996].

#### Textual Amendments

- F535** Words in s. 165(2)(a) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 68](#); [S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)
- F536** Words in s. 165(7) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\), s. 243, Sch. 1 para. 61\(4\)\(a\)](#) (with [ss. 191-201](#))
- F537** Words in s. 165(8) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\), s. 52\(4\), Sch. 4 para. 37](#) (with [Sch. 3 para. 5\(1\)](#)); [S.I. 1999/161, art. 2\(1\)](#)

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**F538** Words in s. 165(8) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\), s. 243, Sch. 1 para. 61\(4\)\(b\)](#) (with [ss. 191-201](#))

#### **Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

### *Reciprocity with other countries*

#### **166 Reciprocity with other countries.**

- (1) For the purpose of giving effect—
- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
  - (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question,
- Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.
- (2) An Order in Council made by virtue of subsection (1) may, instead of or in addition to making specific modifications or adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.
- (3) The modifications of this Act which may be made by virtue of subsection (1) include provision—
- (a) for securing that acts, omissions and events having effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit);
  - (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
  - (c) for making any necessary financial adjustments.
- (4) An Order in Council made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 164 may, in particular, provide for the Secretary of State to make payments for any period beginning on or after 6th April 1987 and may make provision with respect to any matters relating to payments so made.
- (5) References in this section to this Act do not include references to <sup>F539</sup>... Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections <sup>F540</sup>... 153(2), 157, 158(1) to (5), 161, 162, 163, <sup>F539</sup>... and 176<sup>F539</sup>....

#### **Textual Amendments**

**F539** Words in s. 166(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 69, Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

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**F540** Words in s. 166(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 11, **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### *Application of provisions relating to social security administration*

#### **167 Application of general provisions relating to administration of social security.**

(1) The <sup>M43</sup>Social Security Administration Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 164(1)(b) of this Act (in this section referred to as “the relevant provisions”).

(2) The provisions referred to in subsection (1) are the following provisions of the <sup>M43</sup>Social Security Administration Act 1992—

section 116 (legal proceedings)

section 125 (regulations as to notification of deaths)

<sup>F541</sup> ...

section 180 (payment of travelling expenses by the Secretary of State).

[<sup>F542</sup>section 180A (payment of travelling expenses by Inland Revenue).]

<sup>F543</sup>(3) .....

<sup>F544</sup>(4) .....

[<sup>F545</sup>(5) Sections 124 to 124B of the Social Security Administration Act 1992 (provisions relating to age, death, marriage and civil partnership) shall apply as if information for the purposes mentioned in section 124(1) of that Act included information for the purposes of the relevant provisions.]

(6) Section 121 of the <sup>M44</sup>Social Security Contributions and Benefits Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

#### Textual Amendments

**F541** Words in s. 167(2) repealed (2.12.1999) by Northern Ireland Act 1998 (c. 47), ss. 100(2), 101(3), **Sch. 15** (with s. 95); S.I. 1999/3209, art. 2, Sch.

**F542** Words in s. 167(2) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 7 para. 18(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**F543** S. 167(3) repealed (5.7.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), Sch. 7 para. 18(3), **Sch. 10 Pt. I**; S.I. 1999/1662, art. 2(b), Sch. Pt. 2 (with art. 4)

**F544** S. 167(4) repealed (5.7.1999 for specified purposes) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 130(2), **Sch. 8**; S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3, 5, Sch. 12)

**F545** S. 167(5) substituted (5.12.2005) by The Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/3129), art. 1, **Sch. 1 para. 5**

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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### **Marginal Citations**

**M43** 1992 c. 5.

**M44** 1992 c. 4.

### *General provisions as to offences*

#### **168 Breach of regulations.**

- [<sup>F546</sup>(1) Regulations under any provision of this Act (other than Chapter II of Part VII) may make such provision as is referred to in subsection (2) or (4) for the contravention of any provision contained in regulations made or having effect as if made under any provision of this Act.
- (2) The regulations may provide for the contravention to be an offence under this Act and for the recovery on summary conviction of a fine not exceeding level 5 on the standard scale.
- (3) An offence under any provision of the regulations may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under such a provision by reference to any period of time following the preceding conviction of the offence.
- (4) The regulations may provide for a person who has contravened the provision to pay to the Regulatory Authority, within a prescribed period, a penalty not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in section 10(2)(a) of the Pensions Act 1995.
- (5) Regulations made by virtue of subsection (4) do not affect the amount of any penalty recoverable under that subsection by reason of an act or omission occurring before the regulations are made.
- (6) Where—
- (a) apart from this subsection, a penalty under subsection (4) is recoverable from a body corporate or Scottish partnership by reason of any act or omission of the body or partnership as a trustee of a trust scheme, and
  - (b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any persons mentioned in subsection (7),
- such a penalty is recoverable from each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.
- (7) The persons referred to in subsection (6)(b)—
- (a) in relation to a body corporate, are—
    - (i) any director, manager, secretary, or other similar officer of the body, or a person purporting to act in any such capacity, and
    - (ii) where the affairs of a body corporate are managed by its members, any member in connection with his functions of management, and
  - (b) in relation to a Scottish partnership, are the partners.



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- (8) Where the Regulatory Authority requires any person to pay a penalty by virtue of subsection (6), they may not also require the body corporate, or Scottish partnership, in question to pay a penalty in respect of the same act or omission.
- (9) A penalty under subsection (4) is recoverable by the Authority and any such penalty recovered by the Authority must be paid to the Secretary of State.
- (10) Where by reason of the contravention of any provision contained in regulations made, or having effect as if made, under this Act—
- (a) a person is convicted of an offence under this Act, or
  - (b) a person pays a penalty under subsection (4),
- then, in respect of that contravention, he shall not, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (b), be convicted of such an offence.
- (11) In this section “contravention” includes failure to comply, and “Scottish partnership” means a partnership constituted under the law of Scotland.]

#### Textual Amendments

**F546** Ss. 168 168A substituted for s. 168 (6.4.1996 for specified purposes, 1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 155(1)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1996/1412, art. 2(2), **Sch. Pt. II**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

**C96** [S. 168](#) applied (with modifications) (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 45(2)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. 4**

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

### <sup>F547</sup>168A Offence in connection with the Registrar

#### Textual Amendments

**F547** [S. 168A](#) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), **Sch. 1**

### 169 Offences by bodies corporate.

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

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- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### **Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

### *General provisions as to determinations and appeals*

#### **[<sup>F548</sup>170 Decisions and appeals**

- (1) Section 2 (use of computers) of the Social Security Act 1998 (“the 1998 Act”) applies as if, for the purposes of subsection (1) of that section, this Act were a relevant enactment.

[ It shall be for an officer of the Inland Revenue—

- <sup>F549</sup>(2) (a) to make any decision that falls to be made under or by virtue of Part III of this Act, other than a decision which under or by virtue of that Part falls to be made by the Secretary of State;
- (b) to decide any issue arising in connection with payments under section 7 of the Social Security Act 1986 (occupational pension schemes becoming contracted-out between 1986 and 1993); and
- (c) to decide any issue arising by virtue of regulations made under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (continuing in force of certain enactments repealed by the Social Security Act 1973).

- (3) In the following provisions of this section a “relevant decision” means any decision which under subsection (2) falls to be made by an officer of the Inland Revenue, other than a decision under section 53 or 54.

- (4) Sections 9 and 10 of the 1998 Act (revision of decisions and decisions superseding earlier decisions) apply as if—

- (a) any reference in those sections to a decision of the Secretary of State under section 8 of that Act included a reference to a relevant decision; and
- (b) any other reference in those sections to the Secretary of State were, in relation to a relevant decision, a reference to an officer of the Inland Revenue.

- (5) Regulations may make provision—

- [<sup>F550</sup>(a) generally with respect to the making of relevant decisions;
- (b) with respect to the procedure to be adopted on any application made under section 9 or 10 of the 1998 Act by virtue of subsection (4); and
- (c) generally with respect to such applications, revisions under section 9 and decisions under section 10;]

but may not prevent [<sup>F551</sup>a revision under section 9 or decision under section 10] being made without such an application.

- (6) Section 12 of the 1998 Act (appeal to appeal tribunal) applies as if, for the purposes of subsection (1)(b) of that section, a relevant decision were a decision of the Secretary of State falling within Schedule 3 to the 1998 Act.

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- (7) The following provisions of the 1998 Act (which relate to decisions and appeals)—  
sections 13 to 18,  
sections 25 and 26,  
section 28, and  
Schedules 4 and 5,

shall apply in relation to any appeal under section 12 of the 1998 Act by virtue of subsection (6) above as if any reference to the Secretary of State were a reference to an officer of the Inland Revenue.]]

#### Textual Amendments

- F548** S. 170 substituted (4.3.1999 for specified purposes, 5.7.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 131](#); S.I. 1999/528, art. 2(a), Sch.; S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3, 5, Sch. 12)  
S. 170 (as it has effect without the above substitution) amended (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\), art. 1\(3\), Sch. 1 para. 24](#)
- F549** S. 170(2)-(7) substituted (14.6.1999 for specified purposes, 5.7.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), ss. 16\(2\), 28\(3\)](#); S.I. 1999/1662, art. 2(a)(b), Sch. Pts. 1, 2 (with art. 4)
- F550** S. 170(5)(a)-(c) substituted for s. 170(5)(a)(b) (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(4\)\(d\), Sch. 11 para. 22\(a\)](#)
- F551** Words in s. 170(5) substituted (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(4\)\(d\), Sch. 11 para. 22\(b\)](#)

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

- C97** S. 170 modified (temp.) (1.4.1999) by [The Social Security Contributions, etc. \(Decisions and Appeals Transitional Modifications\) Regulations 1999 \(S.I. 1999/978\), regs. 1\(1\), 2\(1\), Sch. \(with reg. 2\(2\)\)](#)
- C98** S. 170: certain functions transferred (5.7.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), ss. 16\(1\), 28\(3\)](#); S.I. 1999/1662, art. 2(b), Sch. Pt. 2 (with art. 4)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

## 171 Questions arising in proceedings.

- (1) Where in any proceedings—  
(a) for an offence under this Act; or  
(b) involving any question as to the payment of a [<sup>F552</sup>contributions equivalent premium];  
[<sup>F553</sup>any relevant decision as defined by section 170(3) is made by the Inland Revenue, the decision] shall be conclusive for the purpose of the proceedings.

[<sup>F554</sup>(2) If—

- (a) any such decision is necessary for the determination of the proceedings, and  
(b) the decision of the Inland Revenue has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the Social Security Act 1998,

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the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II of Part I of that Act.

- (3) Subsection (1) does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined,
  - (b) an application for leave to appeal has been made but not determined,
  - (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
  - (d) an application has been made under section 9 or 10 of that Act.
- (4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings.]

#### Textual Amendments

- F552** Words in s. 171(1)(b) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 71; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2 \(with art. 4\(2\)\(3\)\)](#)
- F553** Words in s. 171(1) substituted (5.7.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 19\(2\); S.I. 1999/1662, art. 2\(b\), Sch. Pt. 2 \(with art. 4\)](#)
- F554** S. 171(2)(3)(4) substituted for s. 171(2)(3) (5.7.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 19\(3\); S.I. 1999/1662, art. 2\(b\), Sch. Pt. 2 \(with art. 4\)](#)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

### <sup>F555</sup>171A Reports by Inland Revenue.

- (1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 170(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.
- (2) Any report under this section—
- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
  - (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998.
- (3) A copy of every report under this section shall be laid before each House of Parliament, unless the report is included in, or annexed to, a report of which a copy is so laid.]

#### Textual Amendments

- F555** S. 171A inserted (5.7.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 20; S.I. 1999/1662, art. 2\(b\), Sch. Pt. 2 \(with art. 4\)](#)

### <sup>F556</sup>172 Review of the Board's determinations.

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#### Extent Information

**E2** S. 172 extends to U.K. except s. 172(1)(2)(3) which extend only to G.B. see s. 192(2)

#### Textual Amendments

**F556** S. 172 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 72, [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### <sup>F557</sup>173 References and appeals from the Board.

#### Textual Amendments

**F557** S. 173 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 72, [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### *Financial provisions*

### 174 Grants by the Board to advisory bodies etc.

- (1) The [<sup>F558</sup>Regulatory Authority] may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.
- (2) The Secretary of State may pay the [<sup>F558</sup>Regulatory Authority] such sums as he may think fit towards any expenditure of theirs in making grants under this section.

#### Textual Amendments

**F558** Words in s. 174 substituted (1.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 73](#); [S.I. 1997/664](#), art. 2(2), Sch. Pt. 1

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### 175 [<sup>F559</sup>Levies towards certain expenditure]

- [<sup>F559</sup>(1) For the purpose of meeting expenditure—
- (a) under section 6,
  - (b) under Part X and section 174, <sup>F560</sup>...
  - [<sup>F561</sup>(c) of the Regulatory Authority (including the establishment of the Authority under the Pensions Act 2004), or

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- (d) of the Lord Chancellor in meeting the costs of the legal assistance scheme established by virtue of section 106 of the Pensions Act 2004 (legal assistance in connection with proceedings before the Pensions Regulator Tribunal),] regulations may make provision for imposing levies in respect of prescribed occupational or prescribed personal pension schemes.
- (2) Any levy imposed under subsection (1) is payable to the Secretary of State by or on behalf of—
- (a) the administrators of any prescribed public service pension scheme,
  - (b) the trustees or managers of any other prescribed occupational or prescribed personal pension scheme, or
  - (c) any other prescribed person,
- at prescribed rates and at prescribed times.
- (3) Regulations made by virtue of subsection (1)—
- (a) in determining the amount of any levy in respect of the Regulatory Authority, must take account (among other things) of <sup>F562</sup>—
    - (i) any amounts paid to the Secretary of State under section 168(4) of this Act or section 10 of the Pensions Act 1995 (civil penalties), and
    - (ii) any fees paid to the Authority under paragraph 25 of Schedule 1 to the Pensions Act 2004 (fees for certain applications), and]
  - (b) in determining the amount of expenditure in respect of which any levy is to be imposed, may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into force of this subsection).
- <sup>F563</sup>(4) .....
- <sup>F563</sup>(5) .....
- <sup>F563</sup>(6) .....
- <sup>F563</sup>(7) .....
- <sup>F564</sup>(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Secretary of State, and an amount so payable shall be recoverable by the Secretary of State accordingly or, if the Secretary of State so determines, by the Regulatory Authority on his behalf.]
- (9) Without prejudice to the generality of <sup>F565</sup>subsection (1)], regulations under this section may include provision relating to—
- (a) the collection and recovery of amounts payable by way of levy under this section, or
  - (b) the circumstances in which any such amount may be waived.]

#### Textual Amendments

**F559** S. 175 substituted (16.10.1996 for specified purposes, 1.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 165, 180\(1\)](#); [S.I. 1996/2637](#), art. 3(c); [S.I. 1997/664](#), art. 2(2), Sch. Pt. 1

**F560** Word in [s. 175\(1\)\(b\)](#) repealed (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\), s. 322\(1\), Sch. 1 para. 26\(2\), Sch. 13](#); [S.I. 2005/275](#), arts., 2(2)

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(a), Sch. Pt. 2 (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

**F561** S. 175(1)(c)(d) substituted for s. 175(1)(c) (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 1 para. 26(2)**; S.I. 2005/275, arts., 2(2)(a), Sch. Pt. 2 (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

**F562** S. 175(3)(a)(i)(ii) substituted for words (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 1 para. 26(3)** (with s. 313); S.I. 2005/275, arts., 2(2)(a), Sch. Pt. 2 (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

**F563** S. 175(4)-(7) repealed (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2005/275, art. 2(2)(a), Sch. Pt. 2 (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

**F564** S. 175(8) substituted (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 28(a)**; S.I. 2005/275, art. 2(2)(a), Sch. Pt. 2 (with art. 4) (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

**F565** Words in s. 175(9) substituted (10.2.2005 for specified purposes, 1.4.2005 in so far as not already in force) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 28(b)**; S.I. 2005/275, art. 2(2)(a), Sch. Pt. 2 (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

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

**C99** S. 175(4)-(9) applied (with modifications) (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 1 para. 1(1)(2)(a); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

**C100** S. 175 savings for effects of 2004 c. 35, Sch. 1 para. 26 Sch. 12 para. 28 Sch. 13 (6.4.2005) by The Pensions Act 2004 (Commencement No. 3, Transitional Provisions and Amendment) Order 2005 (S.I. 2005/695), arts. 5(3), 6, **Sch. 3**

**C101** S. 175 transitional provisions for effects of 2004 c. 35, Sch. 12 para. 28 (6.4.2005) by The Pensions Act 2004 (Commencement No. 3, Transitional Provisions and Amendment) Order 2005 (S.I. 2005/695), art. 5(8), **Sch. 2 para. 1**

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

## 176 Fees for official services to schemes.

Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme [<sup>F566</sup>by the Secretary of State], the Secretary of State may require the payment of fees for the provision of those services.

#### Textual Amendments

**F566** Words in s. 176 substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 74**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

## 177 General financial arrangements.

- (1) Subject to the following provisions of this section, all expenses incurred by the Secretary of State [<sup>F567</sup>or the Inland Revenue] under this Act shall be paid out of money provided by Parliament except so far as they may be required by any enactment to be paid or borne in some other way.
- (2) There shall be paid out of the National Insurance Fund—
  - [<sup>F568</sup>(za) payments by the Inland Revenue under [<sup>F569</sup>section 41(1D) or section 42A(2C) or (3)];
  - (a) minimum contributions paid by the [<sup>F570</sup>Inland Revenue] under section 43;
  - (b) payments by [<sup>F571</sup>the Secretary of State] under section 124.
- (3) Subject to subsection (4), there shall be paid out of the National Insurance Fund into the Consolidated Fund—
  - (a) sums equal to the amount of any expenses incurred by the Secretary of State (or by persons acting on his behalf) in exercising his functions under Chapter II of Part VII and section 157;
  - (b) such sums as the Secretary of State may estimate to be the amount of the administrative expenses of the Secretary of State or any government department in carrying into effect the remaining provisions of this Act, other than—
    - (i) <sup>F572</sup>... Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections <sup>F573</sup>... 153(2), 158(1) to (5), 162, 163, <sup>F572</sup>...and 176<sup>F572</sup>...;
    - (ii) sections 7, 9, 26 to 34, 38 and 50 (so far as they relate to personal pension schemes), section 54, <sup>F574</sup>... section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.
  - [<sup>F575</sup>(c) such sums as the Inland Revenue may estimate to be the amount of their administrative expenses in exercising their functions under Part III.]
- (4) The sums payable under subsection (3)(b)—
  - (a) shall be estimated in accordance with any directions given by the Treasury and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as the Treasury may direct, or any enactment may require, to be so excluded; and
  - (b) shall be payable at such times and in such manner as the Treasury may direct.
- (5) There shall be paid into the Consolidated Fund—
  - (a) subject to subsection (6), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State [<sup>F576</sup>or the Inland Revenue] under or by virtue of the provisions within subsection (3)(b)(ii); and
  - (b) all fees paid to the Registrar.
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.



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- (7) There shall also be paid into the National Insurance Fund—
- (a) sums recovered under section [<sup>F577</sup>41(1E), 42A(2D) or (5) or] 43(5) or (6);
  - <sup>F578</sup>(b) .....
  - (c) any sum recovered by the Secretary of State in exercising any right or pursuing any remedy which is his by virtue of section 127; and
  - (d) any sums received by [<sup>F579</sup>the Inland Revenue] by way of such payments as are mentioned in paragraph 5(4) of Schedule 2.

#### Textual Amendments

- F567** Words in s. 177(1) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F568** S. 177(2)(za) inserted (25.2.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), ss. 20\(1\)\(a\), 28\(2\)\(d\)](#)
- F569** Words in s. 177(2)(za) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 8\(2\)](#); S.I. 1999/3420, art. 2
- F570** Words in s. 177(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(3\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F571** Words in s. 177(2)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(3\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F572** Words in s. 177(3)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 75\(a\)\(i\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F573** Words in s. 177(3)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 6 para. 12, Sch. 7 Pt. IV](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F574** Words in s. 177(3)(b)(ii) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 75\(a\)\(ii\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F575** S. 177(3)(c) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(4\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F576** Words in s. 177(5)(a) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(5\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F577** Words in s. 177(7)(a) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 8\(3\)](#); S.I. 1999/3420, art. 2
- F578** S. 177(7)(b) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 75\(b\), Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F579** Words in s. 177(7)(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 61\(6\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

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## PART XII

### SUPPLEMENTARY PROVISIONS

#### *Interpretation*

#### 178 Trustees and managers of schemes.

The Secretary of State may by regulations provide—

- (a) who is to be treated as a manager of an occupational pension scheme for any of the purposes of the provisions of this Act (except Chapter II of Part VII or section 157), the Social Security Acts 1975 to 1991, or Part VI of the <sup>M45</sup>Social Security Administration Act 1992 <sup>F580F581</sup> ... <sup>F582</sup>, section 25D of the Matrimonial Causes Act 1973, section 12A of the Family Law (Scotland) Act 1985 <sup>F583</sup> [or Part III or IV of the Welfare Reform and Pensions Act 1999] <sup>F583</sup>, Part III or IV of the Welfare Reform and Pensions Act 1999 or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act 2000].]; <sup>F584</sup> ...
- (b) who is to be treated as a trustee of a scheme for the purposes of <sup>F585</sup> ... Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, [<sup>F586</sup>Chapter I of Part IVA,] sections <sup>F587</sup> ... 153(2), 158(1) to (5), 162, 163, <sup>F585</sup> ...and 176 <sup>F585</sup> ... [<sup>F588</sup>or sections 22 to 26C of the Pensions Act 1995].

#### Textual Amendments

- F580** Words in s. 178(a) repealed (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), Sch. 12 para. 40(2)(a), **Sch. 13 Pt. III**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F581** Words in s. 178(a) repealed (1.3.2002 for specified purposes, 1.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **Sch. 9 Pt. III(2)** (with s. 83(6)); S.I. 2002/437, art. 3(1)(H)(2)
- F582** Words in s. 178(a) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 40(2)(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F583** Words in s. 178(a) substituted (12.2.2001 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 17(9)** (with s. 83(6)); S.I. 2000/3166, art. 2(5) (as amended (28.3.2001) by S.I. 2001/1252, art. 3)
- F584** Word in s. 178(a) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 43, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F585** Words in s. 178(b) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 76, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F586** Words in s. 178(b) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 40(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F587** Words in s. 178(b) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 13, **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F588** Words in s. 178(b) inserted (1.3.2002 for specified purposes, 1.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 47(5), 86(1)(b)(2)** (with s. 83(6)); S.I. 2002/437, art. 3(1)(a)(2)

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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### Marginal Citations

M45 1992 c. 5.

## 179 Linked qualifying service.

- (1) Subject to subsections (2) to (4), for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—
- (a) under the rules of a scheme applying to him in the earlier period of service—
    - (i) there was made a transfer of his accrued rights under that scheme (including any transfer credits allowed under the scheme) to another scheme applying to him in the later period of service; or
    - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service; and
  - (b) in consequence of the transfer of his accrued rights to the second scheme, there are (or were) allowed to him transfer credits under the rules of that other scheme.
- (2) For any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.
- (3) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.
- (4) For the purposes of Chapter I of Part IV, as respects any case where the rules of the scheme provide—
- (a) that an earner is not entitled to become a member unless he satisfies specified conditions, but
  - (b) that, if he becomes a member, rights are to accrue to him in respect of periods of service before he satisfied any such conditions,
- regulations may provide for any such periods to be treated, in such cases and to such extent as may be prescribed, as linked qualifying service with later periods of service.

### Modifications etc. (not altering text)

C102 S. 179 modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), 2(8)(9)

### Commencement Information

II Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

## 180 Normal pension age.

- (1) In this Act “normal pension age”, in relation to a scheme and a member's pensionable service under it, means—

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- (a) in a case where the scheme provides for the member only a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies; and
  - (b) in any other case, the earliest age at which the member is entitled to receive benefits (other than a guaranteed minimum pension) on his retirement from such employment.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

**Commencement Information**  
**II** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

**[<sup>F589</sup>180] Insurer and long-term insurance business**

- (1) In this Act “insurer” means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
- (2) In this Act “long term insurance business” means business which consists of the effecting or carrying out of contracts of long-term insurance.
- (3) This section must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]

**Textual Amendments**  
**F589** [S. 180A](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [126](#)

**181 General interpretation.**

- (1) In this Act, unless the context otherwise requires—
- <sup>F590</sup> .....
- “age”, in relation to any person, shall be construed so that—
- (a) he is over or under a particular age if he has or, as the case may be, has not attained that age;
  - (b) he is between two particular ages if he has attained the first but not the second;
- “appropriate scheme certificate” and references to an appropriate scheme shall be construed in accordance with section 7;
- <sup>F590</sup> .....

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“Category A retirement pension” and “Category B retirement pension” mean the retirement pensions of those descriptions payable under Part II of the <sup>M46</sup>Social Security Contributions and Benefits Act 1992;

[<sup>F591</sup>“civil recovery order” means an order under section 266 of the Proceeds of Crime Act 2002 or an order under section 276 imposing the requirement mentioned in section 277(3).]

“contract of service” has the same meaning as in section 122(1) of the Social Security Contributions and Benefits Act 1992;

“contracted-out employment” shall be construed in accordance with section 8;

<sup>F590</sup>  
.....

“contracting-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 7;

“contributions equivalent premium” has the meaning given in [<sup>F592</sup>section 55(2)] ;

“earner” and “earnings” shall be construed in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992;

“earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits Act 1992;

[<sup>F593</sup>“employed earner” and “self-employed earner” have the meanings given by section 2 of the Social Security Contributions and Benefits Act 1992;]

“employee” means a person gainfully employed in Great Britain either under a contract of service or in an office (including an elective office) with [<sup>F594</sup>general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)];

“employer” means—

- (a) in the case of an employed earner employed under a contract of service, his employer;
- (b) in the case of an employed earner employed in an office with emoluments—
  - (i) such person as may be prescribed in relation to that office; or
  - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly except in the expression “employed earner”;

[<sup>F595</sup>“Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000.]

<sup>F596</sup>  
.....

“guaranteed minimum pension” has the meaning given in section 8(2);

“independent trade union” has the same meaning as in the <sup>M47</sup>Trade Union and Labour Relations (Consolidation) Act 1992;

“industrial tribunal” means a tribunal established or having effect as if established under [<sup>F597</sup>section 1(1) of the Industrial Tribunals Act 1996];

“the Inland Revenue” means the Commissioners of Inland Revenue;

<sup>F598</sup>  
.....

<sup>F599</sup>  
.....

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“linked qualifying service” has the meaning given in section 179;

“long-term benefit” has the meaning given in section 20(2) of the<sup>M48</sup> Social Security Contributions and Benefits Act 1992;

“lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits Act 1992 and “current”, in relation to those limits, means for the time being in force;

“minimum contributions” shall be construed in accordance with sections 43 to 45;

“minimum payment” has the meaning given in section 8(2);

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“money purchase benefits”, in relation to a member of a personal or occupational pension scheme or the [<sup>F599</sup>widow, widower or surviving civil partner] of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and [<sup>F600</sup>which fall within section 181B];

“money purchase contracted-out scheme” has the meaning given in section 8(1)(a)(ii);

“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;

“normal pension age” has the meaning given in section 180;

“occupational pension scheme” has the meaning given in section 1;

[<sup>F601</sup>“overseas arrangement” means a scheme or arrangement which—

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
- (b) is administered wholly or primarily outside Great Britain;
- (c) is not an appropriate scheme; and
- (d) is not an occupational pension scheme;]

[<sup>F602</sup>“pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;]

[<sup>F603</sup>“pensionable age”—

- (a) so far as any provisions (other than sections 46 to 48) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and
- (b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995]

“pensionable service” has the meaning given in section 70(2);

[<sup>F604</sup>“pension debit” means a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999;]

<sup>F590</sup>

<sup>F590</sup>

“personal pension scheme” has the meaning given in section 1;

“prescribe” means prescribe by regulations and “prescribed” shall be construed accordingly;

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F605

“the preservation requirements” has the meaning given in section 69(2);  
“primary Class 1 contributions” and “secondary Class 1 contributions”  
have the same meanings as in the Social Security Contributions and Benefits  
Act 1992;

“protected rights” has the meaning given in section 10;

“public service pension scheme” has the meaning given in section 1;

F606

F606

“regulations” means regulations made by the Secretary of State under this  
Act;

[<sup>F607</sup>“the Regulatory Authority” means the Pensions Regulator;]

“resources”, in relation to an occupational pension scheme, means the  
funds out of which the benefits provided by the scheme are payable from time  
to time, including the proceeds of any policy of insurance taken out, or annuity  
contract entered into, for the purposes of the scheme;

“rights”, in relation to accrued rights (within the meaning of section 73,  
136 or 179) or transfer credits, includes rights to benefit and also options to  
have benefits paid in a particular form or at a particular time;

[<sup>F608</sup>“safeguarded rights” has the meaning given in section 68A;]

F609

“short service benefit” has the meaning given in section 71(2);

F590

“tax-exemption” and “tax-approval” mean respectively exemption from tax  
and approval of the Inland Revenue, in either case under any such provision  
of the Income Tax Acts as may be prescribed;

“tax week” means one of the successive periods in a tax year beginning  
with the first day of that year and every seventh day thereafter, the last day  
of a tax year (or, in a leap year, the last two days) being treated accordingly  
as a separate tax week;

“tax year” means the 12 months beginning with 6th April in any year;

“trade or business”, in relation to a public or local authority, includes the  
exercise and performance of the powers and duties of the authority;

“transfer credits” means rights allowed to an earner under the rules of an  
occupational pension scheme by reference to a transfer to that scheme of his  
accrued rights from another scheme (including any transfer credits allowed  
by that scheme);

F590

“voluntary contributions requirements” has the meaning given in  
section 111(2);

“week” means a period of seven days beginning with Sunday;

[<sup>F610</sup>“working life”, in relation to a person, means the period beginning with  
the tax year in which the person attains the age of 16 and ending with—

- (a) the tax year before the one in which the person attains the age of 65 in  
the case of a man or 60 in the case of a woman, or
- (b) if earlier, the tax year before the one in which the person dies.]

(2) References to employers in the provisions of this Act (other than sections 123 to  
127, 157, [<sup>F611</sup>and 160] (“the excluded provisions”)) are to be treated, in relation to

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persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those provisions.

- (3) Subject to any such regulations, references to an employer in any of the provisions of this Act (other than the excluded provisions or <sup>F612</sup>... Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections <sup>F613</sup>... 153(2), 158(1) to (5), 162, 163, <sup>F614</sup>... and 176<sup>F614</sup>...) shall, in relation to an earner employed in an office with emoluments, be construed as references to—
- (a) such person as may be prescribed in relation to that office; or
  - (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section <sup>F615</sup>... 27, 28, 29, 31, 32, 43, 44, 111, 160, 164, 165 or 169) prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (5) In sections 165 and 166—
- (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
  - (b) references to Great Britain include references to the territorial waters of the United Kingdom adjacent to Great Britain.
- (6) Any reference in section 185 or 186 to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with it; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.
- (7) In the application of section 158 <sup>F616</sup>... to Northern Ireland any reference to a government department is to be taken to be, or to include (as the context may require), a Northern Ireland department.

#### Textual Amendments

- F590** Words in s. 181(1) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 77\(a\)\(i\)](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)
- F591** Words in s. 181(1) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 22\(6\)](#); S.I. 2003/120, art. 2, [Sch. \(with arts. 3, 4\)](#) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F592** Words in s. 181(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 77\(a\)\(ii\)](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)
- F593** Words in s. 181(1) substituted (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 3\(1\)](#); S.I. 2000/1047, art. 2(2)(b), [Sch. Pt. 2](#)
- F594** Words in s. 181(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 222](#) (with [Sch. 7](#))
- F595** Words in s. 181(1) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [127\(a\)](#)



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- F596** Words in s. 181(1) repealed (1.1.1996) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 44(a)(i), **Sch. 7 Pt. I**; S.I. 1995/3104, art. 2(3)
- F597** Words in s. 181(1) substituted (22.8.1996) by Employment Tribunals Act 1996 (c. 17), s. 46, **Sch. 1 para. 11** (with s. 38)
- F598** Words in s. 181(1) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **127(b)**
- F599** Words in s. 181(1) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 18**
- F600** Words in s. 181(1) substituted (retrospective to 1.1.1997) by Pensions Act 2011 (c. 19), **s. 29(1)(7)**, 38(4); S.I. 2014/1683, art. 2
- F601** Words in s. 181(1) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F602** Words in s. 181(1) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 41(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F603** Words in s. 181(1) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 17**
- F604** Words in s. 181(1) inserted (11.11.1999 for specified purposes) by Welfare Reform and Pensions Act 1999 (c. 30), **ss. 32(5)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F605** Words in s. 181(1) repealed (6.4.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(c), **Sch. 13 Pt. VI**; S.I. 1999/3420, art. 4(e)
- F606** Words in s. 181(1) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13** (with s. 313); S.I. 2005/695, art. 2(7), **Sch. 1**
- F607** Words in s. 181(1) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 7(2)(a)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F608** Words in s. 181(1) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 41(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F609** Words in s. 181(1) repealed (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 2 para. 3(2)(c), **Sch. 13 Pt. I**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. 2
- F610** Words in s. 181(1) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 282**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7
- F611** Words in s. 181(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 3 para. 44(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F612** Words in s. 181(3) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13** (with s. 313); S.I. 2005/695, art. 2(7), Sch. 1
- F613** Words in s. 181(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 14, **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F614** Words in s. 181(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 77(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F615** Words in s. 181(4) repealed (6.4.2005) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13** (with s. 313); S.I. 2005/695, art. 2(7), Sch. 1
- F616** Words in s. 181(7) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 77(c), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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

- C103** S. 181(1) modified (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), **2(5)(7)**
- C104** S. 181(1) modified (temp.) (27.4.2005) by The Occupational and Personal Pension Schemes (Pension Liberation) Regulations 2005 (S.I. 2005/992), regs. 1(1), **2(4)(6)**

#### Commencement Information

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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#### **Marginal Citations**

**M46** 1992 c. 4.

**M47** 1992 c. 52.

**M48** 1992 c. 4.

#### **[<sup>F617</sup>181B Money purchase benefits: supplementary**

- (1) This section applies for the purposes of the definition of “money purchase benefits” in section 181(1).
- (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.
- (3) A benefit which is a pension in payment falls within this section if—
  - (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
- (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).]

#### **Textual Amendments**

**F617** S. 181B inserted (retrospective to 1.1.1997) by [Pensions Act 2011 \(c. 19\), s. 29\(2\)\(7\), 38\(4\); S.I. 2014/1683, art. 2](#)

*Subordinate legislation etc.*

#### **182 Orders and regulations (general provisions).**

- (1) Any power under this Act to make regulations or orders (except a power of <sup>F618</sup>... the court to make orders) and the powers to make rules under sections 149(2) and 152(1) shall be exercisable by statutory instrument.
- (2) Except in so far as this Act otherwise provides, any power conferred by it to make an Order in Council, regulations or an order (except an order under section 153(8)) may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),

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- (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
- (iii) any such provision either unconditionally or subject to any specified condition,

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and any power to make an Order in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make an Order in Council, regulations or an order for the purposes of any other provision.

- (3) Any power conferred by it to make an Order in Council, regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to Her Majesty or the authority making the regulations or order to be expedient for the purposes of the Order in Council, regulations or order.
- (4) Any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.
- (5) Any power conferred on the Secretary of State by any provision of this Act to make any regulations or order (except an order under section 153(8)), where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

#### Textual Amendments

**F618** Words in s. 182(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 78, Sch. 7 Pt. III; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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

**C105** S. 182(2)-(5) applied (12.2.2001 for specified purposes) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), Sch. 5 para. 17(8) (with s. 83(6)); S.I. 2000/3166, art. 2(5) (as amended (28.3.2001) by S.I. 2001/1252, art. 3)

#### Commencement Information

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### 183 Sub-delegation.

- (1) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council, regulations or an order (other than regulations and orders made under <sup>F619</sup>... Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections <sup>F620</sup>... 153(2), 158(1) to (5), 162, 163, <sup>F619</sup>... and 176<sup>F619</sup>...) includes power to provide for a person to exercise a discretion in dealing with any matter.

<sup>F621</sup>(2) .....

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- (3) Regulations under section 27(3), 63(2), [<sup>F622</sup> 97(1) and 101I] may provide that the values there mentioned shall be calculated and verified<sup>F623</sup> ...—
- (a) in such manner as may, in the particular case, be approved—
    - (i) by a prescribed person;
    - (ii) by a person with prescribed professional qualifications or experience;
    - or
    - (iii) by a person approved by the Secretary of State; or
  - (b) in accordance with guidance prepared [<sup>F624</sup> and from time to time revised] by a prescribed body.

F625 ...  
 F625 .....  
 F625 .....

**Textual Amendments**

- F619** Words in s. 183(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 79, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F620** Words in s. 183(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 6 para. 15(a), **Sch. 7 Pt. IV**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F621** S. 183(2) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 79, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F622** Words in s. 183(3) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 42**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F623** Words in s. 183(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 45(b), **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F624** Words in s. 183(3)(b) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 6 para. 15(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F625** Words in s. 183(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 45(c), **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**Commencement Information**

- II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

**184 Consultation with Social Security Advisory Committee about regulations under s. 36(6).**

- (1) Subject to section 173 of the <sup>M49</sup>Social Security Administration Act 1992 (cases where consultation not required), where the Secretary of State proposes to make regulations under section 36(6), he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).
- (2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) and shall make to the Secretary of State a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.
- (3) If after receiving a report of the Committee the Secretary of State lays before Parliament regulations which comprise the whole or part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee’s report and a statement showing—

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- (a) the extent (if any) to which he has in framing the regulations given effect to the Committee’s recommendations; and
- (b) in so far as effect has not been given to them, his reasons why not.

**Commencement Information**

**II** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

**Marginal Citations**

**M49** 1992 c. 5.

**185 Consultations about other regulations.**

- (1) [<sup>F626</sup>Subject to subsection (2), before the Secretary of State makes”, and for the words from “refer the proposals” to the end there is substituted “consult such persons as he may consider appropriate] any regulations for the purposes of Parts I to VI, Chapter <sup>F627</sup>... III of Part VII, Part VIII, IX or X or section 153, 154, 155, 156, 160, 162, 163, 174 or 175 of this Act he shall refer the proposals, in the form of draft regulations or otherwise, to the Board.
- (2) Subsection (1) does not apply to—
  - (a) regulations prescribing actuarial tables; or
  - (b) regulations made for the purpose only of consolidating other regulations revoked by them; or
  - (c) regulations under section 36(6).
  - [<sup>F628</sup>(d) regulations in the case of which the Secretary of State considers consultation inexpedient because of urgency, or
  - (e) regulations which—
    - (i) state that they are consequential upon a specified enactment, and
    - (ii) are made before the end of the period of six months beginning with the coming into force of that enactment,]
- <sup>F629</sup>(3) .....
- <sup>F629</sup>(4) .....
- (5) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in [<sup>F630</sup>subsection (1)] to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.
- <sup>F631</sup>(6) .....
- (7) The power of the Secretary of State to make regulations under section 162 of this Act shall be exercisable only after consultation with the [<sup>F632</sup>Financial Services Authority or, if the matter concerns section 464 of the Income and Corporation Taxes Act 1988, the Commissioners of the Inland Revenue].
- (8) The power of the Secretary of State to make regulations under [<sup>F633</sup>section 170(5)] shall be exercisable only after consultation with the Council on Tribunals.
- (9) Before making any regulations under paragraph 7 of Schedule 2 the Secretary of State shall consult with such bodies concerned with employments of the class in question

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as appear to him fairly to represent the interests of the employers and earners in those employments.

#### Textual Amendments

- F626** Words in s. 185(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 80(a)**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F627** Words in s. 185(1) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 46, **Sch. 7 Pt. I**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F628** S. 185(2)(d)(e) added (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 80(b)**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F629** S. 185(3)(4) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 80(c), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F630** Words in s. 185(5) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 80(d)**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F631** S. 185(6) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 80(e), **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F632** Words in s. 185(7) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **128**
- F633** Words in s. 185(8) substituted (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(4)(d), **Sch. 11 para. 23**

#### Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

### 186 Parliamentary control of orders and regulations.

- (1) Subject to subsections (2) and (3), a statutory instrument which contains (whether alone or with other provisions) any regulations or order made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) shall not apply to any order which under any provision of this Act is required to be laid before Parliament after being made or is subject to a requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament or to any order made under section 193 or paragraph 1 of Schedule 9.
- (3) Subject to subsection (4), a statutory instrument which contains (whether alone or with other provisions)—
  - (a) regulations made by virtue of section 49, or
  - (b) an order under section 153(8), or
  - (c) regulations made by virtue of subsection (1)(a) of section 165 applying such provisions as mentioned in subsection (2)(b) of that section, <sup>F634</sup>or
  - (d) regulations made by virtue of section 168(2)]
 shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Subsection (3) does not apply to such regulations as mentioned in paragraph (a) or (c) of that subsection if—
  - (a) they are made for the purpose only of consolidating regulations which they revoke, or

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- (b) so far as they are made under powers conferred by the provisions mentioned in that paragraph, they only replace provisions of previous regulations with new provisions to the same effect.
- (5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 184(3)<sup>F635</sup> ... shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement in question are laid before that House not later than the second day on which the House sits after the laying of the regulations.

#### Textual Amendments

**F634** S. 186(3)(d) and preceding word inserted (6.4.1996 for specified purposes, 1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 155(2), 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1996/1412, art. 2(2), Sch. Pt. II; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F635** Words in s. 186(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 81, Sch. 7 Pt. III; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### <sup>F636</sup>187 Northern Ireland Constitution Act 1973: “reserved matters”.

#### Textual Amendments

**F636** S. 187 repealed (2.12.1999) by Northern Ireland Act 1998 (c. 47), ss. 100(2), 101(3), Sch. 15 (with s. 95); S.I. 1999/3209, art. 2, Sch.

#### Commencement Information

**I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

### *Supplemental provisions*

### 188 Repeals.

- (1) The enactments specified in Parts I, II and III of Schedule 5 are repealed to the extent specified in the third column.
- (2) The subordinate legislation specified in Part IV of that Schedule is revoked to the extent specified in the third column.
- (3) The repeals and revocations have effect subject to any relevant savings in Schedule 6.

#### Commencement Information

**I2** S. 188(1) in force at 7.2.1994 for specified purposes by S.I. 1994/86, art. 2

**I3** S. 188(2)(3) in force at 7.2.1994 by S.I. 1994/86, art. 2

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## 189 Transitional provisions and savings.

- (1) Schedule 6 (which makes transitional provision and contains savings in connection with the repeals and revocations made by this Act) shall have effect.
- (2) Nothing in that Schedule affects the general operation of section 16 of the <sup>M50</sup> Interpretation Act 1978 (general savings implied on repeal).

### Commencement Information

**I4** [S. 189](#) in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

### Marginal Citations

**M50** [1978 c.30](#).

## 190 Prospective and consequential amendments.

Schedule 7 (which re-enacts or makes consequential amendments of provisions which make prospective amendments of enactments including those repealed by this Act, so that the re-enacted or amended provisions prospectively amend this Act and other enactments) and Schedule 8 (which makes other consequential amendments) shall have effect, subject to any relevant transitional provisions in Schedule 6.

### Commencement Information

**I5** [S. 190](#) in force at 7.2.1994 for specified purposes by [S.I. 1994/86, art. 2](#)

## 191 Transitory modifications.

Schedule 9 (which makes transitory modifications of this Act pending the commencement of the provisions there mentioned) shall have effect.

## 192 Extent.

- (1) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part, except that the repeals in Part III of Schedule 5 do not extend to Northern Ireland.
- (2) The following provisions of this Act extend to Northern Ireland—
  - [<sup>F637</sup>section 1],
  - <sup>F638</sup> ...
  - section 145 (except subsections (4) and (5)(b)),
  - section 154 (as it has effect for the purposes of provisions extending to Northern Ireland),
  - <sup>F639</sup> ...
  - section 179,
  - sections 181 to 183 (as they have effect for those purposes),



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*Status: Point in time view as at 30/12/2005.*

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sections 185 and 186 (as they have effect for those purposes),

section 187,

sections 188 to 191 (as they have effect for those purposes, but subject to subsection (1)),

this section,

section 193,

paragraph 17 of Schedule 6.

(3) Except as provided by subsection (2), this Act does not extend to Northern Ireland.

#### Textual Amendments

**F637** Words in s. 192(2) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 82](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)

**F638** Words in s. 192(2) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 13](#); S.I. 2005/695, art. 2(7), [Sch. 1](#)

**F639** Words in s. 192(2) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 82](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)

### 193 Short title and commencement.

(1) This Act may be cited as the Pension Schemes Act 1993.

(2) Subject to the provisions of Schedule 9, this Act shall come into force on such day as the Secretary of State may by order appoint.

(3) As respects the coming into force of—

(a) Part II of Schedule 5 and section 188(1) so far as it relates to it; or

(b) Schedule 7 and section 190 so far as it relates to it,

an order under subsection (2) may appoint different days from the day appointed for the other provisions of this Act or different days for different purposes.

**Status:**

Point in time view as at 30/12/2005.

**Changes to legislation:**

There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to Pension Schemes Act 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations.