



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART III

[<sup>F1</sup>SCHEMES THAT WERE CONTRACTED-OUT ETC] AND  
EFFECTS ON MEMBERS' STATE SCHEME RIGHTS <sup>F2</sup>...

### CHAPTER I

[<sup>F3</sup>SCHEMES THAT WERE CONTRACTED-OUT: GUARANTEED  
MINIMUM PENSIONS AND ALTERATION OF SCHEME RULES ETC]

#### Textual Amendments

**F3** Pt. 3 Ch. 1 heading substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 4](#)

#### *Preliminary*

**<sup>F4</sup>7** Issue of contracting-out certificates.

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#### Textual Amendments

**F4** [S. 7](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 5](#) (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), 2(1)(2)(a))

[<sup>F5</sup>7A Meaning of “the first abolition date” and “the second abolition date”

In this Act—

*Status: Point in time view as at 06/04/2016.*

**Changes to legislation:** *Pension Schemes Act 1993, Chapter I is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“the first abolition date” means 6 April 2012 (the date appointed for the commencement of section 15(1) of the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes));

“the second abolition date” means 6 April 2016 (the date on which section 56(4) of the Pensions Act 2014 provides for the commencement of section 24(1) of that Act (abolition of contracting-out for salary related schemes)).]

#### Textual Amendments

**F5** Ss. 7A, 7B inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 6](#)

### [<sup>F5</sup>7B Meaning of “contracted-out scheme” and “appropriate scheme” etc.

- (1) This section applies for the interpretation of this Act.
- (2) An occupational pension scheme was “contracted-out” at a time if, at that time, there was in force a certificate under section 7 (as it then had effect) stating that the employment of an earner in employed earner's employment was contracted-out employment by reference to the scheme.
- (3) “Contracting-out certificate” means a certificate of the kind mentioned in subsection (2).
- (4) An occupational pension scheme was a “salary related contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(2) (as it then had effect).
- (5) An occupational pension scheme was a “money purchase contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(3) (as it then had effect).
- (6) A personal pension scheme was an “appropriate scheme” at a time if, at that time, there was in force a certificate issued under section 7(1)(b) (as it then had effect) stating that the scheme was an appropriate scheme.
- (7) “Appropriate scheme certificate” means a certificate of the kind mentioned in subsection (6).
- (8) An appropriate scheme certificate that was in force in relation to a scheme is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.]

#### Textual Amendments

**F5** Ss. 7A, 7B inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 6](#)

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

- [<sup>F6</sup>(1) In relation to any period before the second abolition date, the employment of an earner in employed earner's employment was “contracted-out employment” in relation to the earner during that period if—
- (a) the earner was under pensionable age;

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- (b) the earner's service in the employment was service which qualified the earner for a pension provided by a salary related contracted-out scheme; and
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.]

[<sup>F7</sup>(1A) In addition, in relation to any period before [<sup>F8</sup>the first abolition date], the employment of an earner in employed earner's employment was “contracted-out employment” in relation to him during that period if—

- (a) he was under pensionable age;
- (b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.]

[<sup>F9</sup>(1B) In the following provisions of this Act “earner”, in relation to a scheme, means a person who was an earner in contracted-out employment by reference to the scheme.]

(2) In this Act—

“guaranteed minimum pension” means any pension which is provided [<sup>F10</sup>, by a scheme that was a salary related contracted-out 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>F11</sup>widow's, widower's [<sup>F12</sup>, surviving same sex spouse'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 [<sup>F13</sup>the applicable limit] (or the prescribed equivalents if he is paid otherwise than weekly);

[<sup>F14</sup>and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage [<sup>F15</sup>for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before [<sup>F8</sup>the first abolition date])]].

[<sup>F16</sup>(2A) In subsection (2) “the applicable limit” means—

- (a) in relation to a tax year before 2009-10, the upper earnings limit;
- (b) in relation to 2009-10 or any subsequent tax year, the upper accrual point.]

<sup>F17</sup>(3) .....

[<sup>F18</sup>(4) A contracting-out certificate that was in force in respect of an employed earner's employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.]

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

#### Textual Amendments

**F6** S. 8(1) substituted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 7(2)

*Status: Point in time view as at 06/04/2016.*

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- F7** S. 8(1A) inserted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007](#) (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(3)** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F8** Words in Act substituted (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 2**
- F9** S. 8(1B) inserted (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 7(3)**
- F10** Words in s. 8(2) substituted (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 7(4)**
- F11** 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**
- F12** Words in s. 8(2) inserted (E.W.) (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013](#) (c. 30), s. 21(3), **Sch. 4 para. 19**; S.I. 2014/93, art. 3(j)(v); same words inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014](#) and [Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014](#) (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(2)**
- F13** Words in s. 8(2) substituted (21.9.2008) by [National Insurance Contributions Act 2008](#) (c. 16), s. 6(1), **Sch. 1 para. 8(2)**
- F14** 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
- F15** Words in s. 8(2) substituted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007](#) (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(4)** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F16** S. 8(2A) inserted (21.9.2008) by [National Insurance Contributions Act 2008](#) (c. 16), s. 6(1), **Sch. 1 para. 8(3)**
- F17** S. 8(3) repealed (6.4.2015) by [Pensions Act 2007](#) (c. 22), ss. 27(7), 30(2)(b), Sch. 4 para. 47, **Sch. 7 Pt. 7**; S.I. 2011/1267, art. 3(a)(iv)(b) (as amended (20.3.2012) by S.I. 2012/911, art. 2(d))
- F18** S. 8(4) substituted (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 7(5)**
- 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**

#### Commencement Information

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

F20 ...

#### Textual Amendments

- F20** S. 9 cross-heading repealed (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 8**

#### <sup>F21</sup>9 Requirements for certification of schemes: general.

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#### Textual Amendments

- F21** S. 9 repealed (6.4.2016) by [Pensions Act 2014](#) (c. 19), s. 56(4), **Sch. 13 para. 9** (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015](#) (S.I. 2015/1502), arts. 1(2)(3), **2(1)(2)(b)**)

#### <sup>F22</sup>10 Protected rights and money purchase benefits.

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Textual Amendments

**F22** [S. 10](#) repealed (6.4.2012) by [Pensions Act 2008 \(c. 30\)](#), ss. 106(1)(3)(a)(4), 149(1), [Sch. 11 Pt. 3](#); [S.I. 2011/1266](#), art. 2(c)

**F23 11 Elections as to employments covered by contracting-out certificates.**

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Textual Amendments

**F23** [S. 11](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 9](#) (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), [2\(1\)\(2\)\(c\)](#))

**F24 12 Determination of basis on which scheme is contracted-out.**

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Textual Amendments

**F24** [S. 12](#) repealed (6.4.2012) being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 27(7), 30(2)(b), [Sch. 4 para. 6](#), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); [S.I. 2011/1267](#), art. 2(a)

F25 ...

Textual Amendments

**F25** [S. 12A cross-heading](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 10](#)

**F26 12A The statutory standard**

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Textual Amendments

**F26** [Ss. 12A-12D](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 11](#) (with savings in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), 2(1)(2)(d)(2A) (as amended by [S.I. 2015/2058](#), art. 3(3)(c)))

**F26 12B Reference scheme**

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### Textual Amendments

- F26** Ss. 12A-12D repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 11](#) (with savings in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), 2(1)(2)(d)(2A) (as amended by [S.I. 2015/2058](#), art. 3(3)(c)))

## <sup>F26</sup>12C Transfer, commutation, etc

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### Textual Amendments

- F26** Ss. 12A-12D repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 11](#) (with savings in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), 2(1)(2)(d)(2A) (as amended by [S.I. 2015/2058](#), art. 3(3)(c)))

## <sup>F26</sup>12D Entitlement to benefit

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### Textual Amendments

- F26** Ss. 12A-12D repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 11](#) (with savings in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), 2(1)(2)(d)(2A) (as amended by [S.I. 2015/2058](#), art. 3(3)(c)))

## <sup>F27</sup>*Guaranteed minimum pensions*

### Textual Amendments

- F27** [S. 13 cross-heading](#) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 12](#)

## <sup>F28</sup>12E Former salary related contracted-out schemes to comply with GMP requirements

- (1) A scheme that was a salary related contracted-out scheme is to be treated as including whatever provision it needs to contain to comply with the GMP requirements.
- (2) A scheme complies with the GMP requirements if, in relation to any earner's service before the principal appointed day, it complies in all respects with sections 13 to 24E.
- (3) Where—
  - (a) a scheme is permitted by any of those sections to include provision subject to certain requirements, and
  - (b) the scheme includes the provision but not the requirements,
 the scheme is to be treated by subsection (1) as including the requirements.

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- (4) This section overrides any provision of a scheme to the extent that the provision of the scheme conflicts with it.]

#### Textual Amendments

**F28** S. 12E inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 13(1)** (with s. 13(2)(3))

### 13 Minimum pensions for earners.

- (1) Subject to the provisions of this Part, the scheme must—
- provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
  - 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.

[<sup>F29</sup>(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1)(a) and (b) if the conditions specified in section 24B are satisfied.]

- (2) In the case of an earner who [<sup>F30</sup>was a married woman or widow who was liable] to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the <sup>M1</sup>Social Security Contributions and Benefits Act 1992 [<sup>F31</sup>at a time during a relevant year when she was in contracted-out employment by reference to the scheme], subject to the provisions of this Part, the scheme must—
- provide for her to be entitled to a pension under the scheme if she attains pensionable age<sup>F32</sup>...; and
  - satisfy such other conditions as may be prescribed.

[<sup>F33</sup>“Relevant year” has the meaning given by section 14(8).]

- (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.
- (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—
- for any such postponement by virtue of employment to which the scheme does not relate; and
  - 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—
- was for him non-participating employment under that legislation; and
  - 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.



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- (8) In this section “the former legislation” means Part III of the <sup>M2</sup>National Insurance Act 1965 and the previous corresponding enactments.

#### Textual Amendments

- F29** S. 13(1A) inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(1), 30(2)(a); S.I. 2009/406, art. 2(a)(b)
- F30** Words in s. 13(2) substituted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 14(a)
- F31** Words in s. 13(2) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 14(b)
- F32** 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
- F33** Words in s. 13(2) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 14(c)

#### Commencement Information

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

#### Marginal Citations

- M1** 1992 c. 4.  
**M2** 1965 c. 51.

## 14 Earner's guaranteed minimum.

- [<sup>F34</sup>(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year—
- earnings were paid to or for the earner's benefit in respect of employment which was contracted-out by reference to the scheme; and
  - those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).]

- (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 [<sup>F35</sup>excess earnings mentioned in subsection (1)(b)] upon which primary Class 1 contributions have been paid or treated as paid.

- [<sup>F36</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.]

<sup>F37</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>F38</sup>Inland Revenue are] satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, [<sup>F39</sup>they] may for that purpose—

- compute, in such manner as [<sup>F39</sup>they][<sup>F40</sup>think] fit, an amount which shall be regarded as the amount of those earnings; or
- take their amount to be such sum as [<sup>F39</sup>he][<sup>F39</sup>they] may specify in the particular case.

- (5) In subsection (2) the “appropriate percentage” means—



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- (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>F41</sup> or later than the tax year ending immediately before the principal appointed day]).

**Textual Amendments**

- F34** S. 14(1) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 13 para. 15(2)**
- F35** Words in s. 14(2) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 13 para. 15(3)**
- F36** 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)
- F37** 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**
- F38** 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)
- F39** 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)
- F40** 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)
- F41** 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**

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

- C6** 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

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## **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)**

- C7** 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\(5\)](#)
- C8** S. 15(1): sums payable amended (with effect in accordance with arts. 1(4), 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), [arts. 1\(2\)\(c\)\(3\)](#), [5\(2\)](#)

### **Commencement Information**

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

## **[<sup>F42</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—

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- (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).]

**Textual Amendments**

- F42** 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)**

- C9** 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**)
- C10** 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**)
- C11** S. 15A modified (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **6** (with reg. 5)
- C12** S. 15A modified (S.) (1.4.2015) by The Firefighters' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/117), regs. 1(2), **6** (with reg. 5)
- C13** S. 15A modified (1.4.2015) by The Public Service (Civil Servants and Others) Pensions (Consequential and Amendment) Regulations 2015 (S.I. 2015/372), regs. 1(2), **6** (with reg. 5)
- C14** S. 15A modified (S.) (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/146), regs. 1(2), **6** (with reg. 5)
- C15** S. 15A modified (1.4.2015) by The Judicial Pensions Regulations 2015 (S.I. 2015/182), reg. 1(4), **Sch. 3 para. 4** (with regs. 148, 160, Sch. 3 para. 3)
- C16** S. 15A modified (1.4.2015) by The Firefighters' Pension Scheme (England) (Consequential Provisions) Regulations 2015 (S.I. 2015/319), regs. 1(2), **6** (with reg. 5)
- C17** S. 15A modified (W.) (1.4.2015) by The Firefighters' Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (S.I. 2015/848), regs. 1(2), **6** (with reg. 5)
- C18** S. 15A modified (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/432), regs. 1(2), **6** (with reg. 5)
- C19** S. 15A modified (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/436), regs. 1(2), **6** (with reg. 5)
- C20** S. 15A modified (S.) (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/145), regs. 1(2), **6** (with reg. 5)
- C21** S. 15A modified (1.4.2015) by The Armed Forces Pension (Consequential Provisions) Regulations 2015 (S.I. 2015/390), regs. 1(2), **6** (with reg. 5)
- C22** S. 15A modified (S.) (1.4.2015) by The Police Pensions (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/118), regs. 1(2), **6** (with reg. 5)

**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

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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>M3</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M4</sup>Social Security Administration Act 1992 to come into force before the end of the final relevant year.

[<sup>F43</sup>(2) The scheme may provide that in a case where—

- (a) an earner was, before the second abolition date, in contracted-out employment by reference to a scheme, and
- (b) the earner ceases to be in pensionable service under the scheme before the final relevant year,

the earnings factors for that person 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 the earner ceases to be in pensionable service under the scheme (“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>F44</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>F45</sup>“relevant year” means any tax year in the earner’s working life,]

[<sup>F46</sup>“final relevant year” means the last tax year in the earner’s working life].

#### Textual Amendments

- F43** S. 16(2) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 13 para. 16** (with a saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2), **2(3)**)
- F44** 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)
- F45** 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**
- F46** 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**

#### Commencement Information

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

#### Marginal Citations

- M3** 1975 c. 60.  
**M4** 1992 c. 5.

## 17 Minimum pensions for widows and widowers. **E+W**

(1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a [<sup>F47</sup>widow, widower or surviving civil partner] (whether before or after

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attaining pensionable age), the [F47widow, widower or surviving civil partner] will be entitled to a guaranteed minimum pension under the scheme.

[F48(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 24B are satisfied.]

(2) The scheme must contain a rule to the effect that—

- (a) if the earner is a man [F49, or a woman in a relevant gender change case,] 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;
- [F50(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;]
- [F51(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower's pension will not be less than the surviving same sex spouse's guaranteed minimum;
- (e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow's pension will not be less than the surviving same sex spouse's guaranteed minimum.]

(3) The widow's guaranteed minimum shall be half that of the earner.

(4) The widower's [F52or surviving civil partner's][F53or surviving same sex spouse'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.

[F54(4A) [F55Subject to subsection (4B)] the scheme must provide for the [F56widow's, widower's or surviving civil partner's] pension to be payable to the [F57widow, widower or surviving civil partner]—

- (a) for any period for which a Category B retirement pension is payable to the [F57widow, 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);

[ for life, in a case where—

- [F58(aa)
  - (i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and
  - (ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;
- (ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where—
  - (i) the earner died before the widow, widower or surviving civil partner attained state pension age,
  - (ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and

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- (iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;]
  - (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the [<sup>F57</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions; and
  - (c) in the case of a [<sup>F57</sup>widow, widower or surviving civil partner] whose entitlement by virtue of the earner's contributions to a widowed parent's allowance or bereavement allowance has come to an end at a time after the [<sup>F57</sup>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
    - <sup>F59</sup>(i) civil partner and [<sup>F60</sup>another person are living together as a married couple;] 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.]]
- [<sup>F61</sup>(4B) Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner dies before 5th December 2005.]
- (5) [<sup>F62</sup>In the case of a woman who is the widow of a man,] the scheme [<sup>F63</sup>must also make provision] for the widow's pension to be payable to her for any period for which a <sup>F64</sup>... widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions<sup>F64</sup>....
  - (6) [<sup>F65</sup>In any other case,] the scheme [<sup>F66</sup>must also make provision] for the [<sup>F67</sup>widower's [<sup>F68</sup>, widow'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 [<sup>F69</sup>Inland Revenue] any such information as [<sup>F69</sup>the Inland Revenue] may require relating to the payment of pensions under the scheme to [<sup>F70</sup>widows, widowers or surviving civil partners].
  - [<sup>F71</sup>(8) Where—
    - (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.]
  - <sup>F72</sup>(9) .....
  - [<sup>F73</sup>(9A) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.]
  - [<sup>F74</sup>(10) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—
    - (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and



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- (b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.

(11) This section is subject to regulations under section 38A.]

### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

- F47** 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\(a\)](#)
- F48** S. 17(1A) inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [Pensions Act 2007 \(c. 22\)](#), [ss. 14\(2\)](#), 30(2)(a); S.I. 2009/406, art. 2(a)(b)
- F49** Words in s. 17(2)(a) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 4 para. 20\(2\)\(a\)](#); S.I. 2014/93, [art. 3\(j\)\(vi\)](#)
- F50** 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\(b\)](#)
- F51** S. 17(2)(d)(e) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 4 para. 20\(2\)\(b\)](#); S.I. 2014/93, [art. 3\(j\)\(vi\)](#)
- F52** 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\(c\)](#)
- F53** Words in s. 17(4) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 4 para. 20\(3\)](#); S.I. 2014/93, [art. 3\(j\)\(vi\)](#)
- F54** 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)
- F55** 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\(d\)\(i\)](#)
- F56** 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\(d\)\(ii\)](#)
- F57** 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\(d\)\(iii\)](#)
- F58** S.17(4A)(aa)(ab) inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 17\(2\)](#)
- F59** 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\(d\)\(iv\)](#)
- F60** Words in s. 17(4A)(c)(i) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), [Sch. 1 para. 25\(a\)](#)
- 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\(e\)](#)



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- F62** Words in s. 17(5) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by **Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), Sch. 4 para. 20(4); S.I. 2014/93, art. 3(j)(vi)**
- F63** 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)
- F64** 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)
- F65** Words in s. 17(6) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by **Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), Sch. 4 para. 20(5)(a); S.I. 2014/93, art. 3(j)(vi)**
- F66** 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)
- F67** 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)**
- F68** Word in s. 17(6) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by **Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), Sch. 4 para. 20(5)(b); S.I. 2014/93, art. 3(j)(vi)**
- F69** 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)
- F70** 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)**
- F71** S. 17(8) inserted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by **Pensions Act 2004 (c. 35), ss. 284(2), 322(1)** (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F72** S. 17(9) omitted (E.W.) (13.3.2014) by virtue of **The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560), art. 1(2), Sch. 1 para. 25(b)**
- F73** S. 17(9A) inserted (6.4.2016) by **Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 17(3)**
- F74** S. 17(10)(11) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by **Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), Sch. 4 para. 20(6); S.I. 2014/93, art. 3(j)(vi)**

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

- C23** S. 17(11) extended (S.) (16.11.2015) by **Pension Schemes Act 2015 (c. 8), ss. 81, 89(1)(d)** (with s. 87); S.I. 2015/1851, reg. 2(b)

#### **Commencement Information**

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

## **17 Minimum pensions for widows and widowers. S**

- (1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a [<sup>F131</sup>widow, widower or surviving civil partner] (whether before or after attaining pensionable age), the [<sup>F131</sup>widow, widower or surviving civil partner] will be entitled to a guaranteed minimum pension under the scheme.
- [<sup>F132</sup>(1A) But a scheme may be amended so as to omit provision of the kind specified in subsection (1) if the conditions specified in section 24B are satisfied.]
- (2) The scheme must contain a rule to the effect that—

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- (a) if the earner is a man <sup>F133</sup>, or a woman in a relevant gender change case,] 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>F134</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;]
  - <sup>F135</sup>(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower's pension will not be less than the surviving same sex spouse's guaranteed minimum;
  - (e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow's pension will not be less than the surviving same sex spouse's guaranteed minimum.]
- (3) The widow's guaranteed minimum shall be half that of the earner.
- (4) The widower's <sup>F136</sup>or surviving civil partner's][<sup>F137</sup>or surviving same sex spouse'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>F138</sup>(4A) <sup>F139</sup>Subject to subsection (4B)] the scheme must provide for the <sup>F140</sup>widow's, widower's or surviving civil partner's] pension to be payable to the <sup>F141</sup>widow, widower or surviving civil partner]—
- (a) for any period for which a Category B retirement pension is payable to the <sup>F141</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);
  - <sup>F58</sup>[ for life, in a case where—
  - (aa)
    - (i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and
    - (ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;
  - (ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where—
    - (i) the earner died before the widow, widower or surviving civil partner attained state pension age,
    - (ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and
    - (iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;]
  - (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the <sup>F141</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions; and
  - (c) in the case of a <sup>F141</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 [F141widow, 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 F142(i) civil partner and [F143another person are living together as a married couple;] 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.]]

[F144(4B) Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner dies before 5th December 2005.]

(5) [F145In the case of a woman who is the widow of a man,] the scheme [F146must also make provision] for the widow's pension to be payable to her for any period for which a F147... widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions F147....

(6) [F148In any other case,] the scheme [F149must also make provision] for the [F150widower's [F151, widow'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 [F152Inland Revenue] any such information as [F152the Inland Revenue] may require relating to the payment of pensions under the scheme to [F153widows, widowers or surviving civil partners].

[F154(8) Where—

(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.]

[F155(9) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—

(a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and

(b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.]

[F73(9A) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.]

[F156(11) This section is subject to regulations under section 38A.]

#### Extent Information

**E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

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- F58** S.17(4A)(aa)(ab) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 17(2)**
- F73** S. 17(9A) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 17(3)**
- F131** 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)**
- F132** S. 17(1A) inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. **14(2)**, 30(2)(a); S.I. 2009/406, art. 2(a)(b)
- F133** Words in s. 17(2)(a) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(3)(a)(i)**
- F134** 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)**
- F135** S. 17(2)(d)(e) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(3)(a)(ii)**
- F136** 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)**
- F137** Words in s. 17(4) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(3)(b)**
- F138** 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)
- F139** 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)**
- F140** 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)**
- F141** 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)**
- F142** 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)**
- F143** Words in s. 17(4A)(c)(i) substituted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(3)(c)**
- F144** 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)**
- F145** Words in s. 17(5) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(3)(d)**
- F146** 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)
- F147** 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)

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- F148** Words in s. 17(6) inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 11\(3\)\(e\)\(i\)](#)
- F149** 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)
- F150** 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\(f\)](#)
- F151** Word in s. 17(6) inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 11\(3\)\(e\)\(ii\)](#)
- F152** 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)
- F153** 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\(g\)](#)
- F154** S. 17(8) inserted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), [ss. 284\(2\), 322\(1\)](#) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), [Sch. Pt. 2](#)
- F155** S. 17(9) substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 11\(3\)\(f\)](#)
- F156** S. 17(11) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 4 para. 20\(6\)](#); S.I. 2014/93, [art. 3\(j\)\(vi\)](#); extended (S.) (16.11.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), [ss. 81, 89\(1\)\(d\)](#); S.I. 2015/1851, [reg. 2\(b\)](#)

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

- C23** S. 17(11) extended (S.) (16.11.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), [ss. 81, 89\(1\)\(d\)](#) (with s. 87); S.I. 2015/1851, [reg. 2\(b\)](#)

#### Commencement Information

- I2** 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—
  - (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.

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- (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>F75</sup>insurer with which it is or was taken out or entered into—
    - (i) is, or was at the relevant time, carrying on <sup>F76</sup>... long-term insurance business in the United Kingdom or any other <sup>F77</sup>EEA 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—
    - (i) at the written request of the earner or, if the earner has died, of the earner's <sup>F78</sup>widow, widower or surviving civil partner]; or
    - (ii) with the consent of the earner or the <sup>F79</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



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- (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>F80</sup>(7) . . . . .

#### Textual Amendments

- F75** 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)**
- F76** 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)**
- F77** Words in s. 19(4)(a)(i) substituted (26.11.2007) by The Occupational Pension Schemes (EEA States) Regulations 2007 (S.I. 2007/3014), regs. 1, 2, **Sch. para. 1(b)**
- F78** 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**
- F79** 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**
- F80** 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)

- C24** 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 [<sup>F81</sup>scheme that was a] contracted-out scheme;
    - (ii) an earner's accrued rights to pensions under an occupational pension scheme <sup>F82</sup>... to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a [<sup>F83</sup>scheme that was a] contracted-out scheme; or
    - (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>F84</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



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purposes of section 19 may be made to an occupational pension scheme [<sup>F85</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, <sup>F86</sup>... 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>F87</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

- F81** Words in s. 20(1)(a)(i) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 18(a)**
- F82** Words in s. 20(1)(a)(ii) omitted (6.4.2016) by virtue of Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 18(b)(i)**
- F83** Words in s. 20(1)(a)(ii) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 18(b)(ii)**
- F84** 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)
- F85** 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)
- F86** Words in s. 20(3) omitted (6.4.2015) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(c), **9(2)**
- F87** 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>F88</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>F89</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

- F88** S. 21(1) substituted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), ss. **284(1)**, **322(1)** (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F89** 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)

- C25** 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>F90</sup>22 Financing of benefits.

.....

#### Textual Amendments

- F90** 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>F91</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

<sup>F92</sup>(d) .....

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>F93</sup>widow, widower or surviving civil partner] or any dependant of the earner's will be entitled on the earner's death.

*Status: Point in time view as at 06/04/2016.*

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(4) Subsections [F94(2) and (3)] do not apply to public service pension schemes.

F95(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

**F91** 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

**F92** S. 23(2)(d) omitted (6.4.2016) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 13 para. 19**

**F93** 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**

**F94** 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**

**F95** 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)

**C26** 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**

F96 **24 Sufficiency of resources.**

.....

#### Textual Amendments

**F96** 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**

[F97 **24A Conversion of guaranteed minimum pension into other benefits: introduction**

[ In this section and sections 24B to 24H—

- F98(1)] (a) the rules specified in sections 13(1)(a) and (b) and 17(1) are referred to as the “guaranteed minimum pension rules”,
- (b) “GMP conversion” means amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules,
- (c) a “GMP-converted scheme” is a scheme which has been subject to GMP conversion,

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- (d) “the conversion date” means the date on which that amendment takes effect,
- (e) “the pre-conversion benefits” means the benefits provided under the scheme immediately before the conversion date (disregarding money purchase benefits),
- (f) “the post-conversion benefits” means the benefits which are provided under the converted scheme (disregarding money purchase benefits),
- (g) “the converted scheme” means the scheme as it has effect immediately after conversion, and
- (h) “the trustees” in relation to a scheme means the trustees, managers or other persons responsible under the scheme for effecting amendments of it.

[ The Secretary of State must give such guidance (if any) as he or she thinks appropriate  
<sup>F99</sup>(2) about GMP conversion.]

#### Textual Amendments

- F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)
- F98** S. 24A renumbered (6.4.2016) as s. 24A(1) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 20(a)
- F99** S. 24A(2) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 20(b)

## 24B The conversion conditions

- (1) This section specifies the conditions referred to in sections 13(1A) and 17(1A) (for exemption from the requirement to guarantee a minimum pension).
- (2) Condition 1 is that the post-conversion benefits must be actuarially at least equivalent to the pre-conversion benefits.
- (3) Condition 2 is that if the earner was entitled immediately before the conversion date to the payment of a pension under the scheme, the converted scheme does not provide for a reduction of, or have the effect of reducing, the amount of that pension immediately after conversion.
- (4) Condition 3 is that the post-conversion benefits must not include money purchase benefits, apart from any money purchase benefits provided under the scheme immediately before the conversion date.
- (5) Condition 4 is that the converted scheme provides survivors' benefits in accordance with section 24D in such circumstances, and during such periods, as are prescribed by regulations.
- (6) Condition 5 is that the procedural requirements of section 24E have been complied with.
- (7) In applying these conditions to a scheme in respect of an earner—
  - (a) it is immaterial whether or not on the conversion date the scheme was also converted in respect of other earners, and
  - (b) it is immaterial (except for Condition 2) whether or not on the conversion date the earner was entitled to the payment of a pension under the scheme.

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**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

**24C Actuarial equivalence**

Regulations may make provision for determining actuarial equivalence for the purpose of Condition 1 of section 24B.

**Textual Amendments**

**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

**24D Survivors' benefits**

- (1) This section specifies the benefits mentioned in Condition 4 of section 24B.
  - (2) The first benefit is that if the earner [<sup>F100</sup>is a man married to a woman or a woman married to a woman in a relevant gender change case, and the earner] dies (whether before or after attaining normal pension age) leaving a widow, she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—
    - (a) beginning with 6th April 1978, and
    - (b) ending with 5th April 1997.
  - (3) The second benefit is that if the earner [<sup>F101</sup>is a married woman (other than in a relevant gender change case), a man married to a man, or a civil partner, and the earner] dies (whether before or after attaining normal pension age) leaving a widower [<sup>F102</sup>, widow] or surviving civil partner, he or she is entitled to a pension of at least half the value of the pension to which the earner would have been entitled by reference to employment during the period—
    - (a) beginning with 6th April 1988, and
    - (b) ending with 5th April 1997.
- [ In relation to an earner who is a woman, a reference in this section to a relevant gender
- <sup>F103</sup>(4) change case is a reference to a case where—
- (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.

- (5) This section is subject to regulations under section 38A.]

**Textual Amendments**

**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

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- F100** Words in s. 24D(2) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 21(2)**; S.I. 2014/93, **art. 3(j)(vi)**; S.I. 2014/3169, **art. 2**; inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(4)(a)**
- F101** Words in s. 24D(3) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 21(3)(a)**; S.I. 2014/93, **art. 3(j)(vi)**; S.I. 2014/3169, **art. 2**; inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(4)(b)(i)**
- F102** Word in s. 24D(3) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 21(3)(b)**; S.I. 2014/93, **art. 3(j)(vi)**; S.I. 2014/3169, **art. 2**; inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(4)(b)(ii)**
- F103** S. 24D(4)(5) inserted (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 21(4)**; S.I. 2014/93, **art. 3(j)(vi)**; S.I. 2014/3169, **art. 2**  
 S. 24D(4) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(4)(c)**  
 S. 24D(5) extended (S.) (16.11.2015) by Pension Schemes Act 2015 (c. 8), **ss. 81**, 89(1)(d); S.I. 2015/1851, **reg. 2(b)**

## 24E Procedural requirements

- (1) This section specifies the procedural requirements that must be complied with in order to satisfy Condition 5 of section 24B.
- (2) The employer in relation to the scheme must consent to the GMP conversion in advance.
- (3) The trustees must take all reasonable steps to—
  - (a) consult the earner in advance, and
  - (b) notify all members, and survivors, affected by the GMP conversion before, or as soon as is reasonably practicable after, the conversion date.
- (4) The Commissioners for Her Majesty's Revenue and Customs must be notified on or before the conversion date—
  - (a) that the GMP conversion will occur or has occurred, and
  - (b) that it affects the earner.

### Textual Amendments

- F97** **Ss. 24A-24H** inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), **ss. 14(3)**, 30(2)(a); S.I. 2009/406, **art. 2(a)(b)**

## 24F Transfer out

- (1) Regulations may prescribe—



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- (a) restrictions on the transfer of the earner's accrued rights under a GMP-converted scheme;
  - (b) conditions which must be complied with on the transfer of the earner's accrued rights under a GMP-converted scheme.
- (2) Section 20(2) and (5) shall apply to regulations under this section.
- (3) Where a member of a non-GMP-converted scheme makes an application under section 95(1), the trustees may with his consent adjust any <sup>F104</sup>... cash equivalent so as to reflect rights that would have accrued if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.

**Textual Amendments**

**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

**F104** Word in s. 24F(3) omitted (6.4.2015) by virtue of Pension Schemes Act 2015 (c. 8), s. 89(3)(b), Sch. 4 para. 5 (with s. 87)

**24G Powers to amend schemes**

- (1) The trustees of an occupational pension scheme may by resolution modify it so as to effect GMP conversion (whether in relation to present earners, pensioners or survivors) in accordance with the conditions in section 24B.
- (2) The subsisting rights provisions within the meaning of section 67 of the Pensions Act 1995 (c. 26) shall not apply to a power conferred by an occupational pension scheme to modify the scheme in so far as the power enables GMP conversion in accordance with the conditions in section 24B.
- (3) Where a scheme is amended to effect GMP conversion the trustees may include other amendments which they think are necessary or desirable as a consequence of, or to facilitate, the GMP conversion.
- (4) Where an occupational pension scheme is being wound up, the trustees may, before the winding up is completed, adjust rights under the scheme so as to reflect what would have happened if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.
- (5) In the application of section 24E by virtue of subsection (1) above, a reference to the earner includes a reference to a pensioner or survivor whose pension is subjected to GMP conversion.

**Textual Amendments**

**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

**24H Enforcement of GMP conversion conditions**

- (1) If the Regulatory Authority thinks that the conditions of section 24B have not been satisfied in relation to an amendment, modification or adjustment effected



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- in accordance with any of sections 13(1A), 17(1A), 24F and 24G, the Regulatory Authority may make an order declaring the amendment, modification or adjustment void—
- (a) in respect of a specified person or class of person,
  - (b) to a specified extent, and
  - (c) as from a specified time.
- (2) Where the Regulatory Authority makes an order under subsection (1) it may—
- (a) require the trustees of the scheme concerned to take specified steps;
  - (b) declare that specified action of the trustees shall not be treated as a contravention of the scheme if it would not have been a contravention if the order under subsection (1) had not been made.
- (3) An order may be made under subsection (1) before or after the amendment, modification or adjustment takes effect.
- (4) If the Regulatory Authority thinks that the process of effecting a GMP conversion of a scheme has been commenced and that a relevant condition of section 24B is not being complied with, or may not be complied with, the Regulatory Authority may by order—
- (a) prohibit the taking of further steps in the GMP conversion (whether generally or in relation to specified steps), and
  - (b) require the trustees of the scheme to take specified steps before resuming the process of GMP conversion.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) shall apply to a trustee who has failed to take all reasonable steps to secure compliance with the conditions of section 24B in relation to an amendment, modification or adjustment effected in accordance with any of sections 13(1A), 17(1A), 24F and 24G.]

**Textual Amendments**  
**F97** Ss. 24A-24H inserted (1.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by Pensions Act 2007 (c. 22), ss. 14(3), 30(2)(a); S.I. 2009/406, art. 2(a)(b)

Discretionary requirements

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

- <sup>F105</sup>(1) .....
- [<sup>F106</sup>(2) A [<sup>F107</sup>scheme that was 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 [<sup>F108</sup>Inland Revenue are] kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme, and
  - (b) the resources of the scheme are brought to and are maintained at a level satisfactory to the [<sup>F109</sup>Inland Revenue]]
- <sup>F110</sup>(3) .....

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**Textual Amendments**

**F105** 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

**F106** 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

**F107** Words in [s. 25\(2\)](#) inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 21](#)

**F108** 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)

**F109** 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)

**F110** 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*

<sup>F111</sup>**25A Requirements for schemes with members with protected rights**

**Textual Amendments**

**F111** [S. 25A](#) repealed (6.4.2012) by [Pensions Act 2008 \(c. 30\)](#), ss. 106(1)(2)(b)(4), 149(1), [Sch. 11 Pt. 3](#); [S.I. 2011/1266](#), art. 2(c)

<sup>F112</sup>**26 Persons who may establish scheme.**

**Textual Amendments**

**F112** [S. 26](#) repealed (6.4.2012) by [Pensions Act 2008 \(c. 30\)](#), ss. 106(1)(3)(b)(4), 149(1), [Sch. 11 Pt. 3](#); [S.I. 2011/1266](#), art. 2(c)

<sup>F113</sup>**27 Identification and valuation of protected rights.**

**Textual Amendments**

**F113** [S. 27](#) repealed (6.4.2012) by [Pensions Act 2008 \(c. 30\)](#), ss. 106(1)(3)(c)(4), 149(1), [Sch. 11 Pt. 3](#); [S.I. 2011/1266](#), art. 2(c)

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F114**27A Requirements in relation to giving effect to protected rights**

.....

Textual Amendments  
F114 S. 27A repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 106(1)(2)(b)(4), 149(1), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

F115**28 Ways of giving effect to protected rights.**

.....

Textual Amendments  
F115 Ss. 28-29 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 27(7), 30(2)(b), Sch. 4 para. 11, Sch. 7 Pt. 6 (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F115**28A Requirements for interim arrangements**

.....

Textual Amendments  
F115 Ss. 28-29 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 27(7), 30(2)(b), Sch. 4 para. 11, Sch. 7 Pt. 6 (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F115**28B Information about interim arrangements**

.....

Textual Amendments  
F115 Ss. 28-29 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 27(7), 30(2)(b), Sch. 4 para. 11, Sch. 7 Pt. 6 (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F115**29 The pension and annuity requirements.**

.....

Textual Amendments  
F115 Ss. 28-29 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 27(7), 30(2)(b), Sch. 4 para. 11, Sch. 7 Pt. 6 (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

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.....

**Textual Amendments****F116** S. 30 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 106(1)(3)(d)(4), 149(1), **Sch. 11 Pt. 3**; S.I. 2011/1266, art. 2(c)**F117 31 Investment and resources of schemes.**

.....

**Textual Amendments****F117** S. 31 repealed (6.4.2015) by Pensions Act 2007 (c. 22), ss. 27(7), 30(2)(b), Sch. 4 para. 49, **Sch. 7 Pt. 7**; S.I. 2011/1267, art. 3(a)(iv)(b) (as amended (20.3.2012) by S.I. 2012/911, art. 2(d))**F118 32 Suspension or forfeiture.**

.....

**Textual Amendments****F118** S. 32 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 106(1)(3)(e)(4), 149(1), **Sch. 11 Pt. 3**; S.I. 2011/1266, art. 2(c)**F119 32A Discharge of protected rights on winding up: insurance policies**

.....

**Textual Amendments****F119** S. 32A repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 106(1)(2)(b)(4), 149(1), **Sch. 11 Pt. 3**; S.I. 2011/1266, art. 2(c)**F120 33 Tax requirements to prevail over requirements of section 31.**

.....

**Textual Amendments****F120** S. 33 omitted (6.4.2015) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(c), **9(3)****F121 33A Appropriate schemes: “Blowing the whistle”**

.....

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#### Textual Amendments

**F121** [S. 33A](#) repealed (6.4.2012) by [Pensions Act 2008 \(c. 30\)](#), ss. 106(1)(3)(f)(4), 149(1), [Sch. 11 Pt. 3](#); [S.I. 2011/1266](#), art. 2(c)

### *Cancellation, variation, surrender and refusal of certificates*

#### <sup>F122</sup>**34 Cancellation, variation, surrender and refusal of certificates.**

.....

#### Textual Amendments

**F122** [Ss. 34-36](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 22](#) (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), [2\(1\)\(2\)\(e\)](#))

#### <sup>F122</sup>**35 Surrender and cancellation of contracting-out certificates: issue of further certificates.**

.....

#### Textual Amendments

**F122** [Ss. 34-36](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 22](#) (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), [2\(1\)\(2\)\(e\)](#))

#### <sup>F122</sup>**36 Surrender and cancellation of contracting-out certificates: cancellation of further certificates.**

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#### Textual Amendments

**F122** [Ss. 34-36](#) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 22](#) (with a temp. saving in [The Pensions Act 2014 \(Savings\) Order 2015 \(S.I. 2015/1502\)](#), arts. 1(2)(3), [2\(1\)\(2\)\(e\)](#))

### *Alteration of [<sup>F123</sup>rules by former salary related contracted-out schemes]*

#### Textual Amendments

**F123** Words in [s. 37 cross-heading](#) substituted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 23](#)

#### <sup>F124</sup>**37 Alteration of rules of contracted-out schemes.**

<sup>F125</sup>(1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

*Status: Point in time view as at 06/04/2016.**Changes to legislation: Pension Schemes Act 1993, Chapter I is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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) Subsection (1) does not apply to a scheme if no 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.]
- [ The reference in subsection (3) to a person entitled to receive benefits under a scheme
- <sup>F126</sup>(4) includes a person who is so entitled by virtue of a qualifying relationship only in such cases as may be prescribed.
- (5) For that purpose a person is entitled to receive benefits by virtue of a qualifying relationship if the person is so entitled by virtue of being—
- the widower of a female earner;
  - the widower of a male earner;
  - the widow of a female earner, except where it is a relevant gender change case; or
  - the survivor of a civil partnership with an earner.
- (6) In relation to a widow of a female earner, the reference in subsection (5)(c) to a relevant gender change case is a reference to a case where—
- the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - the marriage of the earner and her widow (that ends with the earner's death) subsisted before the time when the certificate was issued.
- (7) This section is subject to regulations under section 38A.]]

**Textual Amendments**

- F124** 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**
- F125** S. 37(1)-(3) substituted (7.7.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 24**; S.I. 2015/1475, **art. 2(1)(b)**
- F126** S. 37(4)-(7) substituted for s. 37(4) (E.W.) (13.3.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 22(2)**; S.I. 2014/93, **art. 3(j)(vi)**; S.I. 2014/3169, **art. 2**
- S. 37(4)-(6) substituted for s. 37(4) (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(5)**

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

- C27** S. 37(7) extended (S.) (16.11.2015) by Pension Schemes Act 2015 (c. 8), **ss. 81**, 89(1)(d); S.I. 2015/1851, **reg. 2(b)**

**[<sup>F127</sup>37A Transfer of liabilities etc: schemes contracted-out on or after 6 April 1997**

- (1) Regulations may prohibit or restrict—
- the transfer of any liability—

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- (i) for the payment of pensions under a relevant scheme, or  
(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 that was a salary related contracted-out scheme by virtue of section 9(2B) 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 (including, in a case where there has been a transfer payment, any pensions or rights deriving (directly or indirectly) from—  
(a) an earner’s service on or after the principal appointed day in employment that was contracted-out employment by reference to another scheme, or  
(b) in a case where the transfer payment was made before the first abolition date, protected rights under another occupational pension scheme or under a personal pension scheme which derive from payments or contributions in respect of employment 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.]

Textual Amendments  
F127 S. 37A inserted (7.7.2015 for specified purposes, 6.4.2016 otherwise) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 25; S.I. 2015/1475, art. 2(1)(c)

F128 38 Alteration of rules of appropriate schemes.

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Textual Amendments  
F128 S. 38 omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), 5(6)

General regulations as to administration of Part III

[F129 38A Regulations about relevant gender change cases

- (1) The Secretary of State may, by regulations, make provision for—  
(a) section 17,  
(b) section 24D, or  
(c) section 37,  
to have its special effect in relevant gender change cases only if conditions prescribed in the regulations are met.
- (2) Regulations under subsection (1) may, in particular, prescribe conditions that relate to the provision of information by—



*Status: Point in time view as at 06/04/2016.*

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- (a) one or both of the members of married same sex couples, or
  - (b) the survivors of such couples.
- (3) The Secretary of State may, by regulations, make further provision about cases where (because of regulations under subsection (1))—
- (a) section 17,
  - (b) section 24D, or
  - (c) section 37,
- does not have its special effect in relevant gender change cases.
- (4) Regulations under subsection (3) may, in particular, provide for the section in question to have its ordinary effect in relevant gender change cases.
- (5) Regulations under subsection (1) or (3) may, in particular, modify or disapply any enactment that concerns information relating to—
- (a) the gender or sex of a person, or
  - (b) the change of gender or sex of a person,
- including any enactment that concerns requests for, or disclosure of, such information.
- (6) In this section, in relation to section 17, 24D or 37—
- (a) “relevant gender change case” has the same meaning as in that section;
  - (b) “special effect” means the effect which the section has (if regulations under subsection (1) of this section are ignored) in relation to relevant gender change cases, insofar as that effect is different from the section's ordinary effect;
  - (c) “ordinary effect” means the effect which the section has in relation to same sex married couples in cases that are not relevant gender change cases.]

#### Textual Amendments

**F129** S. 38A inserted (E.W.) (30.6.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 4 para. 23](#); S.I. 2014/1662, art. 3(a)

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

**C28** S. 38A extended (S.) (16.11.2015) by [Pension Schemes Act 2015 \(c. 8\), ss. 81, 89\(1\)\(d\)](#) (with s. 87); S.I. 2015/1851, reg. 2(b)

### 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 <sup>F130</sup>...

#### Textual Amendments

**F130** Words in s. 39 omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\), arts. 1\(2\)\(b\), 5\(7\)](#)

#### Commencement Information

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

**Status:**

Point in time view as at 06/04/2016.

**Changes to legislation:**

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