

# Pension Schemes Act 1993

## CHAPTER 48

[A Table showing the derivation of the provisions of this consolidation act will be found at Annex 3 to the Act. the Table has no official status.]

### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY

Section

1. Categories of pension schemes.

#### PART II

##### ADMINISTRATION

###### *The Occupational Pensions Board*

2. Constitution and functions of the Board. (*repealed*)
3. Membership of the Board. (*repealed*)
4. Reports of the Board. (*repealed*)
5. Further provisions as to constitution and procedure of the Board. (*repealed*)

###### *Registration of schemes*

6. Registration of occupational and personal pension schemes. (*repealed*)

#### PART III

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

##### CHAPTER I

##### CERTIFICATION

###### *Preliminary*

7. Issue of contracting-out and appropriate scheme certificates.
8. Meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment".

###### *General requirements for certification*

9. Requirements for certification of schemes; general.
10. Protected rights and money purchase benefits. (*repealed*)
11. Elections as to employments covered by contracting-out certificates.
12. Determination of basis on which scheme is contracted-out.

###### *Requirements for certification of occupational pension schemes applying from the principal appointed day of the Pensions Act 1995*

- 12A. The statutory standard.
- 12B. Reference scheme.

**PENSION SCHEMES ACT 1993 (c. 48)**

- 12C. Transfer, commutation, etc.
- 12D. Entitlement to benefit.

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

- 13. Minimum pensions for earners.
- 14. Earner's guaranteed minimum.
- 15. Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.
- 15A. Reduction of guaranteed minimum in consequence of pension debit.
- 16. Revaluation of earnings factors for purposes of s. 14; early leavers etc.
- 17. Minimum pensions for widows and widowers.
- 18. Treatment of insignificant amounts.
- 19. Discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts.
- 20. Transfer of accrued rights.
- 21. Commutation, surrender and forfeiture.
- 22. Financing of benefits. *(repealed)*
- 23. Securing of benefits.
- 24. Sufficiency of resources. *(repealed)*

*Discretionary requirements*

- 25. Power for Board to impose conditions as to investments and resources.
- 25A. Requirements for schemes with members with protected rights. *(repealed)*

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

- 26. Persons who may establish scheme. *(repealed)*
- 27. Identification and valuation of protected rights. *(repealed)*
- 27A. Requirements in relation to giving effect to protected groups. *(repealed)*
- 28. Ways of giving effect to protected rights.
- 28A. Requirements for interim arrangements
- 28B. Information about interim arrangements.
- 29. The pension and annuity requirements.
- 30. Security of liability for protected rights. *(repealed)*
- 31. Investment and resources of schemes.
- 32. Suspension or forfeiture. *(repealed)*
- 32A. Discharge of protected rights on winding-up; insurance policies. *(repealed)*
- 33. Tax requirements to prevail over certification requirements.
- 33A. Appropriate schemes; "Blowing the whistle". *(repealed)*

*Cancellation, variation, surrender and refusal of certificates*

- 34. Cancellation, variation, surrender and refusal of certificates.
- 35. Surrender and cancellation of contracting-out certificates; issue of further certificates. *(repealed)*
- 36. Surrender and cancellation of contracting-out certificates; cancellation of further certificates. *(repealed)*

*Alteration of scheme rules after certification*

- 37. Alteration of rules of contracted-out schemes.
- 38. Alteration of rules of appropriate schemes. *(repealed)*

*General regulations as to administration of Part III*

- 39. General power to make regulations.

CHAPTER II

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

*Preliminary*

40. Scope of chapter II.

*Reduced rates of contributions for members of salary related  
contracted-out schemes*

41. Reduced rates of Class 1 contributions.

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

*Reduced rates of contributions, and rebate, for members of  
money purchase contracted-out schemes*

42A. Reduced rates of Class 1 contributions, and rebates.

42B. Determination and alteration of rates of contributions, and rebates,  
applicable under s. 42A. (*repealed*)

*Minimum contributions; members of appropriate personal pension schemes*

43. Payment of minimum contributions to personal pension schemes.

44. Earner's chosen scheme. (*repealed*)

45A. Determination and alteration of rates of minimum contributions under  
section 45. (*repealed*)

45B. Money purchase and personal pension schemes; verification of ages.

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

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

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

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

*Effect of reduced contributions and rebates on social security benefits*

48A. Additional pension and other benefits.

*Women, married women and widows*

49. Women, married women and widows.

CHAPTER III

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

*Approval of arrangements of schemes ceasing to be certified*

50. Powers of Board to approve arrangements for scheme ceasing to be  
certified.

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

*Supervision of formerly certified schemes*

- 52. Supervision of schemes which have ceased to be certified.
- 53. Supervision; former contracted-out schemes.
- 54. Supervision; former appropriate personal pension schemes. *(repealed)*

*State scheme premiums*

- 55. Payment of state scheme premiums on termination of certified status.
- 56. Provisions supplementary to s. 55.
- 57. Elections to pay contributions equivalent premiums.
- 58. Amount of premiums payable under s. 55.
- 59. Alternative basis for revaluation of earnings factors of calculation of certain premiums. *(repealed)*
- 60. Effect of payment of premiums on rights.
- 61. Deduction of contributions equivalent premium from refund of scheme contributions.
- 62. No recovery of state scheme premiums from earners etc.
- 63. Further provisions concerning calculations relating to premiums.
- 64. Actuarial tables for purposes of calculations relating to premiums. *(repealed)*
- 65. Inclusion of former and future earners for some purposes of this Chapter.
- 66. Power to apply certain provisions to widowers. *(repealed)*
- 67. Non-payment of state scheme premiums. *(repealed)*
- 68. Unpaid premiums; supplementary.

PART IIIA

SAFEGUARDED RIGHTS

- 68A. Safeguarded rights.
- 68B. Requirements relating to safeguarded rights.
- 68C. Reserve powers in relation to non-complying schemes.
- 68D. Power to control transfer or discharge of liability.

PART IV

PROTECTION FOR EARLY LEAVERS

CHAPTER I

PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

- 69. Scope of Chapter I; the preservation requirements.
- 70. Interpretation.
- 71. Basic principle as to short service benefit.
- 72. No discrimination between short service and long service beneficiaries.
- 73. Form of short service benefit and its alternatives.
- 74. Computation of short service benefit.
- 75. Credits.
- 76. Pension increases.
- 77. Assignment, surrender and commutation of benefit. *(repealed)*
- 78. Forfeiture, etc. *(repealed)*
- 79. Charges, liens and set-offs. *(repealed)*
- 80. Power to modify ss. 77 to 70 as respects alternative benefits. *(repealed)*
- 81. Discharge of liability where short service or alternative benefits secured by insurance policies or annuity contracts.
- 82. Supplementary regulations.

CHAPTER II

REVALUATION OF ACCRUED BENEFITS EXCLUDING GUARANTEED MINIMUM PENSIONS)

- 83. Scope of Chapter II.
- 84. Basis of re-evaluation.
- 85. Re-evaluation not to apply to substituted benefit.
- 86. Supplementary provisions

CHAPTER III

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

- 87. General protection principle.
- 88. The relevant sum.
- 89. The appropriate addition.
- 90. The later earnings addition.
- 91. Special provision where employment continues after it ceases to be contracted-out by reference to scheme.
- 92. Supplementary provisions.

CHAPTER IV

TRANSFER VALUES

- 93. Scope of Chapter IV.
- 93A. Salary related schemes; right to statement of entitlement.
- 94. Right to cash equivalent.
- 95. Ways of taking right to cash equivalent.
- 96. Further provisions concerning exercise of option under s. 95.
- 97. Calculation of cash equivalents.
- 98. Variation and loss of rights under s. 94.
- 99. Trustees’ duties after exercise of option.
- 100. Withdrawal of applications.
- 101. Supplementary provisions.

CHAPTER V

EARLY LEAVERS: CASH TRANSFER SUMS AND  
CONTRIBUTION REFUNDS

- 101AA. Scope of Chapter V.
- 101AB. Right to cash transfer sum and contribution refund.
- 101AC. Notification of right to cash transfer sum or contribution refund.
- 101AD. Exercise of right under section 101AB.
- 101AE. Permitted ways of using cash transfer sum.
- 101AF. Calculation of cash transfer sum and contribution refund.
- 101AG. Duties of trustees or managers following exercise or right.
- 101AH. Powers of trustees or managers where right not exercised.
- 101AI. Rights under section 101AB: further provisions.

PART IVA

REQUIREMENTS RELATING TO PENSION CREDIT BENEFIT

CHAPTER I

PENSION CREDIT BENEFIT UNDER OCCUPATIONAL SCHEMES

- 101A. Scope of Chapter 1.

- 101B. Interpretation.
- 101C. Basic principle as to pension credit benefit.
- 101D. Form of pension credit benefit and its alternatives.
- 101E. Discharge of liability where pension credit or alternative benefits secured by insurance policies or annuity contracts.

CHAPTER II

TRANSFER VALUE

- 101F. Power to give transfer notice.
- 101G. Restriction on power to give transfer notice.
- 101H. Salary related schemes: statements of entitlement
- 101I. Calculation of cash equivalents.
- 101J. Time for compliance with transfer notice.
- 101K. Withdrawal of transfer notice.
- 101L. Variation of the amount required to be used.
- 101M. Effect of transfer on trustees' duties.
- 101N. Matters to be disregarded in calculations.
- 101O. Service of notice.
- 101P. Interpretation of Chapter II.
- 101Q. Power to modify Chapter II in relation to hybrid schemes.

PART V

ANNUAL INCREASES OF PENSIONS IN PAYMENT

CHAPTER I

PENSIONS UNDER FINAL SALARY SCHEMES ETC.

- 102. Scope of Chapter I: annual increase of certain occupational pensions. *(repealed)*
- 103. Annual increase of later service component. *(repealed)*
- 104. Annual increase of earlier service component where scheme is in surplus. *(repealed)*
- 105. Proportional increase where first period is less than 12 months. *(repealed)*
- 106. Restriction on increase where member is under 55. *(repealed)*
- 107. Application of Chapter I to pensions not attributable to pensionable service. *(repealed)*
- 108. No payments to employers from non-complying schemes. *(repealed)*

CHAPTER II

GUARANTEED MINIMUM PENSIONS

- 109. Annual increase of guaranteed minimum pensions.
- 110. Requirement as to resources for annual increase of guaranteed minimum pensions.

PART VI

FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

- 111. Voluntary contributions.
- 111A. Monitoring of employers' payments to personal pension schemes.
- 112. Restrictions on investment of scheme's resources in employer-related assets. *(repealed)*
- 113. Disclosure of information about schemes to members etc.
- 114. Additional documents for members etc. and Registrar. *(repealed)*
- 115. Powers as respects failure to comply with information requirements.

- 116. Regulations as to auditors. *(repealed)*
- 117. Regulations as to form and content of advertisements.
- 118. Equal access requirements. *(repealed)*

PART VII

INSOLVENCY OF EMPLOYERS

CHAPTER I

INDEPENDENT TRUSTEES

- 119. Requirement for independent trustee where employer becomes insolvent etc. *(repealed)*
- 120. Members' powers to apply to court to enforce duty under s. 119. *(repealed)*
- 121. Further provisions as to appointment and powers of independent trustees. *(repealed)*
- 122. Duty of insolvency practitioner or official receiver to give information to scheme trustees. *(repealed)*

CHAPTER II

PAYMENT BY SECRETARY OF STATE OF UNPAID SCHEME CONTRIBUTIONS

- 123. Interpretation of Chapter II.
- 124. Duty of Secretary of State to pay unpaid contributions to schemes.
- 125. Certification of amount payable under s. 124 by insolvency officers.
- 126. Complaint to industrial tribunal.
- 127. Transfer to Secretary of State of rights and remedies.

CHAPTER III

PRIORITY IN BANKRUPTCY

- 128. Priority in bankruptcy etc.

PART VIII

RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

- 129. Overriding requirements.
- 130. Extra-statutory benefits.
- 131. Relationship of preservation requirements and scheme rules.
- 132. Duty to bring schemes into conformity of schemes with requirements.
- 133. Advice of the Board as to conformity of schemes with requirements. *(repealed)*
- 134. Determination of questions whether schemes conform with requirements. *(repealed)*
- 135. Persons competent to make applications under s. 134; *(repealed)*

PART IX

MODIFICATION AND WINDING UP OF SCHEMES

*Modification*

- 136. Applications to the Board to modify schemes (other than public service schemes). *(repealed)*
- 137. Persons competent to make applications under s. 136; *(repealed)*
- 138. Further provisions concerning the Board's powers under s. 136; *(repealed)*
- 139. Other functions of the Board as respects modification of schemes. *(repealed)*

## PENSION SCHEMES ACT 1993 (c. 48)

- 140. Effect of orders under ss. 136 and 139. (*repealed*)
- 141. Modification of public service schemes. (*repealed*)

### *Winding up*

- 142. Powers of the Board to wind up schemes. (*repealed*)
- 143. Winding up of public service schemes. (*repealed*)
- 144. Deficiencies in the assets of a scheme on winding up.

## PART X

### INVESTIGATIONS; THE PENSIONS OMBUDSMAN

- 145. The Pensions Ombudsman.
- 145A. Deputy Pension Ombudsman.
- 146. Functions of the Pensions Ombudsman.
- 147. Death, insolvency or disability of authorised complainant.
- 148. Staying court proceedings where a complaint is made or a dispute is referred.
- 149. Procedure on an investigation.
- 150. Investigations: further provisions.
- 151. Determinations of the Pensions Ombudsman.
- 151A. Interest on late payment of benefit.
- 152. Power to make special county court rules

## PART XI

### GENERAL AND MISCELLANEOUS PROVISIONS

#### *Modification powers*

- 153. Power to modify certain provisions of this Act.
- 154. Application of enactments as respects personal pension schemes.

#### *Information about schemes*

- 155. Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.
- 156. Information for purpose of contracting-out.
- 157. Power of Secretary of State to obtain information in connection with applications under s. 124
- 158. Disclosure of information between government departments etc.
- 158A. Other disclosures by the Secretary of State.

#### *Avoidance of certain transactions and provisions*

- 159. Inalienability of guaranteed minimum pension and protected rights payments.
- 159A. No forfeiture on bankruptcy of rights under personal pension schemes.
- 160. Terms of contracts of service or schemes restricting choice to be void.
- 161. Provisions excluding Chapter II of Part VII to be void.
- 162. Removal of restrictions of friendly societies' pension business.
- 163. Exemption of certain schemes from rule against perpetuities.

#### *Special classes of earner*

- 164. Crown employment.
- 165. Application of certain provisions to cases with foreign element.



*Reciprocity with other countries*

166. Reciprocity with other countries.

*Application of provisions relating to social security administration*

167. Application of general provisions relating to administration of social security.

*General provisions as to offences*

168. Breach of regulations.

168A. Offence in connection with the Registrar. *(repealed)*

169. Offences by bodies corporate.

*General provisions as to determinations and appeals*

170. Decisions and appeals.

171. Questions arising in proceedings.

171A. Reports by Inland Revenue.

172. Review of the Board's determinations. *(repealed)*

173. References and appeals from the Board. *(repealed)*

*Financial provisions*

174. Grants by the Secretary of State to advisory bodies etc.

175. Levies toward certain expenditure.

176. Fees for official services to schemes.

177. General financial arrangements.

PART XII

SUPPLEMENTARY PROVISIONS

*Interpretation*

178. Trustees and managers of schemes.

179. Linked qualifying service.

180. Normal pension age.

180A. Insurer and long-term insurance business.

181. General interpretation.

*Subordinate legislation etc.*

182. Orders and regulations (general provisions).

183. Sub-delegation.

184. Consultation with Social security advisory Committee about regulations under s. 36(6).

185. Consultations about other regulations.

186. Parliamentary control of orders and regulations.

187. Northern Ireland Constitution act 1973; "reserved matters".

*Supplemental provisions*

188. Repeals.

189. Transitional provisions and savings.

190. Prospective and consequential amendments.

191. Transitory modifications.

192. Extent.

193. Short title and commencement.

**PENSION SCHEMES ACT 1993 (c. 48)**

SCHEDULES;

- Schedule 1 — The Occupational Pensions Board. (*repealed*)
- Schedule 2 — Certification regulations.
  - Part I — Occupational Pension schemes.
  - Part II — Personal Pension Schemes.
- Schedule 3 — Methods of revaluing accrued pension benefits.
- Schedule 4 — Priority in Bankruptcy etc.
- Schedule 5 — Repeals.
  - Part I — General.
  - Part II — Provisions relating to equal access.
  - Part III — Provisions repealed as respects Great Britain only.
  - Part IV — Subordinate legislation revoked.
- Schedule 6 — Transitional Provisions and Savings.
  - Part I — General Provisions.
  - Part II — Specific Provisions.
- Schedule 7 — Re-enactment or amendment of certain provisions not in force.
- Schedule 8 — Consequential Amendments.
- Schedule 9 — Transitory Modifications.

An Act to consolidate certain enactments relating to pension schemes with amendments to give effect to recommendations of the Law Commission and the Scottish Law commission.

[5th November 1993]

## PART I PRELIMINARY

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

Categories of pensions schemes.

[<sup>1</sup>"occupational pension scheme" means a pension scheme—

(a) that—

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

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

(b) that has its main administration in the United Kingdom or outside the [<sup>2</sup>EEA states],

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

"personal pension scheme" means a pension scheme that—

- (a) is not an occupational pension scheme, and
- (b) is established by a person within [...<sup>3</sup>] section 154(1) of the Finance Act 2004;]

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

- (a) all the particulars of which are set out in or in a legislative instrument made under, an enactment, Royal warrant or charter, or
- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,

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

[<sup>1</sup>(2) This subsection applies—

- (a) where people in employments of the description concerned are employed by someone, to a person who employs such people,
- (b) to a person in an employment of that description, and
- (c) to a person representing interests of a description framed so as to include—
  - (i) interests of persons who employ people in employments of the description mentioned in paragraph (a), or

<sup>1</sup> S. 1 renumbered as 1(1), defs. of "occupational pension scheme" and "personal pension scheme" substituted and subsections (2)-(6) inserted (1.7.05 reg. making purposes, 22.9.05 for occupational pension scheme having its main admin. in the UK, 6.4.06 for all other purposes) by the Pensions Act 2004 (c. 35), s. 239.

<sup>2</sup> Words substituted in defn. of "occupational pension scheme" (26.11.07) by Sch. to S.I. 2007/3014.

<sup>3</sup> Words in defn. of "personal pension scheme" omitted (6.4.07) by the Finance Act 2007 (c. 11), Sch. 20, para. 23(1).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 1-6**

(ii) interests of people in employments of that description.

(3) For the purposes of subsection (2), if a person is in an employment of the description concerned by reason of holding an office (including an elective office) and is entitled to remuneration for holding it, the person responsible for paying the remuneration shall be taken to employ the office-holder.

(4) In the definition in subsection (1) of “occupational pension scheme”, the reference to a description includes a description framed by reference to an employment being of any of two or more kinds.

(5) In subsection (1) “pension scheme” (except in the phrases “occupational pension scheme”, “personal pension scheme” and “public service pension scheme”) means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of people—

- (a) on retirement,
- (b) on having reached a particular age, or
- (c) on termination of service in an employment.

(6) The power of the Treasury under section 154(4) of the Finance Act 2004 (power to amend sections 154 and 155) includes power consequentially to amend—

- (a) paragraph (a) of the definition in subsection (1) of “personal pension scheme”, and
- (b) any provision in force in Northern Ireland corresponding to that paragraph.]

**PART II**

**ADMINISTRATION**

*The Occupational Pensions Board*

**2–5.** .....repealed by 1995 c. 26, see Annex 1 p. 5.1701

*Registration of schemes*

**6.** .....repealed by 2004 c. 35, see Annex 1 p. 5.1701

PART III  
 CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON  
 MEMBERS' STATE SCHEME RIGHTS AND DUTIES  
 CHAPTER I  
 CERTIFICATION

*Preliminary*

7.—<sup>[1]</sup>(1) Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme. Issue of contracting-out [...]<sup>1</sup> certificates.

(1A) In this Act such a certificate is referred to as “a contracting-out certificate”.]

(2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—

- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
- (b) the occupational pension schemes by reference to which those employments are to be so treated.

<sup>[2]</sup>(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—

- (a) at the end of a prescribed period beginning with that day, or
- (b) if prescribed conditions are not satisfied at any time in that period,

but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner's service on or after that day, as if issued on or after that day.

(2B) In this Part, “the principal appointed day” means the day designated\* by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act].

\*6.4.97 (See art. 2(7) of S.I. 1996/778.)

(3) An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.

[...]<sup>1</sup>

(7) Except in prescribed circumstances, no contracting-out certificate [...]<sup>1</sup> shall have effect from a date earlier than that on which the certificate is issued.

<sup>[1]</sup>(8) References in this Act to a contracting-out certificate, a contracted-out scheme and to contracting-out in a context relating to a money purchase contracted-out scheme are to be construed in accordance with section 181A.]

<sup>1</sup> S. 7(1) & (1A) substitutes s. 7(1), s. 7(4)-(6) & words in sidenote & s. 7(7) omitted & s. 7(8) inserted (26.9.07) by the Pensions Act 2007, Sch. 4, para. 2(2)-(6).

<sup>2</sup> S. 7 (2A) and (2B) inserted (6.4.96 for regulation-making purposes, 6.4.97 for all other purposes) by s. 136(1) of Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### S. 8

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

8.—(1) The employment of an earner in employed earner’s employment is “contracted-out employment” in relation to him during any period in which

- [<sup>1</sup>(a) he is under pensionable age;
- (aa) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out scheme”);] and
- (b) there is in force a contracting-out certificate issued by the [<sup>2</sup>Inland Revenue] in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

[<sup>3</sup>(1A) In addition, in relation to any period before the 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.]

(2) In this Act—

“guaranteed minimum pension” means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s [<sup>4</sup>widow’s, widower’s or surviving civil partner’s] guaranteed minimum as determined for the purposes of those sections respectively; and

“minimum payment”, in relation to an earner’s employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in that week as exceeds the current lower earnings limit but not [<sup>5</sup>the applicable limit] (or the prescribed equivalents if he is paid otherwise than weekly);

[<sup>6</sup>and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage [<sup>4</sup>for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before the abolition date)]]].

*The defn. of “guaranteed minimum pension” in s. 8(2) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3 para. 1, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 3A, para. 1, w.e.f. 27.7.87.*

*The defn. of “guaranteed minimum pension” in s. 8(2) is also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(2) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

[<sup>5</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>1</sup> Words in s. 8(1) & s. 8(1)(a) substituted with s. 8(1)(a) & (aa) (26.9.07) by the Pensions Act 2007, Sch. 4, para. 3(2).

<sup>2</sup> Words in s. 8(1)(b) substituted, (1.4.99) by Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2), Sch. 1, para 33.

<sup>3</sup> S. 8(1A) inserted & words substituted in s. 8(2) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 4, para. 3(3) & (4).

<sup>4</sup> Words in defn. of “guaranteed minimum pension” in s. 8(2) substituted (5.12.05) by para. 1 of Sch. 1 to S.I. 2005/2050.

<sup>5</sup> Words substituted in s. 8(2) & para. (2A) added (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 8(2) & (3).

<sup>6</sup> Words in s. 8(2) substituted (6.4.97) by para. 23(a) of Sch. 5 to Pensions Act 1995 (c. 26).

(3) [...<sup>1</sup>]

(4) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

(5) [...<sup>2</sup>]

*General requirements for certification*

9.—(1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) [...<sup>3</sup>].

Requirements for certification of schemes: general.

[<sup>4</sup>(2) An occupational pension scheme satisfies this subsection only if—

- (a) in relation to any earner's service before the principal appointed day, it satisfies the conditions of subsection (2A), and
- (b) in relation to any earner's service on or after that day, it satisfies the conditions of subsection (2B).

(2A) The conditions of this subsection are that—

- (a) the scheme complies in all respects with [<sup>5</sup>sections 13 to 24E] or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.

(2B) The conditions of this subsection are that the [<sup>6</sup>Inland Revenue] [<sup>6</sup>are satisfied] that—

- (a) the scheme complies with section 12A,
- (b) restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,
- (c) the scheme satisfies such other requirements as may be prescribed (which
  - (i) must include requirements as to the amount of the resources of the scheme and,
  - (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and
- (d) the scheme does not fall within a prescribed class or description,

and [<sup>6</sup>are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.

(2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling with a prescribed class or description.]

<sup>1</sup> S. 8(3) repealed (6.4.12), by Pensions Act 2007, (c. 22), Sch. 7.

<sup>2</sup> S. 8(5) deleted (6.4.97) by para. 23(b) of Sch. 5 and by Sch. 7 Part III, to Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 9(1) omitted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 4(2).

<sup>4</sup> S. 9(2)-9(2C) substituted for s. 9(2) (6.4.96 for regulation making purposes and 6.4.97 for all other purposes) by s. 136(3) of Pensions Act 1995 (c. 26).

<sup>5</sup> Words substituted in s. 9(2A)(a) (6.4.09) by Pensions Act 2007 (c. 22), s. 14(4).

<sup>6</sup> Words in s. 9(2B) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 35(2)(a) & (b).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 9-11

(3) [...<sup>1</sup>]

(4) Where there are two or more occupational pension schemes in force in relation to an earner's employment, none of which can by itself be a contracted-out scheme, the [<sup>2</sup>Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.

(5) [...<sup>1</sup>]

[<sup>3</sup>(5A) Regulations about pension schemes made under this Chapter may contain provisions framed by reference to whether or not a scheme [<sup>4</sup>is a registered pension scheme under section 153 of the Finance Act 2004]]

(6) In this section "relevant requirements" means—

- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out [...<sup>5</sup>] schemes; and
- (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Secretary of State as a condition of contracting-out [...<sup>5</sup>] either generally or in relation to a particular scheme.

10. [...<sup>6</sup>]

Elections as to employments covered by contracting-out certificates.

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

(2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

(3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.

(4) If the [<sup>7</sup>Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [<sup>7</sup>they] may—

- (a) refuse to give effect to any election made by him in relation to that scheme; or
- (b) cancel any contracting-out certificate held by him in respect of it.

(5) Regulations may make provision—

- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
- (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme
  - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
  - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;

<sup>1</sup> S. 9(3) & (5) omitted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 4(3).

<sup>2</sup> Words in s. 9(4) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 35(4).

<sup>3</sup> Subsection (5A) inserted in s. 9 (1.7.05) by Pensions Act 2004 (c. 35), s. 283.

<sup>4</sup> Words substituted in s. 9(5A) (6.4.06) by S.I. 2006/745, art. 7.

<sup>5</sup> Words omitted in s. 9(6)(a) & (b) (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 4(4).

<sup>6</sup> S. 10 repealed (6.4.12) by Pensions Act 2008 (c. 30), Sch. 11, part 3.

<sup>7</sup> Words in s. 11(4) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 37(2).



- (iii) to the trustees and managers of the scheme; and
- (iv) to such other persons as may be prescribed;
- (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
- (d) for empowering the [<sup>1</sup>Inland Revenue] to refuse to give effect to an election made by an employer unless [<sup>1</sup>they are] satisfied that he has complied with the requirements of the regulations;
- (e) for referring to an industrial tribunal any question—
  - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
  - (ii) whether the requirements of the regulations as to consultation have been complied with.

**12.**—[...<sup>2</sup>]

[<sup>3</sup>Requirements for certification of occupational pension schemes applying from the principal appointed day of the Pensions Act 1995

**12A.**—(1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their [<sup>4</sup>widows, widowers, or surviving civil partners] satisfy the statutory standard.

The statutory standard.

(2) Subject to regulations made by virtue of section 9(2B)(c)(ii), in applying this section regard must only be had to—

- (a) earners in employed earner's employment, or
- (b) their [<sup>5</sup>widows, widowers, or surviving civil partners]

collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.

(3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.

(4) Regulations may provide for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than the pensions which would be provided for such persons under a reference scheme.

(5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared from time to time by a prescribed body [...<sup>6</sup>].

(6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of section 47 of the Pensions Act 1995) so certifies.

<sup>1</sup> Words in s. 11(5) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, paras. 37(2) & (3).

<sup>2</sup> S. 12 omitted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 6.

<sup>3</sup> Ss. 12A–12D inserted (6.4.96 for regulation-making purposes, 6.4.97 for all other purposes) by s. 136(5) of Pensions Act 1995 (c. 26).

<sup>4</sup> Words in s. 12A(1) substituted (5.12.05) by para. 2 of Sch. 1 to S.I. 2005/2050.

<sup>5</sup> Words in s. 12A(2)(b) substituted (5.12.05) by paras. 2 & 3 of Sch. to S.I. 2005/2050.

<sup>6</sup> Words in s. 12A(5) omitted (1.11.07) by Pensions Act 2007 (c. 22), Sch. 5, para. 5.

**PENSION SCHEMES ACT 1993 (c. 48)**

- 12B.**—(1) This section applies for the purposes of section 12A. Reference scheme.
- (2) A reference scheme is an occupational pension scheme which—
- (a) complies with each of subsections (3) and (4), and
  - (b) complies with any prescribed requirements.
- (3) In relation to earners employed in employed earner’s employment, a reference scheme is one which provides—
- (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and
  - (b) for the annual rate of the pension at that age to be—
    - (i) 1/80th of average qualifying earnings in the last three tax years preceding the end of service, multiplied by
    - (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.
- (4) In relation to [<sup>1</sup>widows, widowers, or surviving civil partners] a reference scheme is one which provides—
- (a) for the [<sup>1</sup>widows, widowers, or surviving civil partners] of earners employed in employed earner’s employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme, and
  - <sup>2</sup>[(b) for entitlements to those pensions to commence on the day following the death of the earners, and
  - (c) except in prescribed circumstances, for the annual rate of those pensions to be—
    - (i) if the earners die on or after their normal pension age, 50 per cent. of the annual rate which a reference scheme was required to provide to the deceased earners immediately before their death, or
    - (ii) if the earners die before their normal pension age, 50 per cent. of the annual rate which a reference scheme would have been required to provide to the deceased earners if the date of their death had been their normal pension age, and
  - (d) if those pensions are payable in respect of earners who die—
    - (i) otherwise than in pensionable service under the scheme, and
    - (ii) before their own entitlements to pensions under the scheme have commenced,
 

for those pensions to be revalued in accordance with section 84 as though they were such benefits as are mentioned in section 83(1)(a).]
- (5) For the purposes of this section, an earner’s qualifying earnings in any tax year are 90 per cent. of the amount by which the earner’s earnings—
- (a) exceed the qualifying earnings factor for that year, and
  - (b) do not exceed [<sup>3</sup>the applicable limit].
- (6) Regulations may modify subsections (2) to (5).
- (7) In this section—
- [<sup>3</sup>“the applicable limit” means—

<sup>1</sup> Words in s. 12B(4) substituted (5.12.05) by paras. 2 & 3 of Sch. to S.I. 2005/2050.

<sup>2</sup> S. 12B(4)(b)-(d) substituted for (b) (6.4.97) by reg. 2 of S.I. 1997/819.

<sup>3</sup> In s. 12B words substituted in (5)(b) & defn. of “the applicable limit” inserted in (7) (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 1, para. 36.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 12B-12D**

(a) in relation to a tax year before [<sup>1</sup>2009-10], the upper earnings limit for the year multiplied by 53;

(b) in relation to [<sup>1</sup>2009-10] or any subsequent tax year, the upper accrual point [<sup>2</sup>multiplied by 53];]

“normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),

1992 c. 4.

“qualifying earnings factor”, in relation to a tax year, has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992, and

“upper earnings limit”, in relation to a tax year, means the amount specified for that year by regulations made by virtue of section 5(3) of that Act as the upper earnings limit for Class 1 contributions.

Transfer, commutation, etc.

**12C.**—(1) Regulations may prohibit or restrict—

- (a) the transfer of any liability
  - (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 contracted out by virtue of section 9(2B) of this Act and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day.

(3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.

Entitlement to benefit.

**12D.** In the case of a scheme contracted out by virtue of section 9(2B) of this Act, regulations may make provision as to the ages by reference to which benefits under the scheme are to be paid].

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<sup>1</sup> Words in s. 12B(7)(a) & (b) substituted & inserted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 9(a) & (b).

<sup>2</sup> Words in s. 12B(7)(b) inserted (29.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 9(b).

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

- 13.—**(1) Subject to the provisions of this Part, the scheme must— Minimum pensions for earners.
- (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
  - (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.

[<sup>1</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 is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the Social Security Contributions and Benefits Act 1992, subject to the provisions of this Part, the scheme must— 1992 c. 4.

- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age [...<sup>2</sup>]; and
- (b) satisfy such other conditions as may be prescribed.

(3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.

(4) Subject to subsection (5), the scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.

- (5) The scheme must provide for the earner's consent to be required—
- (a) for any such postponement by virtue of employment to which the scheme does not relate; and
  - (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.

(6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.

(7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—

- (a) was for him non-participating employment under that legislation; and
- (b) was not on its termination the subject of any payment in lieu of contributions;

but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.

(8) In this section “the former legislation” means Part III of the National Insurance Act 1965 and the previous corresponding enactment's. 1965 c. 51.

**14.—**(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme if in any tax week in a relevant year, earnings in excess of the current lower earnings limit (or the prescribed equivalent if he is paid otherwise than weekly) have been paid to or for his benefit in respect of employment which is contracted-out by reference to the scheme. Earner's guaranteed minimum.

*S. 14(1) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3 para. 3, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 3.4, para. 23, w.e.f. 27.7.87.*

*S. 14(1) is also modified, for payments transferring protected rights to schemes which are or were salary*

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<sup>1</sup> S. 13(1A) inserted (6.4.09) by the Pensions Act 2007 (c. 22), s. 14.  
<sup>2</sup> Words in s. 13(2)(a) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 26 and Sch. 7, Part III.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 14-15

*related contracted-out schemes, by reg. 4(4) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

(2) Subject to section 15(1), the guaranteed minimum shall be the weekly equivalent of an amount equal to the appropriate percentage of the total of the earner's earnings factors for the relevant years, so far as derived from earnings such as are mentioned in subsection (1) upon which primary Class 1 contributions have been paid or treated as paid.

(3) [...<sup>1</sup>]

(4) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) and the [²Inland Revenue are] satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, [²they] may for that purpose—

- (a) compute, in such manner as [²they] [²think] fit, an amount which shall be regarded as the amount of those earnings; or
- (b) take their amount to be such sum as [²they] may specify in the particular case.

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

- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88—
  - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;
  - (ii) in any other case 25/N per cent.;
- (b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent 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 [³or later than the tax year ending immediately before the principal appointed day\*]).

*\*6.4.97. (See art. 2(7) of S.I. 1996/778 (C. 13).)*

Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.

**15.—**(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.

<sup>1</sup> S. 14(3) deleted (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5, para. 27(a) and by Sch. 7, Part III.

<sup>2</sup> Words in s. 14(4) substituted (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 1, para. 38(a) to (c).

<sup>3</sup> Words in s. 14(8) inserted (6.4.97) by para. 27(b) of Sch. 5 to Pensions Act 1995 (c. 26).

(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.

[<sup>1</sup>15A.—(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,

Reduction of guaranteed minimum in consequence of pension debit.

his guaranteed minimum in relation to the scheme is, subject to subsection (2), reduced by the appropriate percentage.

(2) Where the earner is in pensionable service under the scheme on the day on which the order or provision on which the pension debit depends takes effect, his guaranteed minimum in relation to the scheme is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.

(3) For the purposes of subsection (2), the corresponding qualifying benefit is the guaranteed minimum taken for the purpose of calculating the cash equivalent by reference to which the amount of the pension debit is determined.

(4) For the purposes of this section the appropriate percentage is—

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

16.—(1) Subject to subsection (2), for the purpose of section 14(2) the earner’s earnings factor for any relevant year (so far as derived as mentioned in that section) shall be taken to be that factor as increased by the same percentage as that prescribed for the increase of that factor by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the final relevant year.

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

1975 c. 60.  
1992 c. 5.

*S. 16(1) modified, for certain transfers of guaranteed minimum pension rights, by S.I. 1984/380, reg. 44(a).*

*S. 16(1) also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes where minimum contributions have been paid, by reg. 4(5) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

(2) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before the final relevant year shall be determined for the purposes of section 14(2) by reference to the last such order to come into force before the end of the tax year in which that service ends (“the last service tax year”).

(3) Where a scheme provides as mentioned in subsection (2) the scheme shall provide for the weekly equivalent mentioned in section 14(2) to be increased by at least [<sup>2</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].

<sup>1</sup> S. 15A inserted (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), s. 32(3).

<sup>2</sup> Words in s. 16(3) substituted (6.4.96) for regulation-making purposes, 6.4.97 for other purposes) by para. 28(a) of Sch. 5 to Pensions Act 1995 (c. 26).



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 16-17

*S. 16(2) and (3) modified, for certain transfers of guaranteed minimum pension rights, by S.I. 1984/380, reg. 44(b).*

*S. 16(2) is also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(6) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

(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.

*S. 16(4) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 4. w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 34, para. 3, w.e.f. 27.7.87.*

*S. 16(4) is also modified for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(7) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

(5) In this section—  
[<sup>1</sup> “relevant year” means any tax year in the earner’s working life,] and  
[<sup>2</sup> “final relevant year” means the last tax year in the earner’s working life].

Minimum pensions for widows and widowers.

**17.—(1)** Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a [<sup>3</sup> widow, widower, or surviving civil partner] (whether before or after attaining pensionable age), the [<sup>3</sup> widow, widower, or surviving civil partner] will be entitled to a guaranteed minimum pension under the scheme.

[<sup>4</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—  
(a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow’s pension will be not less than the widow’s guaranteed minimum;  
(b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower’s pension will be not less than the widower’s guaranteed minimum.

[<sup>3</sup> (c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner’s pension will not be less than the surviving civil partner’s guaranteed minimum].

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

(4) The widower’s [<sup>3</sup> or surviving civil partner’s] guaranteed minimum shall be one-half of that part of the earner’s guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

[<sup>5</sup>(4A) [<sup>3</sup> subject to subsection (4B)] the scheme must provide for the [<sup>3</sup> widow’s, widower’s, or surviving civil partner’s] pension to be payable to the widow or widower—

(a) for any period for which a Category B retirement pension is payable to the [<sup>3</sup> widow, widower, or surviving civil partner] by virtue of the earner’s

<sup>1</sup> Defn. of “relevant year” substituted (25.4.00) by s. 18 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> Defn. in s. 16(5) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 28(b).

<sup>3</sup> In s. 17, words substituted and inserted and para. (c) inserted in subsection (2) (5.12.05) for the purposes only of making regs. under s. 21(1) of the Pension Schemes Act 1993 (c. 48), by para. 4 of Sch. to S.I. 2005/2050.

<sup>4</sup> S. 17(1A) inserted (6.4.09) by the Pensions Act 2007 (c. 22), s. 14.

<sup>5</sup> In s. 17, subsection (4A) inserted (1.1.01) by the Child Support, Pensions and Social Security Act 2000 (c. 19), Sch. 5, para. 1.



contributions or would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension);

- (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the [<sup>1</sup> widow, widower, or surviving civil partner] by virtue of the earner's contributions; and
- (c) in the case of a [<sup>1</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>1</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—
  - [<sup>2</sup>(i) comprises a period during which the widow, widower or surviving civil partner and—
    - (a) a person of the opposite sex are living together as husband and wife; or
    - (b) a person of the same sex are living together as if they were civil partners; nor
  - (ii) falls after the time of any—
    - (a) marriage; or
    - (b) formation of a civil partnership,
 by the widow or widower or surviving civil partner which takes place after the earner's death.]

[<sup>2</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) The scheme [<sup>3</sup>must also make provision] for the widow's pension to be payable to her for any period for which a [...<sup>3</sup>] widowed mothers allowance or widow's pension is payable to her by virtue of the earner's contributions [...<sup>3</sup>].

(6) The scheme [<sup>3</sup>must also make provision] for the [<sup>2</sup>widower's or surviving civil partner's pension to be payable] in the prescribed circumstances and for the prescribed period.

(7) The trustees or managers of the scheme shall supply to the [<sup>4</sup>Inland Revenue] any such information as [<sup>4</sup>the Inland Revenue] may require relating to the payment of pensions under the scheme to [<sup>2</sup> widows, widowers, or surviving civil partners]

[<sup>5</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>1</sup> In s. 17, words substituted and inserted (5.12.05) for the purposes only of making regs. under s. 21(1) of the Pension Schemes Act 1993 (c. 48), by para. 4 of Sch. to S.I. 2005/2050.

<sup>2</sup> In s. 17(4)(c), sub-paras. (i) & (ii) substituted, subsection (4B) & (9) inserted and words in subsections (6) & (7) substituted (5.12.05) for the purposes only of making regs. under s. 21(1) of the Pensions Act 1993 (c. 48) by para. 4 of the Sch. to S.I. 2005/2050.

<sup>3</sup> In s. 17, subsection (4A) words in subsections (5) & (6) substituted & omitted (1.1.01) by the Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 1.

<sup>4</sup> Words in s. 17(7) substituted (1.4.99) by transfer of Functions Act 1999 (c. 11), Sch. 1, para. 39.

<sup>5</sup> Subsection (8) inserted into s. 17 (1.7.05 for conferring power to make regs., 6.4.06 for all other purposes) by the Pensions Act 2004 (c. 35), s. 284(2).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 17-19**

[<sup>1</sup>(9) For the purposes of subsection (4A), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

Treatment of insignificant amounts.

**18.—**(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.

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

**19.—**(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 number of such policies;
- (b) the entry to an annuity contract or a number of such contracts;
- (c) the transfer of 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.

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<sup>1</sup> In s. 17(4)(c), sub-paras. (i) & (ii) substituted, subsection (4B) & (9) inserted and words in subsections (6) & (7) substituted (5.12.05) for the purposes only of making regs. under s. 21(1) of the Pensions Act 1993 (c. 48) by para. 4 of the Sch. to S.I. 2005/2050.

(4) A policy of insurance or annuity contract is appropriate for the purposes of this section if—

- (a) the [insurer] with which it is or was taken out or entered into—
  - (i) is, or was at the relevant time, carrying on [...] long-term insurance business in the United Kingdom or any other [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 [widow, widower or surviving civil partner]; or
  - (ii) with the consent of the earner or the [widow, widower or surviving civil partner] given in writing in a prescribed form;
- (b) that—
  - (i) the case is one such as is mentioned in section 96(2); and
  - (ii) the policy or contract only secures guaranteed minimum pensions;
- (c) that—
  - (i) the case is not one such as is mentioned in section 96(2); and
  - (ii) such conditions as may be prescribed are satisfied.

(6) In subsection (4)(a), “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.

(7) [...]

**20.—(1)** Regulations may prescribe circumstances in which and conditions subject to which—

Transfer of accrued rights

- (a) a transfer of or a transfer payment in respect of—
  - (i) an earner's accrued rights to guaranteed minimum pensions under a contracted-out scheme;
  - (ii) an earner's accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
  - (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 [4, to a personal pension scheme or to an overseas arrangement];
- (b) a transfer of or a transfer payment in respect of an earner's accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 19 may be made to an occupational pension scheme [5, personal pension scheme or an overseas arrangement].

<sup>1</sup> In s. 19(4)(a) words substituted and repealed and subsection (7) repealed (1.12.01) by reg. 116(2) of S.I. 2001/3649.

<sup>2</sup> Words substituted in s. 19(4)(a)(i) (26.11.07) by Sch. to S.I. 2007/3014.

<sup>3</sup> Words in s.19(5)(a)(i) & (ii) substituted (5.12.05) by para. 5 of the Sch. to S.I. 2005/2050.

<sup>4</sup> Words inserted in s. 20(1) substituted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 2(1)(a).

<sup>5</sup> Words in s. 20(1)(b) substituted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 2(1)(b).

Ss. 20-23

(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 [...]<sup>1</sup>, and [<sup>2,3</sup>sections 31 and 33] so far as they apply to personal pension schemes) or of Chapter III of Part IV or Chapter II of Part V shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.

(4) Regulations under subsection (1) shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which taken 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>4</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.

*S. 20(6). is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 5, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 34, para. 4, w.e.f. 27.7.87.*

Commutation, surrender and forfeiture.

**21.**—<sup>[5]</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>4</sup>widow’s, widower’s or surviving civil partner’s] guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

**22.** .....repealed by 1995 c. 26, see Annex 1, p. 5.1701

**23.**—(1) [...]<sup>6</sup>

(b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;

and generally as to the arrangements in force or to be in force from time to time for securing those pensions.]

\*<sup>(2)</sup> 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;

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<sup>1</sup> Ref. repealed in S. 20(3) (6.4.12) by Pensions Act 2007 (c. 22), Sch. 7.  
<sup>2</sup> Words substituted in s. 20(3) (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 7 but repealed immediately before 6.4.12 by 2011/1730, art. 8(1).  
<sup>3</sup> Words substituted (6.4.12) by 2011/1730, art. 5(2).  
<sup>4</sup> Words in s. 20(6) & 21(2) substituted (5.12.05) & for substitution in 21(2) for the purposes only of making regs. under s. 21(1) of Pension Schemes Act 1993 (c. 48), by paras. 6 & 7 of the Sch. to S.I. 2005/2050.  
<sup>5</sup> Subsection (1) of s. 21 substituted (1.7.05 for conferring power to make regs. 6.4.06 for all other purposes) by Pensions Act 2004 (c. 35), s. 284(1).  
<sup>6</sup> S. 23(1) deleted (6.4.97) by para. 31(a) of Sch. 5, and by Sch. 7, Part III, to Pensions Act 1995 (c. 26).

- (c) pensions and other benefits (whether or not within paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and
- (d) state scheme premiums,

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

\*<sup>(3)</sup> 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>1</sup>widow, widower or surviving civil partner] or any dependant of the earner’s will be entitled on the earner’s death.

*\*Para. 31 of Sch. 5 to Pensions Act 1995 (c. 26) provides that s. 23(2) and (3) will not apply where the winding up is begun on or after the principal appointed day (designated as 6.4.97 by art. 2(7) of S.I. 1996/778 (C. 13).)*

(4) Subsections [<sup>2</sup>(2) and (3)] do not apply to public service pension schemes.

(5) [...<sup>3</sup>]

(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.

**24.** .....repealed by 1995 c. 26, see Annex 1, p. 5. 1701 Sufficiency of resources.

**[<sup>4</sup>24A.** In this section and sections 24B to 24H—

- (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,
- (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.

Conversion of guaranteed minimum pension into other benefits: introduction

**24B.—**(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). The conversion conditions

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

<sup>1</sup> Words in s. 23(3)(b) substituted (5.12.05) by para. 8 of the Sch. to S.I. 2005/2050.

<sup>2</sup> Words in S. 23(4) substituted (6.4.97) by para. 31(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>3</sup> S. 23(5) deleted (6.4.97) by para. 31(a) of Sch. 5 and by Sch. 7 Part III to Pensions Act 1995 (c. 26).

<sup>4</sup> S. 24A-24H inserted (6.4.09) by the Pensions Act 2007 (c. 22), s. 14(3).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 24B-24E

(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.

Actuarial equivalence

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

Survivors' benefits

**24D.**—(1) This section specifies the benefits mentioned in Condition 4 of section 24B.

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

- (a) beginning with 6th April 1978, and
- (b) ending with 5th April 1997.

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

- (a) beginning with 6th April 1988, and
- (b) ending with 5th April 1997.

Procedural requirements

**24E.**—(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.



**24F.**—(1) Regulations may prescribe—

Transfer out

- (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 guaranteed cash equivalent so as to reflect rights that would have accrued if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.

**24G.**—(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.

Powers to amend schemes

(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.

**24H.**—(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 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—

Enforcement of GMP conversion conditions

- (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.]

*Discretionary requirements*

**25.—(1)** [...<sup>1</sup>]

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

- (a) the [<sup>3</sup>Inland Revenue] is 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>3</sup>Inland Revenue]].

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

**25A.–27A.** [...<sup>5</sup>]

**28.–29.** [...<sup>6</sup>]

**30.—** [...<sup>7</sup>]

**31.—(1)** [...<sup>8</sup>]

(2) [<sup>9</sup>A scheme which was an appropriate scheme or a money purchase contracted-out scheme immediately before the abolition date] must comply with such requirements as may be prescribed as regards the part—

- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;
- (b) of any income or capital gain arising from the investment of such a payment; or
- (c) of the value of rights under the scheme, that may be used—
  - (i) to defray the administrative expenses of the scheme;
  - (ii) to pay commission; or
  - (iii) in any other way which does not result in the provision of benefits for or in respect of members.

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<sup>1</sup> S. 25(1) repealed (6.4.97) by para. 33(a) of Sch. 5 to, and by Sch. 7, Part III to Pensions Act 1995 (c. 26).

<sup>2</sup> S. 25(2) substituted (6.4.97) by para. 33(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 25(2) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 40(a) & (b).

<sup>4</sup> S. 25(3) repealed (6.4.97) by para. 33(a) of Sch. 5 to, and by Sch. 7, Part III to Pensions Act 1995 (c. 26).

<sup>5</sup> Ss. 25A-27A repealed (6.4.12) by Pensions Act 2008 (c. 30), Sch. 11, part 3.

<sup>6</sup> S. 28 & 29 omitted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 11.

<sup>7</sup> S. 30 repealed (6.4.12) by Pensions Act 2008 (c. 30), Sch. 11, part 3.

<sup>8</sup> S. 31(1) repealed (1.6.96) by Pensions Act 1995 (c. 26), Sch. 5, para. 36(a) and Sch. 7, Part III.

<sup>9</sup> Words substituted (6.4.12) in s. 31(2) by 2011/1730, art. 5(3).



(3) Subject to subsection (4)–

- (a) in the case of an occupational pension scheme, all minimum payments [<sup>1</sup>and payments under section 42A(3)] and any payments made by the [<sup>2</sup>Inland Revenue] under section 7 of the Social Security Act 1986, and
- (b) in the case of a personal pension scheme, all minimum contributions, which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member except so far as they are used–
  - (i) to defray the administrative expenses of the scheme; or
  - (ii) to pay commission.

1986 c. 50.

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

[<sup>3</sup>(5) Any minimum contributions required by reason of this section to be applied so as to provide money purchase benefits for or in respect of a member of a scheme must be so applied in the prescribed manner and within the prescribed period].

**32.–32A.** [...<sup>4</sup>]

**33.** Nothing in [<sup>5</sup>section 31] shall be taken to prejudice any requirements with which [<sup>7</sup>a registered scheme must comply under Part 4 of the Finance Act 2004].

Tax requirements to prevail over [<sup>3</sup>requirements of [<sup>3</sup>sections 31]

**33A.** [...<sup>4</sup>]

[<sup>3</sup>personal pension schemes] “Blowing the whistle”.

*Cancellation, variation, surrender and refusal of certificates*

**34.—**[<sup>8</sup>(1) Regulations shall provide for the cancellation, variation or surrender of a contracting-out certificate, or the issue of a new certificate–

- (a) on any change of circumstances affecting the treatment of an employment as contracted-out employment; or
- (b) where the certificate was issued on or after the principal appointed day, if any employer of persons in the description of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide HMRC, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied.]

(2) Regulations may enable the [<sup>9</sup>Inland Revenue] to cancel or vary a contracting-out certificate where–

- (a) [<sup>9</sup>they have] reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate; and
- (b) the employer does not show that it ought to be so treated.

<sup>1</sup> Words inserted (1.6.96) in s. 31(3)(a) by para. 36(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>2</sup> Words substituted in s. 31(3) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 43.

<sup>3</sup> S. 31(5) added (1.6.96) by para. 36(c) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>4</sup> Ss. 32, 32A & 33A repealed (6.4.12) by Pensions Act 2008 (c. 30), Sch. 11, part 3.

<sup>5</sup> Words in s. 33 & the sidenote substituted (26.9.07) by Pensions Act 2007, (c. 22), Sch. 4, para. 13 but repealed (6.4.12) by Pensions Act 2008 (c. 30), Sch. 11, part 3.

<sup>6</sup> Words in s. 33 and sideheading substituted (6.4.12) by 2011/1730, art. 5(4).

<sup>7</sup> Words substituted in s. 33 (6.4.06) by S.I. 2006/745, art. 7.

<sup>8</sup> S. 34(1) substituted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 15(2).

<sup>9</sup> Words in s. 34 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 45.

(3) Where— [<sup>1</sup>by or by virtue of any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition] the continued contracting-out of the scheme [...<sup>1</sup>] shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out [...<sup>1</sup>] certificate.

(4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the [<sup>2</sup>Inland Revenue] if [<sup>2</sup>they consider] that there are circumstances which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme, notwithstanding that the relevant scheme is one that [<sup>2</sup>they] would otherwise treat as proper to be contracted-out in relation to all earners in that employment.

(5) [...<sup>1</sup>]

(6) [...<sup>3</sup>]

[<sup>4</sup>(7) Without prejudice to the previous provisions of this section, failure of a scheme to comply with any requirements prescribed by virtue of section 25(2) shall be a ground on which the [<sup>2</sup>Inland Revenue] may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate].

(8) Except in prescribed circumstances, no cancellation, variation or surrender of a contracting-out certificate [...<sup>1</sup>] shall have effect from a date earlier than that on which the cancellation, variation or surrender is made.

[<sup>1</sup>(9) A reference in this section to a contracting-out certificate does not include a reference to a contracting-out certificate issued in respect of a money purchase contracted-out scheme.]

**35.-36.** ..... repealed by 1995 c. 26, see Annex 1, p. 5.1701

*Alteration of scheme roles after certification*

Alteration of rules of contracted-out schemes.

[<sup>4</sup>37.—(1) Except in prescribed circumstances, the rules of a [<sup>5</sup>salary related] contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

[<sup>6</sup>(2) Regulations may provide for the validation with retrospective effect in prescribed circumstances of any alteration to the rules of a contracted-out scheme where such alteration was made prior to 6th April 1997 and was void immediately before that date by virtue of subsection (3) of this section as then in force.]

(3) References in this section to a [<sup>5</sup>salary related] contracted-out scheme include a scheme which has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.

(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower [<sup>7</sup>or surviving civil partner] of an earner only in such cases as may be prescribed.]

<sup>1</sup> Words replace s. 34(3)(a) & (b), words in s. 34(3) & (8) & s. 34(5) omitted & s. 34(9) inserted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 15(3)-(6).

<sup>2</sup> Words in s. 34(3), (4) & (7) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 45.

<sup>3</sup> S. 34(6) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 37(6) & Sch. 7, Part III.

<sup>4</sup> S. 34(7) & 37 substituted (6.4.97) by para. 37(c) & 39 of Sch. 5 to Pensions Act 1995 (c. 26)

<sup>5</sup> Words inserted in S. 37(1) & (3) (6.4.12) by 2011/1730 art. 5(5).

<sup>6</sup> S. 37(2) substituted (20.7.98) by para. 2 of S.I. 1998/1466.

<sup>7</sup> Words inserted in s. 37(4) (5.12.05) by para. 12 of the Sch. to S.I. 2005/2050.

38. [...<sup>1,2</sup>]

(6) The reference in subsection (1)(b) to a permitted form is to one of the following forms, namely—

- (a) an arrangement for the issue of insurance policies or annuity contracts;
- (b) a unit trust scheme of kind mentioned in Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which [<sup>3</sup> is an authorised unit trust scheme]; S.I. 1988/137.
- (c) an arrangement for the investment in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the Building Societies Act 1986)). 1986 c. 53.

[<sup>3</sup>(6A) “Authorised unit trust scheme” has the meaning given in Part 17 of the Financial Services and Markets Act 2000 and includes any scheme which is, as a result of an order made under section 426 of that Act making transitional provisions, treated as falling within that meaning.]

(7) [...<sup>4</sup>]*General regulations as to administration of Part III*

39. 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>5</sup>]. General power to make regulations.

## CHAPTER II

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

*Preliminary*

40. This Chapter has effect for the purpose— Scope of Chapter II.

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [<sup>6</sup>Inland Revenue] in respect of earners who are members of [<sup>7</sup>money purchase contracted-out schemes and members of] appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

*Reduced rates of contributions for members of salary related contracted-out schemes*

41.—[<sup>8</sup>(1) Subsections (1A) to [<sup>9</sup>(1E)] apply where— Reduced rates of Class 1 contributions.

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and

<sup>1,2</sup> S. 38(1) & (5) & words in the sidenote substituted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 16(2)-(4) but are repealed immediately before 6.4.12 by 2011/1730 art. 8(1).

<sup>3</sup> In s. 38, words substituted in subsection (6)(b) & subsection (6A) inserted (1.12.01) by reg. 119 of S.I. 2001/3649.

<sup>4</sup> S. 38(7) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 40(d).

<sup>5</sup> Words omitted from s. 39 (6.4.12) by 2011/1730, art. 5(7)

<sup>6</sup> Words substituted (11.11.99) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 21.

<sup>7</sup> Words in s. 40(b) inserted (6.4.97) by s. 137(1) of Pensions Act 1995 (c. 26).

<sup>8</sup> S. 41(1) & (1A) substituted (6.4.99) by Sch. 7, s. 127 of S.S. Act 1998 (c. 8).

<sup>9</sup> Words substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 9, para. 6(2).

## PENSION SCHEMES ACT 1993 (c. 48)

### S. 41

(b) the earner's service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme;  
and in subsections (1A) and (1B) "the relevant part", in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not [<sup>1</sup>the upper accrual point] for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).

[...<sup>1</sup>]

[<sup>2</sup>(1A) The amount of any primary Class 1 contribution [<sup>3</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] in respect of the earnings shall be reduced by an amount equal to [<sup>4</sup>1.4 per cent] of the relevant part of the earnings ("Amount R1").

(1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to [<sup>4</sup>3.4 per cent] of the relevant part of the earnings ("Amount R2").

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

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

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

(1D) If—

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

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

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

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

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<sup>1</sup> Words in s. 41(1) substituted & ss. (1ZA) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 10(2) & (3). These amendments have effect in relation to tax years 09/10 onwards.

<sup>2</sup> Paras. (1A) to (1E) substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) for paras. (1A) to (1C) by Welfare Reform and Pensions Act 1999 (c. 30) Sch. 9, para. 6(3).

<sup>3</sup> Words inserted in s. 41(1A) (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 36.

<sup>4</sup> Words substituted in s. 41(1A) & (1B) (6.4.12) by 2011/1036, art. 2.

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

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

- [<sup>1</sup>(a) a report by the Government actuary or the Deputy Government Actuary on—
- (i) the percentages for the time being applying under section 41(1A)(a) and (b), and
  - (ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>2</sup>(or parts of benefits) which, in accordance with section 48A below and [<sup>3</sup>Schedules 4A and 4B] to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of salary related contracted-out schemes]; and
- (b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the Deputy Government Actuary, there should be an alteration in either or both of those percentages and, if so what alteration is in his opinion required.

(2) The Secretary of State shall lay such reports at intervals of not more than five years.

(3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section [<sup>4</sup>41(1A)(a) and (b) he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.

(5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.

(6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified in [<sup>5</sup>the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)] of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

[<sup>5</sup>(7) Until paragraph 60(4) of Schedule 4 to the Pensions Act 2007 comes into force, subsection (6) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.]

<sup>1</sup> S. 42(1)(a) substituted (13.3.96) by s. 137(3) of Pensions Act 1995 (c. 26), subject to s. 137(4) *ibid.* (first report after passing of that Act—see small-print version of s. 42 below).

<sup>2</sup> Words in s. 42(1)(a)(ii) substituted (8.1.01 for regulation & order making purposes, 25.1.01 for certain purposes in art. 2(a)(i) of S.I. 2001/153 page 1.5907, 6.4.02 for all remaining purposes) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 34.

<sup>3</sup> Words substituted in s. 42(1)(a)(ii) (27.9.07) by the Pensions Act 2007 (c. 22), Sch. 2, para. 12.

<sup>4</sup> Ref. in s. 42(3) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 41.

<sup>5</sup> Words in s. 41(6) substituted & para. (7) inserted (3.1.12) by the Pensions Act 2011, s. 28(1) & (2).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 42-42A

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

*For the first report under s. 42(1)(a) above laid after 19.7.95, s. 42 applies subject to the amendments in s. 137(4) of the Pensions Act 1995 (c. 26) S. 42 as so amended is reproduced below:-*

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

(a) a report by the Government Actuary or the Deputy Government Actuary on [...] the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of salary related contracted-out schemes; and

[<sup>2</sup>(b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers the percentages under section 41(1A)(a) should be].

(2) The Secretary of State shall lay such reports at intervals of not more than five years.

[<sup>2</sup>(3) The Secretary of State shall prepare and lay before each House of Parliament with the report the draft of an order specifying the percentages; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of the tax year which begins with the principal appointed day\*, not being a tax year earlier than the second after that in which the order is made].

(5) No [<sup>2</sup>determination] of those percentages shall introduce any distinction on grounds of age or sex.

(6) A draft of [<sup>2</sup>such an order] may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

*\*6.4.97 (See art. 2(7) of S.I. 1996/778 (C. 13).)*

### *Reduced rates of contributions, and rebate, for members of money purchase contracted-out schemes*

Reduced rates of Class 1 contributions, and rebates

**42A.**—[<sup>3</sup>(1) Subsections (2) to [<sup>5</sup>(2D) and (3)] apply where—

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

and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not [<sup>6</sup>the upper accrual point] (or the prescribed equivalents if the earner is paid otherwise than weekly).

[<sup>7</sup>(2) The amount of any primary Class 1 contribution [<sup>8</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings

<sup>1</sup> Words in s. 42(1)(a) deleted by, and in the circumstances described in, s. 137(4) of Pensions Act 1995 (c. 26).

<sup>2</sup> Text in s. 42 substituted by, and in the circumstances described in, s. 137(4) of Pensions Act 1995 (c. 26).

<sup>3</sup> Ss. 42A(1) and 2 substituted (6.4.99) by Sch.7, s. 128 of S.S. Act 1998 (c. 8).

<sup>4</sup> Ss. 42A and 42B inserted (6.4.97) by s. 137(5) of Pensions Act 1995 (c. 26).

<sup>5</sup> Words substituted (22.12.99 for reg. making purposes 6.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1999 (c. 30) Sch. 9, para. 7(2).

<sup>6</sup> Words in s. 42A substituted (21.9.08) by the National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 11. These amendments have effect in relation to 09-10 tax years and onwards.

<sup>7</sup> Paras. (2) to (2D) substituted for paras. (2) to (2B) (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by the Welfare Reform and Pensions Act 1996 (c. 30), Sch. 9, para. 7(3).

<sup>8</sup> Words inserted in s. 42A(2) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 37.



shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings ("Amount R1").

(2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings ("Amount R2").

(2B) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—
  - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
  - (ii) in relation to which the secondary contributor is such a contributor;

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

(2C) If—

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

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

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

(2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]

(3) [<sup>1</sup>Subject to subsection (5A),] [<sup>2</sup>Inland Revenue] shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—

- (a) the appropriate age-related percentage of that part of those earnings, exceeds
- (b) the appropriated flat-rate percentage of that part of those earnings.

(4) Regulations may make provision—

- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
- (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,
- (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.

(5) If the [<sup>2</sup>Inland Revenue] [<sup>2</sup>pay] an amount under subsection (3) which [<sup>2</sup>they] [<sup>2</sup>are] not required to pay or [<sup>2</sup>are] not required to pay to the person to whom, or in

<sup>1</sup> Words inserted s. 42A(3) (6.4.12) by 2011/1730 art. 5(8).

<sup>2</sup> Words in s. 42A(3) & (5) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 46.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 42A-43**

respect of whom, [<sup>1</sup>they] [<sup>1</sup>pay] it, [<sup>1</sup>they] may recover it from any person to whom, or in respect of whom, [<sup>1</sup>they] paid it.

[<sup>2</sup>(5A) Where—

- (a) a payment under subsection (3) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner,

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.]

(6) Where—

- (a) an earner has ceased to be employed in an employment, and
- (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased,

that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.

[<sup>3</sup>(8) For the purposes of this section “the appropriate age-related percentage” and “the appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 42B (as it had effect prior to that date).]

[**42B.**—[...<sup>3</sup>]

*Minimum contributions; members of appropriate personal pension schemes*

Payment of minimum contributions to personal pension schemes.

**43.**—(1) Subject to the following provisions of this Part, the [<sup>4</sup>Inland Revenue] shall, except in such circumstances [<sup>5</sup> or in respect of such periods] as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—

- (a) is over the age of 16 but has not attained pensionable age;
- (b) is not a married woman or widow who has made an election which is still operative that [<sup>6</sup>so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) of the Social Security Contributions and Benefit Act 1992 (c. 4)] shall be a liability to contribute at a reduced rate; and
- (c) is a member of an appropriate personal pension scheme which is for the time being the earner’s chosen scheme.

*Power to prescribe exceptions in s. 43(1) to be widened (prosp.) by para. 42 of Sch. 5 to Pensions Act 1995 (c. 26).*

(2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner’s chosen scheme.

<sup>1</sup> Words in s. 42A(5) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 46.

<sup>2</sup> S. 42A(5A) inserted (6.4.12) by 2011/1730, art. 5(8).

<sup>3</sup> S. 42A(8) inserted and 42B omitted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, paras. 17 & 18.

<sup>4</sup> Words in s. 43(1) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 47(2).

<sup>5</sup> Words inserted in s. 43(1) (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 42.

<sup>6</sup> Words substituted in s. 43(1)(b) (6.4.03) by National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 38.



(3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.

(4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the [<sup>1</sup>Inland Revenue] [are] required to pay minimum contributions, the duty of the [Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations.

(5) If the [Inland Revenue] [pay] an amount by way of minimum contributions which [they] [are] not required to pay, [they] may recover it—

- (a) from the person to whom [they] paid it, or
- (b) from any person in respect of whom [they] paid it.

(6) If the [Inland Revenue] [pay] in respect of an earner an amount by way of minimum contributions which [they] [are] required to pay, but [do] not pay it to the trustees or managers of the earner's chosen scheme, [they] may recover it from the person to whom [they] paid it or from the earner.

[<sup>2</sup>(6A) Where—

- (a) a payment under subsection (1) is due in respect of an earner, and
- (b) apart from this subsection, the payment would under regulations under subsection (3) be made to the earner.

HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.]

[<sup>3</sup>(7) In this section “the earner's chosen scheme” means the scheme which was immediately before the abolition date the earner's chosen scheme in accordance with section 44 (as it had effect prior to that date).]

**44.**—[...<sup>3</sup>]

**45.**—(1) [<sup>4</sup>In relation to any tax week falling within a period for which the [Inland Revenue] [are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not [<sup>5</sup>the upper accrual point] (or the prescribed equivalents if he is paid otherwise than weekly).]

Amount of minimum contributions.

(2) [...<sup>6</sup>]

(3) Regulations may make provision—

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

<sup>1</sup> Words substituted in ss. 43-45 (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 47 & 48.

<sup>2</sup> S. 43(6A) inserted (6.4.12) by 2011/1730, art. 5(9).

<sup>3</sup> S. 43(7) inserted & s. 44 omitted (26.9.07) by Pensions Act 2008 (c. 30), Sch. 4, paras. 19 & 20.

<sup>4</sup> S. 45(1) substituted (6.4.97) by s. 138(2) of Pensions Act 1995 (c. 26).

<sup>5</sup> Words in s. 45(1) substituted (21.9.08) by National Insurance Contributions Act 2008 (c. 16), Sch. 1, para. 12(1). The amendments made have effect in relation to tax years 09-10 onwards.

<sup>6</sup> S. 45(2) deleted (6.4.97) by s. 138(3) of Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 45-45B

- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
- (d) [...<sup>1</sup>]
- (e) for this section to have effect in prescribed cases as if for any reference to a tax week there were substituted a reference to a prescribed period [...<sup>2</sup>]
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[<sup>3</sup>(4) For the purposes of this section “the appropriate age-related percentage”, in relation to a tax year beginning before the abolition date, is the percentage (or percentages) specified as such for that tax year in an order made under section 45A (as it had effect prior to that date).]

**45A.**—[...<sup>4</sup>]

Money purchase and personal pension schemes: verification of ages.

[<sup>5</sup>**45B.**—(1) Regulations may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).

(2) Information held by the Secretary of State [<sup>6</sup>or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State [<sup>6</sup>or the Inland Revenue]—

- (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
- (b) to such other persons as may be prescribed,

in connection with the making of payments under section 42A(3) or the payment of minimum contributions.]

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<sup>1</sup> S. 45(3)(d) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 43.

<sup>2</sup> Words in s. 45(3)(e) deleted (6.4.97) by s. 138(4) of Pensions Act 1995 (c. 26).

<sup>3</sup> S. 45(4) inserted by Pensions Act 2007 (c. 22), Sch. 4, para. 21.

<sup>4</sup> S. 45A omitted by Pensions Act 2007 (c. 22), Sch. 4, para. 22.

<sup>5</sup> S. 45B inserted (6.4.97) by s. 139 of Pensions Act 1995 (c. 26).

<sup>6</sup> Words substituted in s. 45B(2) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 50.



**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 46**

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

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits. 1992 c. 4.

- \*46.—**(1) Where for any period a person is entitled both—
- (a) to a Category A or Category B retirement pension, a widowed mother’s allowance [<sup>1</sup>, a widowed parent’s allowance]<sup>2</sup> or a widow’s pension] under the Social Security Contributions and Benefits Act 1992; and
  - (b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—

- [<sup>3</sup>(i) to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day],
- or
- (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

whichever is the less.

*s. 46(1)(b) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 2, w.e.f. 23.9.85.*

(2) . . . . . repealed by 1994 c. 118, see Annex 1. page 5. 1701

- [<sup>4</sup>(3) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992,

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

- (4) where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions;
  - (b) he is also entitled to a Category A retirement pension under section 44 of the Social security Contributions and Benefits Act 1992; and
  - (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

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

- “(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—
- (a) the additional pension: and
  - (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,
- reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 46(1) of the Pension schemes Act 1993.”.

<sup>1</sup> Words inserted (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) in s. 46(1)(a) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> Words in s. 46(1)(a) substituted (13.4.95) by para. 56(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

<sup>3</sup> S.46(1)(i) substituted (6.4.97) by para. 44 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>4</sup> S.46(3) substituted (13.4.95) by Sch. 1, para. 56(4) to S.S. (Incapacity for Work) Act 1994 (c. 18).

(5) Where for any period—

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

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—
  - (i) [...<sup>1</sup>];
  - (ii) to a Category A retirement pension under section 44 of that Act; or
  - (iii) to a Category B retirement pension under [²section 48A [³, 48B or 48BB]] of that Act; and
- (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

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

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

- (a) the additional pension; and
  - (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,
- reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(7) Where for any period—

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

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

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

- (a) [...<sup>4</sup>]

<sup>1</sup> S. 46(6)(b)(i) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 56(5) and Sch. 2.

<sup>2</sup> Words in s. 46(6)(b)(iii) substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 22.

<sup>3</sup> Ref. to “48BB” added (24.4.00 for reg. making purposes, 9.4.01 for all other purposes) to s. 46(6)(b)(iii) by s. 70 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>4</sup> S. 46(8)(a) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 56(6) and Sch. 2.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 46-47

- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

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

*\*S. 46 modified (4.1.88) by regs. 2 and 3 of S.I. 1987/1113 where minimum contributions have been paid to a personal pension scheme, and (6.4.88) by regs. 4 and 5 *ibid.* where minimum payments have been made to a money purchase contracted-out scheme.*

Retirement in tax year after 5th April 2020

[**46A**—(1) Subsection (2) applies where—

- (a) for any period a person is entitled to a Category A or Category B retirement pension, or a widowed parent's allowance, under the 1992 Act ("the benefit"),
- (b) the person is entitled to one or more guaranteed minimum pensions for that period, and
- (c) the weekly rate of the additional pension in the benefit is determined under section 45(2A) of the 1992 Act (retirement in tax year after 5th April 2020).

(2) The weekly rate of the benefit shall, for the period mentioned in subsection (1)(a), be reduced by an amount calculated in accordance with regulations.

(3) Regulations under subsection (2) must provide for the amount of the reduction to be calculated in such a way that it does not exceed such part of the weekly rate of the additional pension in the benefit as is attributable to earnings factors for tax years ending before the principal appointed day.

(4) The effect of the reductions made under subsection (2) in relation to any person must be actuarially equivalent to the effect of the reductions that, but for section 46(1A), would be made under section 46(1) in relation to that person.

(5) The Secretary of State must require the Government Actuary or Deputy Government Actuary ("the Actuary") to prepare a report on how actuarial equivalence should be determined for the purposes of this section.

(6) In preparing the report the Actuary must consult such persons as appear to the Actuary to be appropriate.

(7) The Secretary of State must lay the report before Parliament.

(8) Having considered the report, the Secretary of State must by regulations make provision for determining actuarial equivalence for the purposes of this section.

(9) If any recommendation in the report is not followed in the regulations, the Secretary of State must prepare and lay before Parliament a report explaining why.

(10) In this section "the 1992 Act" means the Social Security Contributions and Benefits Act 1992.]

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

**47.**—(1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [<sup>2</sup> or surviving civil partner] of an earner [<sup>3</sup>in any case where he is entitled to a benefit other than a widowed parent's allowance] [...<sup>4</sup>] only if—

- [<sup>3</sup>(a) he is also entitled to a Category B retirement pension by virtue of the earner's contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefit Act 1992); or]

<sup>1</sup> S. 46A inserted (8.4.10) by the Pensions Act 2008 (c. 30), s. 103(3).

<sup>2</sup> Words in s. 47(1) substituted (5.12.05) by para. 14 of Sch. 1 to S.I. 2005/2050.

<sup>3</sup> Words in s. 47(1) inserted & substituted (3.9.02) by the State Pension Credit Act 2002 (c. 16), s. 18.

<sup>4</sup> Words in s. 47(1) repealed (13.4.95) by S.S (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 57 and Sch. 2.

- (b) he is also entitled to a Category A retirement pension by virtue of [<sup>1</sup>section 41(5)] of [<sup>1</sup>that Act].

(2) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—

- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as result of which—
- (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
- (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.

*S. 47(2)(b) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(3) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.*

(3) Where—

- (a) guaranteed minimum pensions provided for a member or the member's [<sup>2</sup>widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
- (b) either—
- (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
- (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
- (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of—
- (i) any relevant policies and annuity contracts, and
- (ii) any cash sums paid or alternative arrangements made under the [<sup>3</sup>Financial Services Compensation Scheme],

the member and the member's [<sup>2</sup>widow, widower or surviving civil partner] shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member's or, as the case may be, the member's [<sup>2</sup>widow's, widower's or surviving civil partner's] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).

(4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.

(5) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—

- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or
- (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).

<sup>1</sup> Words in s. 47(1) inserted & substituted (3.9.02) by the State Pension Credit Act 2002 (c. 16), s. 18.

<sup>2</sup> Words in s. 47(3) substituted (5.12.05) by para. 14(b)(ii) of Sch. 1 to S.I. 2005/2050.

<sup>3</sup> In s. 47(3)(d) words substituted (1.12.01) by reg. 120 of S.I. 2001/3649.



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 47-48

[<sup>1</sup>(6) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any reduction under section 15A.]

[<sup>2</sup>(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.]

[<sup>3</sup>(8) For the purposes of section 46, a person shall be treated as entitled to a guaranteed minimum pension to which he would have been entitled but for the fact that the trustees or managers were discharged from their liability to provide that pension on the Board of the Pension Protection Fund assuming responsibility for the scheme.]

[<sup>4</sup>(9) For the purposes of section 46, a person shall be treated as entitled to a guaranteed minimum pension to which, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, he would have been entitled but for the amendment of a scheme so that it no longer contains the guaranteed minimum pension rules.

(10) Where the earner's accrued rights have been transferred after the amendment of the scheme, in making the calculation under subsection (9) the Commissioners shall assume the application of section 16(1) after the transfer.

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

Reduced benefits where minimum payments or minimum contributions paid.

[<sup>5</sup>48.—(1) Subject to subsection (3), this subsection applies where for any period—

- (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or
- (b) minimum contributions have been paid in respect of an earner under section 43.

(2) Where subsection (1) applies then, for the purposes of section 46—

- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
- (b) [...<sup>6</sup>]; and
- (c) in prescribed circumstances [...<sup>6</sup>] and [<sup>7</sup>widow, widower or surviving civil partner] of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of [<sup>8</sup>section] 47(2) of the Social Security Contributions and Benefits Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words "in that employment".

1992 c. 4.

<sup>1</sup> Ss. (6) inserted in s. 47 (1.12.00) by the Welfare Reform & Pensions Act 1999 (c. 30), s. 32(4)

<sup>2</sup> Ss. (7) inserted in s. 47 (6.4.02) by s. 18 of, and by para. 6 of Sch. 2 to, the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>3</sup> Ss. (8) inserted in s. 47 (6.4.06) by the Pensions Act 2004 (c. 35), s. 165(3).

<sup>4</sup> Ss. (9)-(11) inserted in s. 47 (6.4.09) by the Pensions Act 2007 (c. 22), s. 14(5).

<sup>5</sup> S. 48 is to cease to have effect for minimum payments or minimum contributions paid from 6.4.97, in consequence of s. 140(3) of Pensions Act 1995 (c. 26).

<sup>6</sup> Para. (b) of, and the words in para. (c) of, s. 48(2) repealed (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s. 140(2) of, and Part III of Sch. 7 to, Pensions Act 1995 (c. 26).

<sup>7</sup> Words in s. 48(2)(c) substituted (5.12.05) by para. 15 of Sch. 1 to S.I. 2005/2050.

<sup>8</sup> Word in s. 48(2) substituted (13.4.95) by para. 58 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c. 18).

(3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.

(4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.]

*Effect of reduced contributions and rebates on social security benefits.*

[<sup>1</sup>48A.—(1) In relation to any tax week where—

Additional pension and other benefits.

- (a) the amount of a Class 1 contribution [<sup>2</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 [<sup>3</sup>or, in the case of a week falling before the abolition date, under section 42A (as it then had effect)], or
- (b) [<sup>3</sup>in the case of a week falling before the abolition date, an amount is paid under section 45(1) (as it then had effect)] in respect of the earnings paid to or for the benefit of an earner,

section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no [<sup>2</sup>such] primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).

(2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).

(3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.

(4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).

(5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) of that Act.]

[<sup>4</sup>Women, married women and widows.

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

Women, married women and widows.

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

<sup>1</sup> S. 48A inserted (6.4.97) by s. 140(1) of Pensions Act 1995 (c. 26).

<sup>2</sup> Words inserted in s. 48A(1) (6.4.03) by the National Insurance Contributions Act 2002 (c. 19), Sch. 1, para. 39.

<sup>3</sup> Words substituted in s. 48A(1)(a) & (b) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 4, para. 23.

<sup>4</sup> S. 49 substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 16

**PENSION SCHEMES ACT 1993 (c. 48)**

## CHAPTER III

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS:  
STATE SCHEME PREMIUMS*Approval of arrangements for schemes ceasing to be certified.*

**50.—**(1) In the case of an occupational pension scheme [...] which is or has been certified as a [1salary related contracted-out] scheme, the [2Inland Revenue] may, for the event of, or in connection with its ceasing to be such a scheme [3(including by virtue of section 15(1) of the Pensions Act 2007)], approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

Powers of [2Inland Revenue] to approve arrangements for scheme ceasing to be certified.

- [1(a) of earners' accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day; and
- (b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.]

*Application of s. 50(1)(a)(ii) to earner's widower restricted by S.I. 1984/380, reg. 33D.*

[4(1A) The power of the [2Inland Revenue] to approve arrangements under this section—

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

(1B) Arrangements may not be approved under this section unless any prescribed conditions are met].

(2) If the scheme ceases to be a [1salary related contracted-out] scheme (whether [3virtue of section 15(1) of the Pensions Act 2007, by] by being wound up or otherwise) and the [2Inland Revenue] either—

- (a) [2have] withdrawn [2their] approval of previously approved arrangements relating to it; or
- (b) [2have] declined to approve arrangements relating to it,

the [2Inland Revenue] may issue a certificate to that effect.

(3) A certificate issued under subsection (2)(a) or (b) shall be cancelled by the [2Inland Revenue] if [2they subsequently approve] the arrangements.

<sup>1</sup> Words omitted & substituted in s. 50(1) & (2) and sub-paras. (1)(a) & (b) substituted (6.4.12) by 2011/1730, art. 5(10).

<sup>2</sup> Words in s. 50 substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 51.

<sup>3</sup> Words inserted in s. 50(1) & (2) but repealed immediately before 6.4.12 by 2011/1730, art. 8(1) (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 24(2) & (3).

<sup>4</sup> S. 50(1A) & (1B) inserted (6.4.97) by para. 45(b) of Sch. 5 to Pensions Act 1995 (c. 26).

Ss. 50-51

(4) Regulations may provide that where the [<sup>1</sup>Inland Revenue] [<sup>1</sup>have] approved arrangements under subsection (1) in respect of an occupational pension scheme [...<sup>2</sup>] any provision of this Part (other than sections 18,19, [<sup>2,3</sup>31 and 33] and [<sup>2</sup>43 and 45]) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.

(5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.

(6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme [<sup>2,3</sup>to which subsection (1) applies] may be withdrawn at any time, notwithstanding that the scheme has been wound up.

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

Calculation of guaranteed minimum pensions preserved under approved arrangements.

**51.—**(1) This section applies where—

- (a) an earner's guaranteed minimum pension rights are accrued rights to guaranteed minimum pensions under a scheme [<sup>5</sup>satisfy prescribed conditions].
- and
- (b) one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.

(2) Where this section applies then, except in such circumstances as may be prescribed, section 16(1) shall have effect, subject to the following provisions, that is to say—

1975 c. 60.  
1992 c. 5.

- (a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before those five tax years; and
- (b) any relevant earnings factors derived from contributions or earnings in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
  - (i) constitutes or begins before the relevant contributions year, or
  - (ii) begins after the final relevant year in relation to the earner.

(3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.

(4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 16(2).

(5) In this section “relevant year” and “final relevant year” have the same meanings as in section 16.

<sup>1</sup> Words in s. 50 substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 51.

<sup>2</sup> Words omitted & substituted in s. 50(4) & (6) (6.4.12) by 2011/1730, art. 5(10).

<sup>3</sup> Words substituted in s. 50(4) & (6) (26.9.09) by Pensions Act 2007 (c. 22), Sch. 4, para. 24(4) & (5) but repealed (6.4.12) by 2011/1730, art. 8(1).

<sup>4</sup> S. 50(7) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 45(c).

<sup>5</sup> Words in s. 51(1)(a) substituted (6.4.97) by para. 46 of Sch. 5 to Pensions Act 1995 (c. 26).

*Supervision of formerly certified schemes*

**52.—**(1) Section 53 shall apply for the purpose of making provision for securing the continued supervision of [<sup>1</sup>salary related] occupational pensions schemes as respects which subsection (2) applies [...<sup>1</sup>] for the purpose of making corresponding provision in relation to personal pension schemes as respects which subsection (3) applies.

Supervision of schemes which have ceased to be certified.

(2) This subsection applies as respects any [<sup>1</sup>salary related] occupational pension scheme, other than a public service pensions scheme, where—

- [<sup>2</sup>(a) the scheme has ceased to be a contracted-out scheme [<sup>3</sup>(whether by virtue of section 15(1) of the Pensions Act 2007 or otherwise)], and
- (b) any persons remain who fall within any of the following categories.

(2A) Those categories are—

- (a) any persons entitled to receive, or having accrued rights to—
  - (i) guaranteed minimum pensions, or
  - (ii) pensions under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out,
- (b) [...<sup>1</sup>]
- [<sup>4</sup>(c) any persons who have safeguarded rights under the scheme or are entitled to any benefit giving effect to safeguarded right under it. ]

(3) [...<sup>3,1</sup>]

(4)–(6) [...<sup>5</sup>]

**53.—**[<sup>6</sup>(1) The [<sup>7</sup>Inland Revenue] may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the [<sup>7</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

Supervision: former contracted-out schemes.

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

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

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

<sup>1</sup> Words substituted & omitted in s. 51(1) & 2 & subsections (2A)(b) & (3) omitted (6.4.12) by 2011/1730, art. 5(11).

<sup>2</sup> S. 52(2)(a) & (b) substituted & (2A) inserted (6.4.97) by Pensions Act 1995, (c. 26), Sch. 5, para. 47(a).

<sup>3</sup> Words inserted in s. 50(2)(a) & (3)(a) (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 25 but repealed (6.4.12) by 2011/1730, art. 8(1).

<sup>4</sup> Para. (c) inserted in s. 52(2A) and words inserted in s. 52(3) (1.12.00) by Welfare Reform & Pensions Act 1999 (c. 30), Sch. 12, para. 30.

<sup>5</sup> S. 52(4) to (6) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 47(c).

<sup>6</sup> S. 53(1)-(1B) substituted (6.4.97) for s. 53(1) by para. 48(a) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>7</sup> Words in s. 53 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, paras. 52 & 53.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 53-55

[<sup>1</sup>(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under section 23 of the Pensions Act 2004 in relation to the scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order–

- (a) is not binding as described in subsection (1), and
- (b) is not enforceable as described in subsection (1B).]

(2) [...<sup>2</sup>]

[<sup>3</sup>(3) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(2A)(a) [...<sup>4</sup>] or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1) in a prescribed manner and within a prescribed period or such longer period as the [<sup>5</sup>Inland Revenue] may allow].

(4)–(6) [...<sup>6</sup>]

**54.** [...<sup>4</sup>]

#### *State scheme premiums*

Payment of state scheme premiums on termination of certified status.

**55.**—(1) [...<sup>7</sup>]

[<sup>8</sup>(2) Where–

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pensions scheme [...<sup>9</sup>],
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has service for less than two years in the employment,

the prescribed person [<sup>10</sup>shall, if subsection (2B) applies, pay and otherwise] may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

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

- (a) the earner's service in the employment ceases otherwise than on the earner's death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner's death,
- (c) the earner's service in the employment ceases on the earner's death and the earner dies leaving a [<sup>11</sup>widow, widower or surviving civil partner]

<sup>1</sup> S. 53(1C) inserted (6.4.06) by para. 10 of Sch. 12 to Pensions Act 2004.

<sup>2</sup> S. 53(2) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5 para. 48(b), and Sch. 7, Part III.

<sup>3</sup> S. 53(3) substituted (6.4.97) by para. 48(c) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>4</sup> Ref omitted from s. 53(3) & s. 54 omitted (6.4.12) by 2011/1730, art. 5(12) & (13).

<sup>5</sup> Words in ss. 53 & 54 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, paras. 52 & 53.

<sup>6</sup> S. 53(4) and (5) to be repealed (prosp.) by Pensions Act 1995 (c. 26), Sch. 5. para. 48(d), and Sch. 7, Part III.

<sup>7</sup> S. 55(1) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 50.

<sup>8</sup> S. 55(2) and (2A) substituted (6.4.97) for s. 55(2) by s. 141(1) of Pensions Act 1995 (c. 26).

<sup>9</sup> Words omitted in s. 55(2)(a) (26.7.09) by Pensions Act 2007 (c. 22), Sch. 4, para. 26.

<sup>10</sup> Words inserted in s. 55(2), (6.4.02) by s. 18 and 88 of Welfare Reform and Pensions Act 1999 (c. 30).

<sup>11</sup> Words in s. 55(2A)(c) substituted (5.12.05) by para. 16 of Sch. 1 to S.I. 2005/2050.



- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pensions scheme;

[...<sup>1</sup>]].

[<sup>1</sup>(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

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

(3)-(6) [...<sup>2</sup>]

**56.—(1)** [...<sup>3</sup>]

(2) A premium under section 55 shall be paid by the prescribed person to the [<sup>4</sup>Inland Revenue] within the prescribed period[...<sup>3</sup>]

Previous supplementary  
to S. 55.

(3) [...<sup>3</sup>]

[<sup>5</sup>(4) Where under the rules of the scheme, transfer credits have been allowed—

- (a) in respect of the earner's rights under another scheme, or
- (b) in respect of the earner by reference to the payment of a cash transfer sum (within the meaning of Chapter 5 of Part 4) to the trustees or managers of the scheme by the trustees or managers of another occupational pension scheme,]

the reference in section 55(2) to employment which is contracted-out by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

[<sup>6</sup>(5) The references in section 55(2A) to an accrued right to short service benefit include an accrued right to any provision which, under the preservation requirements, is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).

(6) Subject to regulations under paragraph 1 of Schedule 2, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 55(2A) as ceasing immediately before the death].

[<sup>7</sup>(7) Where a premium under section 55 is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the Pensions Act 2004 (effect of the Board assuming responsibility for an occupational pension scheme), then, subject to subsection (8), sections 55 to 68 apply with such modifications as may be prescribed in relation to that premium.

(8) A premium under section 55 in respect of an earner ceases to be payable if—

- (a) the liability to pay the premium is transferred to the Board of the Pension Protection Fund by virtue of section 161 of the Pensions Act 2004, and
- (b) prescribed requirements are met.]

<sup>1</sup> Words inserted in s. 55(2), omitted in s. 55(2A) and s. 55(2B) and (2C) inserted (6.4.02) by s. 18 and 88 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> S. 55(3)-(6) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 50. and Sch. 7, Part III.

<sup>3</sup> S. 56(1), words in s. 56(2) & s. 56(3) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para S. 51(a) and Sch. 7, part III.

<sup>4</sup> Words in s. 56(2) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch.1, para. 53 & 54.

<sup>5</sup> Words substituted in s. 56(4) (6.4.06) by Pensions Act 2004 (c. 35), Sch. 12, para. 11.

<sup>6</sup> S. 56(5) and (6) substituted (6.4.97) by para. 51(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>7</sup> S. 56(7) & (8) inserted (1.1.07) by Pensions Act 2004, Sch. 12, para. 11.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 57-60

Elections to pay contributions equivalent premiums.

<sup>1</sup>57.—(1) An election under section 55(2) must be made within the prescribed period and in the prescribed manner.

(2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.

(3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.

(4) If [<sup>2</sup>the Inland Revenue consider] that the prescribed person is contravening subsection (2), [<sup>2</sup>they] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.

**58.**—(1)–(3) [...<sup>3</sup>]

*Modified (6.4.88), in certain cases where part of a premium is treated as having been paid, by reg. 23A(10)(b)(iii) of S.I. 1984/380.*

(4) The amount of a contributions equivalent premium shall be the difference between—

- (a) the amount of the Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme, and
- (b) the amount of those contributions which would have been payable if the employment had not been contracted-out.

[(5)–(6) [...<sup>4</sup>]

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

**59.** .....repealed by 1995 c. 26, see Annex 1, p. 5.1701.

**60.**—(1)–(3) [...<sup>5</sup>]

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [<sup>6</sup>55(2A)(a) and (b), (d) and (e)] shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme [<sup>6</sup>or (in relation to service on or after the principal appointed day) rights to pensions under the scheme so far as attributable to the amount of the premium].

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section [<sup>7</sup>55(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s [<sup>8</sup>widow, widower or surviving civil partner].

<sup>1</sup> References to the Board in s. 57 are replaced (6.4.97) with references to the Secretary of State, together with grammatical consequentials, by para. 21 of Sch. 5 to the Pensions Act 1995 (c. 26).

<sup>2</sup> Words substituted in s. 57(4) (1.4.99) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Sch. 1, para. 55.

<sup>3</sup> S. 58(1)–(3) are to be repealed (prosp.) by Pensions Act 1995 (c. 26), Sch. 5, para. 52 and Sch. 7, Part III.

<sup>4</sup> S. 58(5) and (6) are to be repealed (prosp.) by Pensions Act 1995 (c. 26), Sch. 5, para. 52 and Sch. 7, Part III.

<sup>5</sup> S. 60(1)–(3) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 54(a).

<sup>6</sup> Words inserted (6.4.97) in s. 60(4) by Pensions Act 1995 (c. 26), Sch. 5, para. 54(b).

<sup>7</sup> Words inserted (6.4.97) in s. 60(5) by Pensions Act 1995 (c. 26), Sch. 5, para. 54(c).

<sup>8</sup> Words in s. 60(5) substituted (5.12.05) by para. 17 of Sch. 1 to S.I. 2005/2050.

†S. 60 (4) and (5) modified, where part of a premium is treated under reg. 23(1) of S.I. 1984/380 as having been paid, by reg. 23(10)(a) *ibid.*

(6)-(10) [...<sup>1</sup>]

**\*61.**—(1) This section applies where—

- [<sup>2</sup>(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and]
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
- (c) a contributions equivalent premium falls to be paid by any person in respect of him.

Deduction of contributions equivalent premium from refund of scheme contributions.

(2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.

(3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.

(4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.

(5) Where the refund—

- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
- (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,

<sup>1</sup> S. 60(6)-(10) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 54(d).

<sup>2</sup> S. 61(1)(a) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 55(a).

**PENSION SCHEMES ACT 1993 (c. 48)**

the amount which may be recovered under this section shall be increased by such amount as may be prescribed.

(6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.

(7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.

(8) Where—

- [<sup>1</sup>(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment];
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
- (c) a contributions equivalent premium falls to be paid in respect of him; and
- (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment.

then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to service in the employment on the [<sup>2</sup>cessation] of which the premium falls to be paid (and subsection (7) shall apply accordingly).

(9) This section shall apply in relation to such a refund as is referred to in subsection (1)(b) which becomes payable after the [<sup>2</sup>cessation] of an earner's service in contracted-out employment as it applies to such a refund becoming payable on the [<sup>2</sup>cessation] of an earner's service in such employment.

[<sup>3</sup>(9A) Where under section 101AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.]

(10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).

(11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—

- (a) is made or to be made otherwise than out of the resources of the scheme; or
- (b) is made or to be made out of those resources but by way of distribution on a winding up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.

†62.—(1) Notwithstanding any contract to the contrary, a person shall not be entitled—

- (a) to recover any part of a [<sup>4</sup>contributions equivalent] premium from any earner in respect of whom it is payable; or

No recovery of state scheme premiums from earners etc.

<sup>1</sup> S. 61(8)(a) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 55(b)(i).

<sup>2</sup> Word "cessation" substituted (6.4.97) for "terminates" in s. 61 (8) & (9) by Pensions Act 1995 (c. 26), Sch. 5, para. 55(b)(ii) and (c).

<sup>3</sup> Subsec. (9A) inserted in s. 61 (6.4.06) by the Pensions Act 2004 (c. 35), Sch. 12, para. 12.

<sup>4</sup> Words substituted (6.4.97) in s. 62(1)(a) by Pensions Act 1995, Sch. 5, para. 56(a).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 62-67**

Further provisions concerning calculations relating to premiums.

(b) except in accordance with section 61, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

(2) [...<sup>1</sup>]

**63.**—(1) The following amounts shall be certified by the [<sup>2</sup>Inland Revenue]—

- (a) [...<sup>3</sup>]
- (b) the amount of the difference mentioned in subsection (4) of section 58,
- (c) [...<sup>3</sup>]
- (d) the amount mentioned in section 61(2).

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

(3) If the [<sup>2</sup>Inland Revenue]—

- (a) [...<sup>5</sup>]
- (b) [<sup>2</sup>are satisfied] that records of earnings relevant for determining the amount mentioned in [<sup>6</sup>section 58(4)] have not been maintained or retained or are otherwise unobtainable,

then [<sup>2</sup>they may] for that purpose—

- (i) compute, in such manner as [<sup>2</sup>they think] fit, an amount which shall be regarded as the amount of those earnings; or
- (ii) take their amount to be such sum as [<sup>2</sup>they may] specify in the particular case,

(4) [...<sup>7</sup>]

(5) For the purposes of subsection (1) the [<sup>2</sup>Inland Revenue] may make such adjustments as [<sup>2</sup>they think] necessary for avoiding fractional amounts.

†**64** .....repealed by 1995 c. 26, see Annex 1, p. 5.1701

‡**65–66**.....repealed by 1995 c. 26, see Annex 1, p. 5.1701

Non-payment of state scheme premiums.

**67.**—(1) If a person fails to pay any [<sup>8</sup>contributions equivalent premium] which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.

(2) Where—

- (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
- (b) the premium remains unpaid at the date of the conviction,

he shall be liable to pay to the [<sup>1</sup>Inland Revenue] a sum equal to the amount which he failed to pay.

(3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay [<sup>2</sup>contributions equivalent premiums] within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

<sup>1</sup> S. 62(2) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 56(b).

<sup>2</sup> Words in s. 63 & 67 substituted (1.4.99) by Transfer of Functions Act 1999 (c. 2), Sch. 1, para. 56 & 57.

<sup>3</sup> S. 63(1)(a) and (c) deleted and words substituted in s. 63(1)(b)(6.4.97.) by Pensions Act 1995 (c. 26), Sch. 5, para. 57(a).

<sup>4</sup> S. 63(2) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 57(b).

<sup>5</sup> S. 63(3)(a) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 57(c)(i).

<sup>6</sup> Words substituted and deleted in s. 63(3)(b) (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 57(c)(ii) & (iii).

<sup>7</sup> S. 63(4) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 57(d).

<sup>8</sup> Words in s. 67 substituted (6.4.97) by para. 61 of Sch. 5 to Pensions Act 1995 (c. 26).

(4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

**68.**—(1) Where in England and Wales a person charged with an offence to which section 67(2) applies is convicted of that offence in his absence under section 12(2) of the Magistrates Courts Act 1980, then if—

Unpaid premiums:  
supplementary.  
1980 c. 43.

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 67(4) has been duly served specifying the other premiums in respect of which the prosecutor intends to give evidence; and
- (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,

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

(2) In England and Wales where—

- (a) a person is convicted of an offence to which section 67(2) applies; and
- (b) an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally,

1973 c. 62.

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

(3) In Scotland where—

- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
- (b) an order is made under the Criminal Procedure (Scotland) Act 1975 discharging the offender absolutely or placing him on probation, section 67(2) to (4) shall apply as if—
  - (i) the conviction on indictment were a conviction for all purposes; or
  - (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

1975 c. 21.

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

(5) [<sup>1</sup>Contributions equivalent premiums] recovered by the [<sup>2</sup>Inland Revenue] under those provisions shall be treated for all purposes as premiums paid to the [<sup>2</sup>Inland Revenue] in respect of the person in respect of whom they were originally payable.

**68A.–68D.** [...<sup>3</sup>].

<sup>1</sup> Words in s. 68(5) substituted (6.4.97) by para. 61 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>2</sup> Words in s. 68(5) substituted (1.4.99) by Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2), Sch. 1, para. 58.

<sup>3</sup> Part IIIA, Ss. 68A-68D repealed (6.4.09) by the Pensions Act 2008 (c. 30), s. 100.



**PENSION SCHEMES ACT 1993 (c. 48)**

**PART IV**  
**PROTECTION FOR EARLY LEAVERS**  
**CHAPTER I**

PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

**69.—(1)** This Chapter has effect in relation to the preservation of benefit under occupational pension schemes to which it applies.

Scope of Chapter I: the preservation requirements.

(2) In this Act “the preservation requirements” means the requirements specified in or under sections 71 to 82.

(3) This Chapter applies to any occupational pension scheme whose resources are derived in whole or in part from

- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
  - (i) under an actual or contingent legal obligation; or
  - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, begin a power or duty which extends to the disbursement or allocation of public money; or
- (b) such other payments by the earner of his employer, or both, as may be prescribed for different categories of scheme.

**70.—(1)** In this Chapter—

“scheme” means an occupational pension scheme to which this Chapter applies; “relevant employment”, in relation to a scheme, means any employment to which the scheme applies;

“long service benefit”, in relation to a scheme, means the benefits which will be payable under the scheme, in accordance with legal obligation, to or in respect of a member of the scheme on the assumption—

- (a) that he remains in relevant employment, and
- (b) that he continues to render service which qualifies him for benefits, until he attains normal pension age; and in this definition “benefits” means—
  - (i) retirement benefit for the member himself at normal pension age, or
  - (ii) benefit for the member’s [<sup>1</sup>wife, husband, civil partner, widow, widower or surviving civil partner] or dependants, or others, on his attaining that age or his later death, or
  - (iii) both such descriptions of benefit.

Interpretation.

(2) In this Act, unless the context otherwise requires, “pensionable service”, in relation to a scheme and a member of it, means, subject to subsection (3), service in relevant employment which qualifies the member (on the assumption that it continues for the appropriate period) for long service benefit under the scheme.

(3) There shall be taken into account as pensionable service only actual service, that is to say—

- (a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service; and
- (b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.

<sup>1</sup> Words in defn. of “long service benefit” substituted (5.12.05) by para. 11 of the Sch. to S.I. 2005/2053.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 71-72

Basic principle as to short service benefit.

**71.—**(1) A scheme must make such provision that where a member's pensionable service is terminated before normal pension age and—

- (a) he has at least 2 years' qualifying service, or
- (b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,

he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.

*S. 71(1) modified, where after an earlier break pensionable service is again terminated, by reg. 21(4) of S.I. 1991/167, and, for certain schemes with an overseas element, by reg. 25(3) ibid.*

(2) The benefit to which a member is entitled under subsection (1) is referred to in this Act as "short service benefit".

[<sup>1</sup>(3) Subject to subsection (4), short service benefit must be made payable as from an age which is no greater than—

- (a) the age of 65, or
- (b) if in the member's case normal pension age is greater than 65, normal pension age.]

(4) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time after it as long service benefit payable on or in respect of his death would be payable.

(5) In applying subsections (3) and (4), no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.

(6) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.

(7) In subsection (1) "2 years qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—

- (a) in pensionable service under the scheme; or
- (b) in service in employment which was contracted-out by reference to the scheme; or
- (c) in linked qualifying service under another scheme.

(8) For the purposes of subsection (7), no regard shall be had to whether or not the service was of the same description in the whole of the 2 years.

(9) A period of service previously terminated is not to count towards the 2 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

*S. 71(9) modified by reg. 21(2) of S.I. 1991/167.*

No discrimination between short service and long service beneficiaries.

**72.—**(1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.

(2) Subsection (1) does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, unless the rule—

- (a) was made after the termination of a member's pensionable service; and

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<sup>1</sup> S. 71(3) substituted (6.4.05) by s. 263 of the Pensions Act 2004 (c. 35).

- (b) results, or is capable of resulting in any treatment less favourable for him than that to which he would have been entitled but for the rule.

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

[<sup>1</sup>(4) This section is subject to subsections (3) and (6) of section 71 (age at which short service benefit is to be payable).]

**73.—**(1) Subject to subsection (2) and section 81, a member's short service benefit must be—

- (a) payable directly out of the resources of the scheme; or  
(b) assured to him by such means as may be prescribed.

(2) Subject to subsections (3) to (5), a scheme may, instead of providing short service benefit, provide

- (a) for the member's accrued rights (including any transfer credits allowed under the scheme)—  
(i) to be transferred to another occupational pension scheme with a view to acquiring transfer credits for the member under the other scheme, or  
(ii) to be transferred to a personal pension scheme [...<sup>2</sup>] with a view to acquiring rights for the member under the rules of the scheme [...<sup>2</sup>]; or  
(b) for such alternatives to short service benefit as may be prescribed.

(3) the option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter IV of this Part.

(4) the alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for short service benefit—

- (a) if the member consents; or  
(b) in such other cases as may be prescribed.

(5) An alternative prescribed under subsection (2)(b) may only include payment by way of return of contributions—

- (a) if they relate to a period of service before 6th April 1975; or  
(b) if there has been such a payment relating to a period of service before that date and the contributions relate to a period of service of less than 5 years after that date.

**74.—**(1) Subject to the provisions of this section, a scheme must provide for short service benefit to be computed on the same basis as long service benefit.

(2) For that purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.

(3) Subsection (1) does not apply to so much of any benefit as accrues at a higher rate, or otherwise more favourably, in the case—

- (a) of member with a period of pensionable service of some specified minimum length, or  
(b) of members remaining in pensionable service up to some specified minimum age.

(4) Subsection (1) does not apply to so much of any benefit as is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.

(5) Regulations may provide that subsection (1) shall not apply to any category of schemes or members, or description of benefit.

<sup>1</sup> Para. (4) inserted in s. 71 (6.4.05) by s. 263(2) of the Pensions Act 2004 (c. 35).

<sup>2</sup> Words in s. 73(2)(a)(ii) deleted (25.4.00) by s. 18 of the Welfare Reform and Pensions Act 1999 (c. 30).

**Ss. 74-75**

(6) So far as any short service benefit is not required to be computed in accordance with subsection (1), it must be computed on the basis of uniform accrual, so that at the time when pensionable service is terminated, it bears the same proportion to long service benefit as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.

(7) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before the time when his pensionable service is terminated.

(8) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

**75.—(1)** In this section—

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

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

including under paragraph (b) any transfer credits;

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

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

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

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

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

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

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

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

- (a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age; and
- (b) that the amount of any such credit, and also of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.

(6) Where any such deduction is a percentage of benefit, the percentage must be the same for short service as for long service benefit.

(7) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

**76.—**(1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards revaluation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.

Pension increases.

(2) Where the provision for increasing long service benefit involves the exercise of a discretion, a corresponding discretion must be conferred in relation to short service benefit.

(3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.

(4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, if the rate is at least 3 per cent. a year compound.

**77–80.** .....repealed by 1995 c. 26, see Annex 1 p. 5.1701

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

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

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

**82.—**(1) Regulations may provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of any specified provision contained in sections 71 to 79.

Supplementary regulations.

(2) Regulations may make provision as to the circumstances in which, for the purposes of sections 70 to 79—

- (a) a period of a person’s service in two or more different employments is to be treated as a period of service in one or more of those employments; or
- (b) a person’s service in any employment is to be treated as terminated or not terminated.

## CHAPTER II

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

**83.—**(1) This chapter applies for the purpose of revaluing—

- (a) [<sup>1</sup>relevant] benefits payable to or in respect of a member of an occupational pension scheme where—
  - (i) his pensionable service ends on or after 1st January 1986;
  - (ii) on the date on which his pensionable service ends (in this Chapter referred to as “the termination date”) he has accrued rights to benefit under the scheme;

Scope of Chapter II.

<sup>1</sup> Words inserted in s. 83(1)(a) (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 31.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 83-84

- (iii) the period beginning with the day after the termination date and ending with the date on which he attains normal pension age (in this Chapter referred to as “the pre-pension period”) is at least 365 days; and
- (iv) in the case of benefit payable to any other person in respect of the member, the member dies after attaining normal pension age; and
- (b) [<sup>1</sup>relevant] benefits payable to or in respect of a member of a personal pension scheme—
  - (i) in respect of whom contributions to the scheme have ceased to be paid; and
  - (ii) who has accrued rights to benefit under the scheme.

*Where normal pension age is under 60, the reference to it in s. 83(1)(a)(iii) above is modified by reg. 3(2) of S.I. 1991/168.*

- [<sup>1</sup>(1A) The following are relevant benefits for the purposes of subsection (1)—
  - (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
  - (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service. ]

(2) In calculating 365 days for the purpose of subsection (1)(a)(iii), any day which is 29th February shall be disregarded.

- (3) In subsection (1)(b)—
  - (a) the reference to a personal pension scheme does not include a scheme which is comprised in an annuity contract made before 4th January 1988; and
  - (b) the reference to contributions includes any minimum contributions.

- [<sup>1</sup>(4) For the purposes of this section, an occupational pension scheme is salary related if—
  - (a) it is not a money purchase scheme, and
  - (b) it does not fall within a prescribed class.]

Basis of revaluation.

**84.—**(1) [<sup>2</sup>Subject to subsections (2) to (3B)], in the case of such benefits as are mentioned in section 83(1)(a), any pension or other retirement benefit payable under the scheme in question to the member and any pension or other benefit payable under it to any other person in respect of him, is to be revalued by the final salary method.

- (2) If—
  - (a) any such benefit is an average salary benefit or flat rate benefit; and
  - (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the average salary method or, as the case may be, the flat rate method,

then the benefit shall be revalued using that method.

(3) If any benefit such as is mentioned in paragraph (a) of section 83(1) is a money purchase benefit, and in the case of such benefit as is mentioned in paragraph (b) of that section, the benefit shall be revalued using the money purchase method.

- [<sup>3</sup>(3A) If—
  - (a) any such benefit as is mentioned in section 83(1)(a) is a cash balance benefit in respect of which the available sum is not calculated by reference to final salary;

<sup>1</sup> Words inserted in s. 83(1)(a) and subsections (1A) and (4) inserted (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 31.

<sup>2</sup> Words substituted (24.7.14) in s. 84(1) by reg. 3(2)(a) of S.I. 2014/1954.

<sup>3</sup> S. 84(3A) inserted (24.7.14) by S.I. 2014/1954, reg. 3(2)(b).



- (b) the benefit is attributable to periods of pensionable service falling on or after the day on which section 29 of the Pensions Act 2011 (definition of money purchase benefits) comes into force; and
- (c) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the cash balance method,

then the benefit shall be revalued using that method.

(3B) Where a cash balance benefit in respect of which the available sum is not calculated by reference to final salary—

- (a) is attributable to periods of pensionable service falling partly before and partly on or after the day on which section 29 of that Act comes into force; and
- (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue so much of the benefit as is attributable to the member's pensionable service falling on or after that day by the cash balance method,

then so much of the benefit as is attributable to the members pensionable service falling on or after that day shall be revalued using that method.]

(4) In this section—

“average salary benefit” means benefit the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;

[<sup>1</sup>“cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;

“final salary” in relation to a member to or in respect of whom benefits under a pension scheme are payable, means the member's pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member's pensionable service in relation to that scheme ends;]

“flat rate benefit” means any benefit the rate or amount of which is calculated by reference solely to the member's length of service;

“average salary method”, [<sup>1</sup>“cash balance method”,] “final salary method”, “flat rate method” and “money purchase method” have the meanings given in Schedule 3.

[<sup>1</sup>“pensionable earnings”, in relation to a member of a pension scheme, means earnings by reference to which benefits under the scheme are calculated.]

(5) The fact that a scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of him to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 15(1) of the Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes); [<sup>2</sup>or
- (b) under any arrangement which maintains the value of the pension or other benefit by reference to the rise in the retail prices index during that period,]

1992 c. 5.

does not in itself result in conflict with this section, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member's [<sup>3</sup>widow, widower or surviving civil partner] has not been deducted.

<sup>1</sup> Words & definitions inserted in s. 84(4) (24.7.14) by S.I. 2014/1954, reg. 3(2)(c).

<sup>2</sup> In s. 84, subsection (5)(b) inserted (18.11.04) by s. 281 of the Pensions Act 2004 (c. 35).

<sup>3</sup> Words in s. 84(5) substituted (5.12.05) by para. 12 of the Sch. to S.I. 2005/2053.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 84-87

[<sup>1</sup>(6) In subsection (5)(b), “retail prices index” means–

- (a) the general index of retail prices (for all items) published by the Office for National Statistics, or
- (b) where that index is not published for a month, any substituted index or figures published by that Office.]

Revaluation not to apply to substituted benefit.

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

Supplementary provisions.

**86.—(1)** In making any calculation for the purposes of this Chapter in relation to any occupational pension scheme–

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

the whole or part of a pension shall be disregarded.

*S. 86(1) modified by reg. 8 of S.I. 1991/168.*

(2) The same money may not be treated as providing both the increase in benefit required by this Chapter and the benefit required by Chapter III.

## CHAPTER III

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

General protection principle.

**87.—(1)** This subsection applies where–

- (a) there is an interval between–
  - (i) the date on which an earner ceased to be in employment which is contracted-out by reference to an occupational pension scheme [<sup>3</sup>that satisfies the requirements of section 9(2)] (“the cessation date”); and
  - (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
- (b) the relevant sum exceeds his guaranteed minimum on the day after the cessation date; and
- (c) on the commencement of payment date or at any time after it his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the cessation date.

(2) This subsection applies where–

- (a) there is an interval between the earner’s cessation date and whichever of the following is the earlier–
  - (i) the date of his death; or
  - (ii) his commencement of payment date;
- (b) the relevant sum exceeds one half of the earner’s guaranteed minimum on the day after the cessation date; and

<sup>1</sup> In s. 84, subsection (6) inserted (18.11.04) by s. 281 of the Pensions Act 2004 (c. 35).

<sup>2</sup> Words inserted (1.12.00) in s. 85 by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 32.

<sup>3</sup> Words substituted in s. 87(1)(a)(i) (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 4, para. 28.

- (c) at any time when a pension under the occupational pension scheme is required to be paid to the earner's [<sup>1</sup>widow, widower or surviving civil partner, the widow's, widower's or surviving civil partner's (as the case may be)] guaranteed minimum pension under the scheme exceeds one half of the earner's guaranteed minimum on the day after the cessation date.

(3) Where subsection (1) or (2) applies, the weekly rate of the pension payable to the member at any time when that pension is required to be paid or, as the case may be, payable to the [<sup>1</sup>widow, widower or surviving civil partner] at any such time as is mentioned in subsection (2)(c) shall be an amount not less—

- (a) in a case where by virtue of section 73(2)(b) a pension is provided by way of complete substitute for short service benefit or, as the case may be, for [<sup>1</sup>widow's, widower's or surviving civil partner's] pension, that the weekly rate of that pension; and
- (b) in any other case, than the relevant aggregate.

*S. 87(3) is modified in certain circumstances by reg. 3(2)(a) of S.I. 1991/166 (Contracting-out, Protection of Pensions).*

(4) In subsection (3) “the relevant aggregate” means the aggregate of the following—

- (a) the relevant sum;
- (b) the excess mentioned in subsection (1)(c) or, as the case may be, subsection (2)(c);
- (c) any amount which is an appropriate addition at the time in question; and
- (d) where the scheme provides that part of the earner's or, as the case may be, the [<sup>1</sup>widow's, widower's or surviving civil partner's] pension shall accrue after the cessation date by reason of the earner's employment after that date, the later earnings addition.

(5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before 1st January 1985, they are to be disregarded for the purposes of subsections (1)(c), (2)(c) and (4)(b).

*S. 87(5) is modified for certain purposes by reg. 7 of S.I. 1991/166 (Contracting-out, Protection of Pensions).*

(6) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.

(7) This section does not apply to a pension to which a person is entitled in respect of employment if—

- (a) the earner left the employment or left it for the last time before 1st January 1985; or
- (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him before that date.

**88.—(1)** For the purposes of this Chapter “the relevant sum” means—

The relevant sum.

- (a) in a case where subsection (1) of section 87 applies—
- (i) if the earner reaches normal pension age on or before the cessation date, an amount equal to the weekly rate of his pension on the day after the cessation date; and
- (ii) if he reaches normal pension age after the cessation date, an amount equal to the weekly rate of any short service benefit which has accrued to him on the cessation date or, where no such benefit has then accrued, any other benefit to which this sub-paragraph applies and which has then accrued to him; and

<sup>1</sup> Words in s. 87(2)(c), (3), (3)(a) & (4)(d) substituted (5.12.05) by para. 18 of Sch. 1 to S.I. 2005/2050.

## PENSION SCHEMES ACT 1993 (c. 48)

### S. 88-90

- (b) in a case where subsection (2) of that section applies, an amount equal to the weekly date at which, on the prescribed assumptions, a pension would have begun to be paid to the [1widow, widower or surviving civil partner] if that person had satisfied the conditions for entitlement to a pension which are specified in the scheme.

*S. 88(1) is modified for certain purposes by regs. 2-4 of S.I. 1991/166 (Contracting-out, Protection of Pensions), and assumptions are prescribed for purposes of s. 88(1)(b) by reg. 5 ibid.*

(2) Paragraph (a) of subsection (1) has effect subject to subsection (5) and to sections 87(5) and 91(1), and paragraph (b) of subsection (1) has effect subject to section 87(5).

(3) The benefit other than short service benefit to which subsection (1)(a)(ii) applies is benefit—

- (a) which would have been provided as either the whole or part of the earner's short service benefit; or
- (b) of which the earner's short service benefit would have formed part,

if section 71(1)(a) had effect with the substitution of a reference to the service which the earner had on the cessation date for the reference to 2 years' qualifying service.

(4) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if section 71(1) had effect as mentioned in subsection (3).

(5) If the payment of any part of the earner's pension is postponed beyond the cessation date the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the cessation date if there had been no such postponement.

The appropriate addition.

**89.—**(1) For the purposes of this Chapter "appropriate addition" means—

- (a) where a scheme provides that part of an earner's or, as the case may be, a [2widow's, widower's or surviving civil partner's] pension shall accrue after the cessation date by reason of the earner's employment after that date, an amount equal to the part which has so accrued; and
- (b) where a scheme provides that an earner's or, as the case may be, a [2widow's, widower's or surviving civil partner's] pension which has accrued before that date shall be enhanced after that date if payment of the earner's pension is postponed, the amount by which the unguaranteed element of the pension has been enhanced by reason of the postponement.

(2) For the purposes of subsection (1)(b) the unguaranteed element of a pension is—

- (a) in the case of an earner's pension, the excess of the pension on the day after the cessation date over the earner's guaranteed minimum on that day; and
- (b) in the case of the [2widow's, widower's or surviving civil partner's] pension, the excess of that pension on that day over one half of the earner's guaranteed minimum on that day.

The later earnings addition.

**90.—**(1) For the purposes of this Chapter "the later earnings addition" means the amount (if any) by which the assumed later unguaranteed element exceeds the unguaranteed element.

<sup>1</sup> Words in s. 88(1)(b) substituted (5.12.05) by paras. 19 & 20 of Sch. 1 to S.I. 2005/2050.

<sup>2</sup> Words in s. 89(1)(a), (b) & (2)(b) substituted (5.12.05) by paras. 19 & 20 of Sch. 1 to S.I. 2005/2050.

(2) In subsection (1)–

- (a) “the unguaranteed element” means the amount by which the relevant sum exceeds the earner’s guaranteed minimum on the day after his cessation date or, in the case of a [widow’s, widower’s or surviving civil partner’s] pension, one half of that minimum; and
- (b) “the assumed later unguaranteed element” means the amount by which the relevant sum would exceed the earner’s guaranteed minimum (or, in the case of a widow’s or widower’s pension, one half of that minimum) on the assumptions mentioned in subsection (3).

(3) The assumptions mentioned in subsection (2) are–

- (a) that the relevant sum were calculated on the basis that the weekly rate of the pension or benefit which determines that sum had been calculated by reference to the level of earnings by reference to which that rate would have been calculated if the earner’s cessation date had fallen on the earlier of–
  - (i) the earner’s commencement of payment date, or
  - (ii) the date on which the earner ceased to be in pensionable service under the scheme; and
- (b) that the earner’s guaranteed minimum were such sum as bears the same proportion to the assumed later unguaranteed element as the guaranteed minimum mentioned in subsection (2)(a) bears to the unguaranteed element.

*S. 90 is modified in certain circumstances by reg. 8 of S.I. 1991/166 (Contracting-out, Protection of Pensions).*

**91.—**(1) If–

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

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

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

(2) If–

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

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

**92.—**(1) In making any calculation for the purposes of this chapter–

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

the whole or part of a pension shall be disregarded.

Supplementary provisions.

<sup>1</sup> Words in s. 90(2)(a) substituted (5.12.05) by para. 21 of Sch. 1 to S.I. 2005/2050.

**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 92**

1975 c. 60.  
1992 c. 5.

(2) In calculating an earner's guaranteed minimum for the purposes of this Chapter his earnings factor shall be taken to be that factor as increased, except as provided by subsection (3), by the last order section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the tax year in which the cessation date falls.

(3) If an earner's cessation date falls in the tax year in which he attains pensionable age, subsection (2) shall have effect in relation to him as if for the words form "tax year" onwards there were substituted the words "final relevant year".

(4) In this section "final relevant year" has the same meaning as in section 16.

(5) Any reference in this Chapter to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.

CHAPTER IV  
TRANSFER VALUES

**93.—(1)** This Chapter applies—

Scope of Chapter IV.

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

[<sup>2</sup>(1ZA) In subsection (1), the references to benefits which have accrued does not include benefits which are attributable (directly or indirectly) to a pension credit.]

[<sup>3</sup>(1A) For the purposes of this section and the following provisions of this Chapter, an occupational pension scheme is salary related if—

- (a) the scheme is not a money purchase scheme, and
- (b) the scheme does not fall within a prescribed class.

(1B) Regulations may—

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description, or
- [<sup>4</sup>(aa) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;]
- (b) apply this Chapter with prescribed modifications to occupational pension schemes—
    - (i) which are not money purchase schemes, but
    - (ii) where some of the benefits that may be provided are money purchase benefits.]

(2) Any reference to a member of an occupational pension scheme or a personal pension scheme in the following provisions of this Chapter is a reference to a member of such a scheme to whom this Chapter applies.

[<sup>5</sup>**93A.—(1)** The trustees or managers of a salary related occupational pension scheme must, on the application of any member, provide the member with a written statement (in this Chapter referred to as a “statement of entitlement”) of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of him under the applicable rules.

Salary related schemes:  
right to statement of  
entitlement.

[<sup>6</sup>(1A) In subsection (1), the reference to benefits which have accrued does not include benefits which are attributable (directly or indirectly) to a pension credit.]

<sup>1</sup> S. 93(1)(a) substituted (6.4.97) by s. 152(2) of Pensions Act 1995 (c. 26).

<sup>2</sup> Subsec. (1ZA) inserted (1.12.00) into s. 93 by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 33.

<sup>3</sup> S. 93(1A) and (1B) inserted (6.4.97) by s. 152(3) of Pensions Act 1995 (c. 26).

<sup>4</sup> S. 93(1B) (aa) inserted (26.11.08) by the Pensions Act 2008 (c. 30), s. 134(2).

<sup>5</sup> S. 93A inserted (6.4.97) by s. 153 of Pensions Act 1995 (c. 26).

<sup>6</sup> Subsec. (1A) inserted in s. 93A (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, paras. 34-35.



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 93A-94

- (2) In this section—  
“the applicable rules” has the same meaning as in section 94;  
“the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
- (a) within the prescribed period beginning with the date of the application, and
  - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.

(3) Regulations may make provision in relation to applications for a statement of entitlement, including, in particular, provision as to the period which must elapse after the making of such an application before a member may make a further such application.

(4) If, in the case of any scheme, a statement of entitlement has not been provided under this section, section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to any trustee or manager who has failed to take all such steps as are reasonable to secure compliance with this section.]

Right to cash equivalent.

**94.**—(1) Subject to the following provisions of this Chapter—

- (a) a member of an occupational pension scheme [<sup>1</sup>other than a salary related scheme] acquires a right, when his pensionable service terminates [<sup>1</sup>(whether before or after 1st January 1986)], to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the applicable rules;
- [<sup>2</sup>(aa) a member of a salary related occupational pension scheme who has received a statement of entitlement and has made a relevant application within three months beginning with the guarantee date in respect of that statement acquires a right to his guaranteed cash equivalent]; and
- (b) a member of a personal pension scheme acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the rules of the scheme.

[<sup>3</sup>(1A) For the purposes of subsection (1)(aa), a persons’s “guaranteed cash equivalent” is the amount stated in the statement of entitlement mentioned in that subsection.]

[<sup>4</sup>(1B) In subsection (1), references to benefits which have accrued do not include benefits which are attributable (directly or indirectly) to a pension credit.]

- (2) In this section—  
[<sup>5</sup>“the applicable rules” means—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision;
  - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme; and
  - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with Chapter 1 of Part 4 of this Act;]
- [<sup>6</sup> “the guarantee date” has the same meaning as in section 93A (2)];  
“the relevant date” means, subject to regulations under section 98(4)—
- (a) the date of the relevant application, or
  - (b) in the case of an occupational pension scheme, if it is later, the termination date;

<sup>1</sup> Words inserted (6.4.97) in s. 94(1)(a) by s. 154(1) of Pensions Act 1995 (c. 26).

<sup>2</sup> S. 94(1)(aa) inserted (6.4.97) by s. 154(2) of Pensions Act 1995 (c. 26).

<sup>3</sup> S. 94(1A) inserted (6.4.97) by s. 154(3) of Pensions Act 1995 (c. 26).

<sup>4</sup> Subsec. (1B) inserted in s. 94 (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, paras. 34-35.

<sup>5</sup> Defn. of “the applicable rules” substituted (6.4.06) by the Pensions Act 2006 (c. 35), Sch. 12, para. 13(2).

<sup>6</sup> Defn. of “the guarantee date” inserted (6.4.97) in s. 94(2) by s. 154(4) of Pensions Act 1995 (c. 26).



*(Definition of “the relevant date” modified, in certain cases where employment continues after pensionable service in it has terminated, by S.I. 1985/1931, reg. 2C(3).)*

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

[<sup>1</sup>(2A) For the purposes of subsection (2)–

- (a) “relevant legislative provision” means any provision contained in any of the following provisions–
  - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
  - (ii) this Chapter or Chapters 2, 3 or 5 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
  - (iii) Part 4A of this Act or regulations made under that Part;
  - (iv) section 110(1) of this Act;
  - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
  - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);

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<sup>1</sup> Subsec. (2A) inserted in s. 94 (6.4.06) by the Pensions Act 2004 (c. 35), Sch. 12, para. 13(3).

- (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- [<sup>1</sup>(ix) regulation made under Schedule 18 to the Pensions Act 2014;]
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
  - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
  - (ii) section 129(1) of this Act;
  - (iii) section 117(1) of the Pensions Act 1995;
  - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
  - (v) section 306(1) of the Pensions Act 2004.]
- [<sup>1</sup>(vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;]

[<sup>2</sup>(3) Regulations may provide that, in prescribed circumstances, subsection (1)(aa) does not apply to members of salary related occupational pension schemes or applies to them with prescribed modifications.]

**95.—(1)** A member of an occupational pension scheme or a personal pension scheme who acquires a right to a cash equivalent under [<sup>3</sup>paragraph (a), (aa) or (b) of section 94(1)] may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent to which he has acquired a right in whichever of the ways specified in subsection (2), or, as the case may be, subsection (3) he chooses.

Ways of taking right to cash equivalent.

(2) In the case of a member of an occupational pension scheme, the ways referred to in subsection (1) are—

- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
  - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
  - (ii) which satisfies prescribed requirements;
- (b) for acquiring rights allowed under the rules of a personal pension scheme—
  - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
  - (ii) which satisfies prescribed requirements;
- (c) for purchasing from one or more [<sup>4</sup>insurers] such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
- (d) for subscribing to other pension arrangements which satisfy prescribed requirements.

(3) In the case of a member of a personal pension scheme, the ways referred to in subsection (1) are—

- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme—
  - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
  - (ii) which satisfies prescribed requirements;

<sup>1</sup> S. 94(2A)(a)(ix) & (b)(vii) inserted (11.9.14) by Sch. 18, para. 9(2)(a) of the Pensions Act 2014 (c. 19). (Awaiting commencement of Sch. 17 of the Pensions Act 2014 for the insertion of s. 94(2A)(a)(viii) & (b)(vi)).

<sup>2</sup> S. 94(3) inserted (6.4.97) by s. 154(5) of Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 95(1) substituted (6.4.97) by para. 3 of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>4</sup> In s. 95(2)(c) words substituted (1.12.01) by reg. 121 of S.I. 2001/3649.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 95-96**

- (b) for acquiring rights allowed under the rules of another personal pension scheme—
  - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
  - (ii) which satisfies prescribed requirements.
- (c) for subscribing to other pension arrangements which satisfy prescribed requirements.

(4) [...<sup>1</sup>]

- (5) Except in such circumstances as may be prescribed—
  - (a) subsection (2) is to be construed as if paragraph (d) were omitted; and
  - (b) subsection (3) is to be construed as if paragraph (c) were omitted.

(6) Without prejudice to the generality of subsections (2) and (3), the powers conferred by those subsections include power to provide that a scheme or pension arrangement or, in the case of subsection (2), an annuity must satisfy requirements of the Inland Revenue.

(7) A member of an occupational pension scheme may only exercise the right conferred by this section on or before the last option date.

- (8) In subsection (7) “the last option date” means, subject to regulations under section 98, the date which falls—
  - (a) one year before the date on which the member attains normal pension age; or
  - (b) six months after the termination date,whichever is the later.

*(Definition of “the last option date” modified, in certain cases where employment continues after pensionable service in it has terminated, by S.I. 1985/1931, reg. 2C(3).)*

(9) An application to the trustees or managers of the scheme under subsection (1) is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

Further provisions concerning exercise of option under s. 95.

**96.—**(1) A member may exercise the option conferred by subsection (1) of section 95 in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so—

- (a) in relation to the whole of his cash equivalent; or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).

- (2) This subsection applies where—
  - (a) the trustees or managers—
    - (i) of an occupational pension scheme which is not a contracted-out scheme, or
    - (ii) of a personal pension scheme [...<sup>2</sup>],[...<sup>3</sup>]

are able or willing to accept a transfer payment only in respect of a member’s rights other than his accrued rights to guaranteed minimum pensions

<sup>1</sup> Subsec. (4) ceased to have effect (1.1.01) by the Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 7.

<sup>2</sup> Words omitted in s. 96(2)(a)(ii) (26.9.07) by the Pensions Act 2007, (c. 22), Sch. 4, para. 29.

<sup>3</sup> Words in s. 96(2)(a) deleted (25.4.00) by s. 18 of the Welfare Reform and Pensions Act 1999 (c. 30).

[<sup>1</sup>his accrued rights so far as attributable to service in contracted-out employment on or after the principal appointed day] [...<sup>2</sup>]; and

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

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

- (a) in the case of a transfer from an occupational pension scheme, in respect of the member's and the member's [<sup>3</sup>widow's, widower's or surviving civil partner's (as the case may be)], [<sup>4</sup>pensions, being] guaranteed minimum pensions [<sup>4</sup>or pensions so far as attributable to service in contracted-out employment on or after the principal appointed day] [...<sup>2</sup>]

[<sup>5</sup>(4) Where a member of an occupational pension scheme or a personal pension scheme—

- (a) is entitled to give a notice under section 101F (1) to the trustees or managers of the scheme, or
- (b) would be entitled to do so, but for section 101G (1),

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

**97.—(1)** Cash equivalents are to be calculated and verified in the prescribed manner.

Calculation of cash equivalents.

(2) Regulations may provide—

- (a) that in calculating cash equivalents [<sup>6</sup>except guaranteed cash equivalents] account shall be taken—
  - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under section 95;
  - (ii) in a case where subsection (2) of section 96 applies, of the need to deduct an appropriate amount to provide for the liabilities mentioned in subsection (3) of that section; and
- (b) that in prescribed circumstances a cash equivalent shall be increased or reduced.

(3) Without prejudice to the generality of subsection (2) the circumstances that may be specified by virtue of paragraph (b) of that subsection include—

- (a) in the case of an occupational pension scheme, the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Chapter or regulations made under it;
  - (b) failure by the trustees or managers of the scheme to do what is needed to carry out what a member of the scheme requires within 6 months of [<sup>7</sup>the appropriate date];
- and

<sup>1</sup> Words inserted (6.4.97) in s. 96(2)(a) by para. 63(a) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>2</sup> In s. 96 words omitted in (2)(a), (b) & (3)(a) & (3)(b) omitted (6.4.12), art. 5(14).

<sup>3</sup> Words in s. 96(3)(a) substituted (5.12.05) by para. 13 of the Sch. to S.I. 2005/2053.

<sup>4</sup> Words inserted (6.4.97) in s. 96(3)(a), effecting the substitution required by para. 63(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>5</sup> Subsec. (4) inserted in s. 96 (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 36.

<sup>6</sup> Words inserted (6.4.97) in s. 97(2)(a) by para. 4(a) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>7</sup> Words substituted (6.4.97) in s. 97(3)(b) by para. 4(b) of Sch. 6 to Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 97-98

(c) the state of the funding of the scheme.

[<sup>1</sup>(3A) For the purposes of subsection (3), the “appropriate date”–

- (a) in the case of a salary related occupational pension scheme, is the guarantee date (within the meaning of section 93A), and
- (b) in any other case, is the date on which the trustees receive an application from the member under section 95.]

(4) Regulations under subsection (2) may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

Variation and loss of rights under s. 94.

**98.**—(1) Regulations may provide that a member of an occupational pension scheme [<sup>2</sup>other than a salary related scheme] who continues in employment to which the scheme applies after his pensionable service in that employment terminates–

- (a) only acquires a right to the cash equivalent of such part of the benefits specified in section 94(1) as may be prescribed; or
- (b) acquires no right to a cash equivalent.

[<sup>3</sup>(1A) Regulations may provide that a member of a salary related occupational pension scheme who continues in employment to which the scheme applies after his pensionable service in that employment terminates–

- (a) acquires a right to only part of his guaranteed cash equivalent, or
- (b) acquires no right to his guaranteed cash equivalent.]

(2) Regulations may provide for the purposes of subsection (1) [<sup>4</sup>or (1A)] that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.

(3) Regulations may provide that where–

- (a) by virtue of regulations under subsection (1) or (2), a member of an occupational pension scheme [<sup>5</sup>other than a salary related scheme] does not, on the termination of his pensionable service in an employment to which a scheme applies, acquire a right at the relevant date to the cash equivalent of the whole or a part of the benefits specified in section 94(1);

[<sup>6</sup>or

- (aa) by virtue of regulations under subsection (1A) or (2), a member of a salary related occupational pension scheme does not, on such a termination, acquire a right to the whole or any part of his guaranteed cash equivalent, and his employment terminates at least one year before normal pension age] that right shall accrue to him on the date when that employment terminates and be valued accordingly.

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

- (a) a new definition of “the relevant date” for the definition in section 94(2); and
- (b) a new definition of “the last option date” for the definition in section 95(8).

(5) Where the whole or any part of the [<sup>7</sup>relevant] benefits payable to a member of a personal pension scheme under the scheme have become payable on or before the relevant date, the right which he acquires under section 94 is only to the cash equivalent of [<sup>7</sup>benefits] which have not become payable.

(6) A member of an occupational pension scheme or a personal pension scheme loses the right to any cash equivalent under this Chapter if the scheme is wound up.

<sup>1</sup> S. 97(3A) inserted (6.4.97) by para. 4(c) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>2</sup> Words inserted (6.4.97) in s. 98(1) by para. 5(a) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>3</sup> S. 98(1A) inserted (6.4.97) by para. 5(b) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>4</sup> Words inserted (6.4.97) in s. 98(2) by para. 5(c) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>5</sup> Words inserted (6.4.97) in s. 98(3)(a) by para. 5(d)(i) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>6</sup> Words and para. (aa) substituted (6.4.97) for word and para. (b) in s. 98(3) by para. 5(d)(ii) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>7</sup> Words inserted and substituted in s. 98(5) & (8) (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 37.



(7) A member of an occupational pension scheme also loses that right [if] [...<sup>1</sup>]

- (b) he fails to exercise the option conferred by section 95 on or before the last option date (within the meaning of subsection (7) of that section).

(8) In this section [“relevant benefits” means any benefits not attributable (directly or indirectly) to a pension credit; and] “the relevant date” has the same meaning as in section 94(2.)

**99.—(1) Where—**

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

Trustees’ duties after exercise of option.

the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 96(2), to the extent that an obligation to provide such guaranteed minimum pensions [...<sup>3</sup>] continues to subsist.

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

- [<sup>4</sup>(a) in the case of a member of a salary related occupational pension scheme, within 6 months of the guarantee date, or (if earlier) by the date on which the member attains normal pension age,  
 (b) in the case of a member of any other occupational pension scheme, within 6 months of the date on which they receive the application, or (if earlier) by the date on which the member attains normal pension age, or  
 (c) in the case of a member of a personal pension scheme, within 6 months of the date on which they receive the application.]

(3) If—

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

then, subject to the following provisions of this section, they must instead do so before the end of that period of 3 months.

[<sup>5</sup>(3A) In this section, “guarantee date” has the same meaning as in section 93A.]

[<sup>6</sup>(4) The Regulatory Authority may, in prescribed circumstances, [<sup>7</sup>by direction] grant an extension of the period within which the trustees or managers of the scheme are obliged to do what is needed to carry out what a member of the scheme requires.

<sup>1</sup> Words in s. 98(7) inserted & para. (a) ceases to have effect (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 8(2).

<sup>2</sup> Words inserted and substituted in s. 98(5) & (8) (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 37.

<sup>3</sup> Words omitted in s 99(1) (6.4.12) by 2011/1730, art. 5(15).

<sup>4</sup> S. 99(2)(a), (b) and (c) substituted (6.4.97) for s. 99(2)(a) and (b) by para. 6(a) of Sch. 6 to Pensions Act 1995 c. 26.

<sup>5</sup> S. 99(3A) inserted (6.4.97) by para. 6(b) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>6</sup> S. 99(4) and (4A) substituted (6.4.97) for s. 99(4) and (5) by para. 6(c) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>7</sup> Words inserted in s. 99(4) (6.4.06) by para. 14 of Sch. 12 to Pensions Act 2004 (c. 35).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 99-101AA**

(4A) Regulations may make provision [<sup>1</sup> requiring applications for extensions under subsection (4).]

*(There will no longer be a subsection (5).)*

(6) .....repealed by 2004 c. 35, see Annex 1, p. 5.1701.

[<sup>2</sup>(7) Where the trustees or managers of an occupational pension scheme have not done what is needed to carry out what a member of the scheme requires within six months of the date mentioned in paragraph (a) or (b) of subsection (2)–

- (a) they must, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
- (b) section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that it was so done.

(8) Regulations may provide that in prescribed circumstances subsection (7) shall not apply in relation to an occupational pension scheme.]

Withdrawal of applications.

**100.**—(1) Subject to [<sup>3</sup>subsections (2) and (2A)], a member of a scheme may withdraw an application under section 95 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.

(2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in subsection (2) or, as the case may be, subsection (3) of section 95.

[<sup>4</sup>(2A) if the making of the application depended on the giving of a notice under section 101F (1), the application may only be withdrawn if the notice is also withdrawn.]

(3) A member who withdraws an application may make another.

(4) A notice to the trustees or managers of a scheme under this section is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

Supplementary provisions.

**101.** In making any calculation for the purposes of this Chapter–

- (a) any charge or lien on, and
- (b) any set-off against,

the whole or part of a pension shall be disregarded.

[<sup>5</sup>CHAPTER 5

EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS

Scope of Chapter 5

**101AA.**—(1) This Chapter applies to any member of an occupational pension scheme to which Chapter 1 applies (see section 69(3)) if–

- (a) his pensionable service terminates before he attains normal pension age, and
- (b) on the date on which his pensionable service terminates–
  - (i) the three month condition is satisfied, but
  - (ii) he does not have relevant accrued rights to benefit under the scheme.

<sup>1</sup> Words substituted in s. 99(4A) (6.4.06) by para. 14 of Sch. 12 to Pensions Act 2004 (c. 35).

<sup>2</sup> S. 99(7) and (8) added (6.4.97) by para. 6(e) of Sch. 6 to Pensions Act 1995 (c. 26).

<sup>3</sup> Words substituted (1.12.00) in s. 100(1) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 38(2).

<sup>4</sup> Subsec. (2A) inserted (1.12.00) in s. 100 by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 38(3).

<sup>5</sup> Ss. 101AA-101AI inserted (1.1.06 for reg. making purposes, 6.4.06 for all other purposes) by Pensions Act 2004 (c. 35), s. 264.

(2) For the purposes of subsection (1), the three month condition is that the period of the member's pensionable service under the scheme, taken together with—

- (a) any previous period of his pensionable service under the scheme, and
- (b) any period throughout which he was employed in linked qualifying service under another scheme,

amounts to at least three months.

(3) A period counts for the purposes of paragraph (a) or (b) of subsection (2) only so far as it counts towards qualification for long service benefit within the meaning of Chapter 1.

(4) For the purposes of subsection (1), “relevant accrued rights to benefit under the scheme”, in relation to a member of a scheme, means rights which—

- (a) have accrued to or in respect of him under the scheme, and
- (b) entitle him to the relevant benefits which would have accrued to or in respect of him under the applicable rules if paragraphs (a) and (b) of section 71(1) (and the word “and” immediately preceding them) did not have effect.

(5) References in the following provisions of this Chapter to a member, in relation to an occupational pension scheme, are to a member of the scheme to whom this Chapter applies.

**101AB.**—(1) On the termination of his pensionable service, a member of an occupational pension scheme acquires a right to whichever one he elects of the following options—

Right to cash transfer sum and contribution refund

- (a) a cash transfer sum;
- (b) a contribution refund.

(2) Subsection (1) is subject to the following provisions of this Chapter.

(3) In this Chapter “cash transfer sum” means, in relation to a member of an occupational pension scheme, the cash equivalent, at the date on which his pensionable service terminates, of the benefits mentioned in section 101AA(4)(b).

(4) In this Chapter, “contribution refund” means, in relation to a member of an occupational pension scheme, a sum representing the aggregate of—

- (a) the member's employee contributions to the scheme, and
- (b) where transfer credits have been allowed to the member under the scheme by virtue of a payment (“the transfer payment”) made by the trustees or managers of another occupational pension scheme, the member's employee contributions to that other scheme, so far as they—
  - (i) relate to the transfer payment, and
  - (ii) do not, in aggregate, exceed the amount of the transfer payment.

(5) In subsection (4), “employee contributions” means, in relation to a member of an occupational pension scheme, contributions made to the scheme by or on behalf of the member on his own account, but does not include—

- (a) a transfer payment by virtue of which transfer credits have been allowed to the member under the scheme, or
- (b) any pension credit or amount paid to the scheme which is attributable (directly or indirectly) to a pension credit.

**101AC.**—(1) This section applies where the pensionable service of a member of an occupational pension scheme has terminated.

Notification of right to cash transfer sum or contribution refund

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 101AB-101AE**

- (2) The trustees or managers of the scheme must—
- (a) within a reasonable period after the termination give the member a statement in writing containing information adequate to explain—
    - (i) the nature of the right acquired by him under section 101AB, and
    - (ii) how he may exercise the right,and such other information as may be prescribed, and
  - (b) afford the member a reasonable period after giving him that statement within which to exercise the right.
- (3) The statement given under subsection (2)(a) must specify, in particular—
- (a) in relation to the cash transfer sum to which the member acquires a right under section 101AB, its amount and the permitted ways in which the member can use it,
  - (b) the amount of the contribution refund to which the member so acquires a right, and
  - (c) the last day on which the member may, disregarding section 101AI(2), exercise the right (“the reply date”).
- (4) Information which may be prescribed under subsection (2)(a) includes, in particular—
- (a) information about any tax liability in respect of, or deduction required or permitted to be made from, the cash transfer sum or contribution refund, and
  - (b) information about the effect on other rights of the member (whether under the applicable rules or otherwise) of exercising the right.
- (5) The trustees or managers may notify the member that, if he does not exercise the right mentioned in subsection (2)(a)(i) on or before the reply date, the trustees or managers will be entitled to pay the contribution refund to him.
- (6) Where the trustees or managers of the scheme fail to comply with subsection (2), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

Exercise of right under section 101AB

**101AD.**—(1) This section applies where a member of an occupational pension scheme acquires a right under section 101AB.

- (2) The member may exercise the right by giving a notice in writing to that effect to the trustees or managers stating—
- (a) which of the options under section 101AB(1) he elects, and
  - (b) if he elects for the cash transfer sum, the permitted way in which he requires that sum to be used.
- (3) The notice under subsection (2) must be given on or before—
- (a) the reply date, or
  - (b) such later date as the trustees or managers may allow in his case under section 101AI(2).

Permitted ways of using cash transfer sum

**101AE.**—(1) This section applies in relation to a cash transfer sum to which a member of an occupational pension scheme acquires a right under section 101AB.

- (2) The ways in which the cash transfer sum may be used are—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
    - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and

- (ii) which satisfies prescribed requirements,
- (b) for acquiring rights allowed under the rules of a personal pension scheme—
  - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and
  - (ii) which satisfies prescribed requirements,
- (c) for purchasing one or more appropriate annuities,
- (d) in such circumstances as may be prescribed, for subscribing to other pension arrangements which satisfy prescribed requirements.

(3) For the purposes of subsection (2), “appropriate annuity” means an annuity which satisfies prescribed requirements and is purchased from an insurer who—

- (a) falls within section 19(4)(a),
- (b) is chosen by the member, and
- (c) is willing to accept payment on account of the member from the trustees or managers of the scheme.

**101AF.**—(1) Cash transfer sums are to be calculated and verified in the prescribed manner.

Calculation of cash transfer sum and contribution refund

(2) Any calculation of a contribution refund must conform with such requirements as may be prescribed.

(3) Regulations may provide—

- (a) for amounts to be deducted in respect of administrative costs in calculating cash transfer sums;
- (b) for a cash transfer sum or contribution refund to be increased or reduced in prescribed circumstances.

(4) The circumstances that may be prescribed under subsection (3)(b) include in particular—

- (a) a failure by the trustees or managers of the scheme to comply with section 101AG(2) or (4) in relation to the cash transfer sum or contribution refund, and
- (b) the state of funding of the scheme.

(5) Regulations under subsection (3)(b) may provide—

- (a) for a cash transfer sum to be reduced so that the member has no right to have any amount paid by way of cash transfer sum in respect of him;
- (b) for a contribution refund to be reduced so that the member has no right to receive any amount by way of contribution refund under this Chapter.

**101AG.**—(1) This section applies where a member of an occupational pension scheme has exercised a right under section 101AB in accordance with section 101AD.

Duties of trustees or managers following exercise of right

(2) Where the member has elected for the cash transfer sum, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to carry out the requirement specified in the member’s notice under section 101AD(2)(b).

(3) When the trustees or managers have done what is needed to carry out that requirement, they are discharged from any obligation—

- (a) in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
- (b) to make any other payment by way of refund to or in respect of the member of, or in respect of—
  - (i) the contributions, or any payment, mentioned in section 101AB(4), or

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 101AG-101AI**

- (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit).

(4) Where the member has elected for the contribution refund, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to secure that the amount of the contribution refund is paid to the member or as he directs.

(5) When the trustees or managers have done what is needed to secure the payment of the contribution refund as mentioned in subsection (4)–

- (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
- (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of–
  - (i) the contributions, or any payment, mentioned in section 101AB(4), or
  - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),

the amount of the contribution refund may be set off against the refund payment.

(6) Where the trustees or managers fail to comply with subsection (2) or (4), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

Powers of trustees or managers where right not exercised

**101AH.**—(1) This section applies where–

- (a) a member of an occupational pension scheme does not exercise a right acquired by him under section 101AB on or before the reply date or such later date as the trustees or managers of the scheme allow in his case under section 101AI(2), and
- (b) the trustees or managers of the scheme have notified the member as mentioned in section 101AC(5).

(2) The trustees or managers may within a reasonable period beginning with–

- (a) the reply date, or
- (b) if a later date has been allowed as mentioned in subsection (1), that later date,

pay the contribution refund to the member.

(3) When the trustees or managers have paid the contribution refund to the member–

- (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
- (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of–
  - (i) the contributions, or any payment, mentioned in section 101AB(4), or
  - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),

the amount of the contribution refund may be set off against the refund payment.

Rights under section 101AB: further provisions

**101AI.**—(1) A member of an occupational pension scheme loses any right acquired by him under section 101AB–



- (a) if the scheme is wound up, or
- (b) subject to subsection (2), if he fails to exercise the right on or before the reply date.

(2) If the member has failed to exercise any such right on or before the reply date, the trustees or managers of the scheme may allow him to exercise it on or before such later date as they may determine on the application of the member.

- (3) Where the trustees or managers determine a later date under subsection (2)–
  - (a) they must give a notice in writing to that effect to the member, and
  - (b) subsection (1)(b) applies in relation to the member as if the reference to the reply date were a reference to the later date.

(4) For the purposes of subsection (3) and sections 101AC(2) and 101AD(2), a document or notice may be given to a person–

- (a) by delivering it to him,
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address.

(5) For the purposes of subsection (4), and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to that subsection, the proper address of a person is–

- (a) in the case of a body corporate, the address of the registered or principal office of the body, and
- (b) in any other case, the last known address of the person.

(6) This Chapter is subject to any provision made by or under section 61 (deduction of contributions equivalent premium from refund of scheme contributions)–

- (a) permitting any amount to be deducted from any payment of a contribution refund, or
- (b) requiring the payment of a contribution refund to be delayed.

(7) In this Chapter, except where the context otherwise requires, the following expressions have the following meanings–

“the applicable rules” means–

- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of this Part;

“member” has the meaning given in section 101AA(5);

“permitted way”, in relation to a cash transfer sum, means any of the ways specified in section 101AE(2) in which the sum may be used;

“relevant benefits” means benefits which are not attributable (directly or indirectly) to a pension credit;

“reply date”, in relation to a member whose pensionable service has terminated, has the meaning given in section 101AC(3)(c).

(8) For the purposes of subsection (7)–

- (a) “relevant legislative provision” means any provision contained in any of the following provisions–
  - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
  - (ii) this Chapter or Chapter 2, 3 or 4 of this Part of this Act or regulations made under this Chapter or any of those Chapters;



**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 10AI-101C**

- (iii) Part 4A of this Act or regulations made under that Part;
- (iv) section 110(1) of this Act;
- (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
- (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
- (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- [<sup>1</sup>(ix) regulation made under Schedule 18 to the Pensions Act 2014;]
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
  - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
  - (ii) section 129(1) of this Act;
  - (iii) section 117(1) of the Pensions Act 1995;
  - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
  - (v) section 306(1) of the Pensions Act 2004.]
  - [<sup>1</sup>(vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;]

**[<sup>2</sup>PART IVA  
REQUIREMENTS RELATING TO PENSION CREDIT  
BENEFIT  
CHAPTER I**

**PENSION CREDIT BENEFIT UNDER OCCUPATIONAL SCHEMES**

Scope of Chapter I.

**101A.**—(1) This Chapter applies to any occupational pension scheme whose resources are derived in whole or part from—

- (a) payments to which subsection (2) applies made or to be made by one or more employers of earners to whom the scheme applies, or
- (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

(2) This subsection applies to payments—

- (a) under an actual or contingent legal obligation, or
- (b) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money.

Interpretation.

**101B.** In this Chapter—

“scheme” means an occupational pension scheme to which this Chapter applies; “pension credit rights” means rights to future benefits under a scheme which are attributable (directly or indirectly) to a pension credit; “pension credit benefit”, in relation to a scheme, means the benefits payable under the scheme to or in respect of a person by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit; “normal benefit age”, in relation to a scheme, means the earliest age at which a person who has pension credit rights under the scheme is entitled to receive a pension by virtue of those rights (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise).

Basic principle as to pension credit benefit.

**101C.**—(1) Normal benefit age under a scheme must be between 60 and 65.

<sup>1</sup> S. 10IAI(8)(a)(ix) and (b)(vii) inserted (11.9.14) by Sch. 18, para. 9(3)(a) & (b) of the Pensions Act 2014 (c. 19). Awaiting commencement of Sch. 17 of the Pensions Act 2014 for the insertion of s. 10IAI(8)(a)(viii) and (b)(vi).

<sup>2</sup> Part IVA inserted (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), s. 37.

(2) A scheme must not provide for payment of pension credit benefit in the form of a lump sum at any time before normal benefit age, except in such circumstances as may be prescribed.

**101D.**—(1) Subject to subsection (2) and section 101E, a person’s pension credit benefit under a scheme must be—

Form of pension credit benefit and its alternatives.

- (a) payable directly out of the resources of the scheme, or
- (b) assured to him by such means as may be prescribed.

(2) Subject to subsections (3) and (4), a scheme may, instead of providing a person’s pension credit benefit, provide—

- (a) for his pension credit rights under the scheme to be transferred to another occupational pension scheme or a personal pension scheme with a view to acquiring rights for him under the rules of the scheme, or
- (b) for such alternatives to pension credit benefit as may be prescribed.

(3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter II of this Part.

(4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for pension credit benefit—

- (a) if the person entitled to the benefit consents, or
- (b) in such other cases as may be prescribed.

**101E.**—(1) A transaction to which section 19 applies discharges the trustees or managers of a scheme from their liability to provide pension credit benefit or any alternative to pension credit benefit for or in respect of a member of the scheme if and to the extent that—

Discharge of liability where pension credit or alternative benefits secured by insurance policies or annuity contracts.

- (a) it results in pension credit benefit, or any alternative to pension credit benefit, for or in respect of the member being appropriately secured (within the meaning of that section),
- (b) the transaction is entered into with the consent of the member or, if the member has died, of the member’s widow or widower [<sup>1</sup>or surviving civil partner], and
- (c) such requirements as may be prescribed are met.

(2) Regulations may provide that subsection (1)(b) shall not apply in prescribed circumstances.

## CHAPTER II

### TRANSFER VALUES

**101F.**—(1) An eligible member of a qualifying scheme may by notice in writing require the trustees or managers of the scheme to use an amount equal to the cash equivalent of his pension credit benefit for such one or more of the authorised purposes as he may specify in the notice.

Power to give transfer notice.

(2) In the case of a member of an occupational pension scheme, the authorised purposes are—

- (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme,
- (b) to purchase from one or more [<sup>2</sup>insurers] such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy the prescribed requirements, and

<sup>1</sup> Words inserted in s. 101E (5.12.05) by the Civil Partnership Act 2004 (c. 33), Sch. 27, para. 79.

<sup>2</sup> In s. 101F(2)(b) words substituted (1.12.01) by s. 122 of S.I. 2001/3649.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 101F-101H**

- (c) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.

(3) In the case of a member of a personal pension scheme, the authorised purposes are—

- (a) to acquire rights allowed under the rules of an occupational pension scheme, or personal pension scheme, which is an eligible scheme, and
- (b) in such circumstances as may be prescribed, to subscribe to other pension arrangements which satisfy prescribed requirements.

(4) The cash equivalent for the purposes of subsection (1) shall—

- (a) in the case of a salary related occupational pension scheme, be taken to be the amount shown in the relevant statement under section 101H, and
- (b) in any other case, be determined by reference to the date the notice under that subsection is given.

(5) The requirements which may be prescribed under subsection (2) or (3) include, in particular, requirements of the Inland Revenue.

(6) In subsections (2) and (3), references to an eligible scheme are to a scheme—

- (a) the trustees or managers of which are able and willing to accept payment in respect of the member's pension credit rights, and
- (b) which satisfies the prescribed requirements.

[(6A) Regulations may provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description.]

(7) In this Chapter, “transfer notice” means a notice under subsection (1).

Restrictions on power to give transfer notice.

**101G.**—(1) In the case of a salary related occupational pension scheme, the power to give a transfer notice may only be exercised if—

- (a) the member has been provided with a statement under section 101H, and
- (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.

(2) The power to give a transfer notice may not be exercised in the case of an occupational pension scheme if—

- (a) there is less than a year to go until the member reaches normal benefit age, or
- (b) the pension to which the member is entitled by virtue of his pension credit rights, or benefit in lieu of that pension, or any part of it has become payable.

(3) Where an eligible member of a qualifying scheme—

- (a) is entitled to make an application under section 95 to the trustees or managers of the scheme, or
- (b) would be entitled to do so, but for the fact that he has not received a statement under section 93A in respect of which the guarantee date is sufficiently recent,

he may not, if the scheme so provides, exercise the power to give them a transfer notice unless he also makes an application to them under section 95.

(4) The power to give a transfer notice may not be exercised if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.

Salary related schemes: statements of entitlement.

**101H.**—(1) The trustees or managers of a qualifying scheme which is a salary related occupational pension scheme shall, on the application of an eligible member, provide him with a written statement of the amount of the cash equivalent of his pension credit benefit under the scheme.

(2) For the purposes of subsection (1), the amount of the cash equivalent shall be determined by reference to a date falling within—

- (a) the prescribed period beginning with the date of the application, and

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<sup>1</sup> S. 101F(6A) inserted (26.11.08) by the Pensions Act 2008, s. 134(3).

(b) the prescribed period ending with the date on which the statement under that subsection is provided to the applicant.

(3) Regulations may make provision in relation to applications under subsection (1) and may, in particular, restrict the making of successive applications.

(4) If trustees or managers to whom subsection (1) applies fail to perform an obligation under that subsection, section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to secure that the obligation was performed.

**101I.** Cash equivalents for the purposes of this Chapter shall be calculated and verified in the prescribed manner.

Calculation of cash equivalents.

**101J.**—(1) Trustees or managers of a qualifying scheme who receive a transfer notice shall comply with the notice—

Time for compliance with transfer notice.

- (a) in the case of an occupational pension scheme, within 6 months of the valuation date or, if earlier, by the date on which the member to whom the notice relates reaches normal benefit age, and
- (b) in the case of a personal pension scheme, within 6 months of the date on which they receive the notice.

(2) The Regulatory Authority may, in prescribed circumstances, [1by direction] extend the period for complying with the notice.

(3) ..... repealed by 2004 c. 35, see Annex 1, p. 5.1701.

(4) Where the trustees or managers of an occupational pension scheme have failed to comply with a transfer notice before the end of the period for compliance—

- (a) they shall, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
- (b) section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the notice was complied with before the end of the period for compliance.

(5) If trustees or managers to whom subsection (4)(a) applies fail to perform the obligation imposed by that provision, section 10 of the Pensions Act 1995 shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that the obligation was performed.

(6) Regulations may—

- (a) make provision [1requiring applications for extensions under subsection (2) to meet prescribed requirements], and
- (b) provide that subsection (4) shall not apply in prescribed circumstances.

(7) In this section, “valuation date”, in relation to a transfer notice given to the trustees or managers of an occupational pension scheme, means—

- (a) in the case of a salary related scheme, the date by reference to which the amount shown in the relevant statement under section 101H is determined, and
- (b) in the case of any other scheme, the date the notice is given.

**101K.**—(1) Subject to subsections (2) and (3), a person who has given a transfer notice may withdraw it by giving the trustees or managers to whom it was given notice in writing that he no longer requires them to comply with it.

Withdrawal of transfer notice.

(2) A transfer notice may not be withdrawn if the trustees or managers have already entered into an agreement with a third party to use the whole or part of the amount they are required to use in accordance with the notice.

<sup>1</sup> Words inserted in s. 101J(2) & substituted in s. 101J(6) (6.4.06) by The Pensions Act 2006 (c. 35), Sch. 12, para. 15.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 101K-101P

- (3) If the giving of a transfer notice depended on the making of an application under section 95, the notice may only be withdrawn if the application is also withdrawn.
- Variation of the amount required to be used. **101L.**—(1) Regulations may make provision for the amount required to be used under section 101F(1) to be increased or reduced in prescribed circumstances.
- (2) Without prejudice to the generality of subsection (1), the circumstances which may be prescribed include—
- (a) failure by the trustees or managers of a qualifying scheme to comply with a notice under section 101F(1) within 6 months of the date by reference to which the amount of the cash equivalent falls to be determined, and
  - (b) the state of funding of a qualifying scheme.
- (3) Regulations under subsection (1) may have the effect of extinguishing an obligation under section 101F(1).
- Effect of transfer on trustees' duties. **101M.** Compliance with a transfer notice shall have effect to discharge the trustees or managers of a qualifying scheme from any obligation to provide the pension credit benefit of the eligible member who gave the notice.
- Matters to be disregarded in calculations. **101N.** In making any calculation for the purposes of this Chapter—
- (a) any charge or lien on, and
  - (b) any set-off against,
- the whole or part of a pension shall be disregarded.
- Service of notices. **101O.** A notice under section 101F(1) or 101K(1) shall be taken to have been given if it is delivered to the trustees or managers personally or sent by post in a registered letter or by recorded delivery service.
- Interpretation of Chapter II. **101P.**—(1) In this Chapter—
- “eligible member”, in relation to a qualifying scheme, means a member who has pension credit rights under the scheme;
  - “normal benefit age”, in relation to an eligible member of a qualifying scheme, means the earliest age at which the member is entitled to receive a pension by virtue of his pension credit rights under the scheme (disregarding any scheme rule making special provision as to early payment of pension on grounds of ill-health or otherwise);
  - “pension credit benefit”, in relation to an eligible member of a qualifying scheme, means the benefits payable under the scheme to or in respect of the member by virtue of rights under the scheme attributable (directly or indirectly) to a pension credit;
  - “pension credit rights”, in relation to a qualifying scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit;
  - “qualifying scheme” means a funded occupational pension scheme and a personal pension scheme;
  - “transfer notice” has the meaning given by section 101F(7).
- (2) For the purposes of this Chapter, an occupational pension scheme is salary related if—
- (a) it is not a money purchase scheme, and
  - (b) it does not fall within a prescribed class.
- (3) In this Chapter, references to the relevant statement under section 101H, in relation to a transfer notice given to the trustees or managers of a salary related occupational pension scheme, are to the statement under that section on which the giving of the notice depended.
- (4) For the purposes of this section, an occupational pension scheme is funded if it meets its liabilities out of a fund accumulated for the purpose during the life of the scheme.

**101Q.** Regulations may apply this Chapter with prescribed modifications to occupational pension schemes—  
 (a) which are not money purchase schemes, but  
 (b) where some of the benefits that may be provided are money purchase benefits.]

Power to modify Chapter II in relation to hybrid schemes.

**PART V**  
**ANNUAL INCREASES OF PENSIONS IN PAYMENT**  
**CHAPTER I**  
**PENSIONS UNDER FINAL SALARY SCHEMES**

**102–108.** . . . . . repealed by 1995 c. 26, see Annex 1, p. 5.1701

**CHAPTER II**  
**GUARANTEED MINIMUM PENSIONS**

**109.—(1)** The Secretary of State shall in each tax year review the general level of prices in great Britain for the period of 12 months commencing at the end of the period last reviewed under this section.

Annual increase of guaranteed minimum pensions.

(2) Where it appears to the Secretary of State that that level has increased at the end of the period under review, he shall lay before Parliament the draft of an order specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for—  
 [1the tax years in the relevant period]

for—

- (a) earners who have attained pensionable age; and
- (b) [2widows, widowers and surviving civil partners].

(3) The percentage shall be—

- (a) the percentage by which that level has increased at the end of the period under review; or
- (b) 3 per cent.,

whichever is less.

[3(3A)The relevant period is the period—

- (a) beginning with the tax year 1988-89, and
- (b) ending with the last tax year that begins before the principal appointed day for the purposes of Part III of the Pensions Act 1995].

(4) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.

(5) An order under this section shall be so framed as to bring the alterations to which it relates into force on the first day of the next tax year after that in which the order is made.

(6) Where the benefits mentioned in section 46(1) to (7) are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of that section as not taking effect until the day on which those benefits are next increased.

<sup>1</sup> Words in s. 109(2) substituted (4.2.97) by s. 55(a) of Pensions Act 1995 (c. 26).

<sup>2</sup> Words in s. 109(2)(b) substituted (5.12.05) by para. 22 of Sch. 1 to S.I. 2005/2050.

<sup>3</sup> S. 109(3A) inserted 4.2.97 by s. 55(b) of Pensions Act 1995 (c. 26).



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 110-111A

Requirement as to resources for annual increase of guaranteed minimum pensions.

**110.**—(1) Except as permitted by [sup>1]subsection (2) or (3)], [sup>2]section 53 of the Pensions Act 1995],

the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of section 109 out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—

- (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the next tax year; or
- (b) the payment is to a person as the [sup>3]widow, widower or surviving civil partner] of an earner who died before attaining pensionable age and is in respect of the tax year in which the person became a [sup>3]widow, widower or surviving civil partner] and the increase is the one required to be made in the next tax year.

[sup>4](2) Where in any tax year the trustees or managers of an occupational pension scheme make an increase otherwise than in pursuance of section 109, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under that section in the next tax year.

(3) Where in any tax year the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of section 109, they may deduct the part of the increase so made from any increase which, but for this subsection, they would be required to make under that section in the next year.

(4) Where by virtue of subsection (2) or (3) guaranteed minimum pensions are not required to be increased in pursuance of section 109, or not by the full amount that they otherwise would be, their amount shall be calculated for any purpose as if they had been increased in pursuance of that section or, as the case may be, by that full amount.]

## PART VI FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

### **111.** [...<sup>5</sup>]

Monitoring of employers' payments to personal pension schemes.

[sup>6]**111A.**—(1) This section applies where—

- (a) an employee is a member of a personal pension scheme; and
- (b) direct payment arrangements exist between the employee and his employer.

(2) In this section “direct payment arrangements” means arrangements under which contributions fall to be paid by or on behalf of the employer towards the scheme—

- (a) on the employer's own account (but in respect of the employee); or
- (b) on behalf of the employee out of deductions from the employee's earnings.

[sup>7](3) The trustees or managers of the scheme must monitor the payment of contributions by or on behalf of the employer under the direct payment arrangements.

<sup>4</sup> Words in s. 110(1) as continuing in force until prospective amendment by Pensions Act 1995 (c. 26).

<sup>5</sup> Words in s. 110(1) to be substituted (prosp.) by s. 53(4)(b) of Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 110(1)(b) substituted (5.12.05) by para. 23 of Sch. 1 to S.I. 2005/2050.

<sup>4</sup> S. 110(2)-(4) to be deleted (prosp.) by s. 53(4)(a) of, and Part I of Sch. 7 to Pensions Act 1995 (c. 26).

<sup>5</sup> S. 111 repealed (6.4.06) by The Pensions Act 2004 (c. 35), Sch. 13.

<sup>6</sup> Ss. 111A and 111B inserted (6.4.01) by the Welfare Reform and Pensions Act 1999 (c. 30) s. 9.

<sup>7</sup> Subsection (3)-(6) substituted for (3)-(6) (6.4.06) by The Pensions Act 2004 (c. 35), s. 268.



(4) The trustees or managers may request the employer to provide them (or arrange for them to be provided) with the payment information specified in the request.

(5) For the purposes of subsection (4) “payment information” is information required by the trustees or managers to enable them to discharge the duty imposed by subsection (3).

(6) The employer must comply with a request under subsection (4) within a reasonable period.

[<sup>1</sup>(7) Where, as a result of the employer’s failure to so comply, the trustees or managers are unable to discharge the duty imposed by subsection (3), they must give notice to that effect to the Regulatory Authority within a reasonable period.

(7A) Where—

- (a) a contribution payable under the direct payment arrangements has not been paid on or before its due date, and
  - (b) the trustees or managers have reasonable cause to believe that the failure to pay the contribution is likely to be of material significance in the exercise by the Regulatory Authority of any of their functions,
- they must give notice to that effect to the Regulatory Authority and the employee within a reasonable period after the due date.]

(8) If—

- (a) the employer fails to take all such steps as are reasonable to secure compliance with subsection (3) or (5), or
- (b) a contribution payable under the direct payment arrangements is not paid to the trustees or managers of the scheme on or before its due date,

section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to the employer.

(9) If subsection (6) or (7) is not complied with, section 10 of the Pensions Act 1995 applies to any trustee or manager of the scheme who has failed to take all such steps as are reasonable to secure compliance.

(10) [...<sup>2</sup>]

(11) A person shall not be required by virtue of subsection (8)(b) above to pay a penalty under section 10 of the Pensions Act 1995 in respect of a failure if in respect of that failure he has been—

- (a) required to pay a penalty under that section by virtue of section 3(7) of the Welfare Reform and Pensions Act 1999 (failures in respect of stakeholder pensions), or
- (b) convicted of an offence under subsection (12) below.

(12) A person is guilty of an offence if he is knowingly concerned in the fraudulent evasion of the direct payment arrangements so far as they are arrangements for the payment by him or any other person of any such contribution towards the scheme as is mentioned in subsection (2)(b).

(13) A person guilty of an offence under subsection (12) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine or both.

<sup>1</sup> Subsection (7)-(7A) substituted for (7) (6.4.06) by Pensions Act 2004 (c. 35), s. 268.

<sup>2</sup> Subsection (10) omitted (6.4.06) by Pensions Act 2004 (c. 35), Sch. 12, para. 16.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 111A-113**

(14) No prosecution shall be brought against the Crown for an offence under subsection (12), but that subsection applies to persons in the public service of the Crown as to other persons.

(15) In this section “due date”, in relation to a contribution payable under the direct payment arrangements, means—

- (a) if the contribution falls to be paid on the employer’s own account, the latest day under the arrangements for paying it;
- (b) if the contribution falls to be paid on behalf of the employee, the last day of a prescribed period.

(16) Regulations may provide for this section to apply with such modifications as may be prescribed in a case where—

- (a) the direct payment arrangements give effect to a requirement arising under subsection (5) of section 3 of the Welfare Reform and Pensions Act 1999 (deduction and payment of employee’s contributions to stakeholder scheme), and
- (b) in accordance with regulations under that subsection, that requirement is for the employer to pay contributions to a person prescribed by such regulations (instead of to the trustees or managers of the scheme).

(17) Nothing in this section shall be taken as varying the provisions of the direct payment arrangements or as affecting their enforceability.

[<sup>1</sup>(18) In this section, “employee” includes a jobholder within the meaning of section 1 of the Pensions Act 2008 and “employer” is to be read accordingly.]

**111B.** . . . . . *repealed by 2004 c. 35, see Annex 1 p. 5.1701*

**112.** . . . . . *repealed by 1995 c. 26, see Annex 1 p. 5.1701*

Disclosure of information about schemes to members etc.

**113.—(1)** The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme or a personal pension scheme with respect to keeping the persons mentioned in subsection (2) informed—

- (a) of its constitution;
- (b) of its administration and finances;
- (c) of the rights and obligations that arise or may arise under it;
- [<sup>2</sup>(ca) of the pensions and other benefits an entitlement to which would be likely to accrue to the member, or be capable of being secured by him, in respect of the rights that may arise under it, and]
- (d) of any other matters that appear to the Secretary of State to be relevant to occupational pension schemes or personal pension schemes in general or to schemes of a description to which the scheme in question belongs.

(2) The persons referred to in subsection (1) are—

- (a) members and, in the case of an occupational pension scheme, prospective members of the scheme;
- (b) spouses [<sup>3</sup>or civil partners] of members and, in the case of an occupational pension scheme, of prospective members;
- (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;

<sup>1</sup> S. 111A(18) inserted (3.1.12) by Pensions Act 2008 (c. 30), s. 49 (for reg. making purposes only).

<sup>2</sup> S. 113(1)(ca) inserted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, s. 52.

<sup>3</sup> Words in s. 113(2)(b) substituted (5.12.05) by para. 14 of the Sch. to S.I. 2005/2053.

- (d) in the case of an occupational pension scheme, independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.

[<sup>1</sup>(e) persons of prescribed descriptions.]

(3) Without prejudice to the generality of section 182(2), the regulations may distinguish between—

- (a) cases in which information is to be given as of course; and
- (b) cases in which information need only be given on request or in other prescribed circumstances.

[<sup>2</sup>(3A) The regulations may provide for the information that must be given to be determined, in whole or part, by reference to guidance which [<sup>3</sup>is prepared and from time to time revised by a prescribed body.]]

(4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d).

[<sup>4</sup>**113A.** Regulations may provide that, where—

- (a) a payment is made out of an occupational pension scheme to the trustees or managers of another occupational pension scheme, and
- (b) transfer credits are allowed to a member of that other scheme in respect of the payment,

Disclosure of information about transfers etc.

the trustees or managers of the first scheme must, in prescribed circumstances and in the prescribed manner, provide to the trustees or managers of the other scheme prescribed information relating to the payment.]

**114.** . . . . . repealed by 1995 c. 26, see Annex 1, p. 5.1701

**115.—**(1) If the trustees or managers of an occupational pension scheme or a personal pension scheme, having made default in complying with regulations under section 113 or 114(1)(b), fail to make good the default within 14 days after the service on them of a notice requiring them to do so, an order may be made under this subsection.

Powers as respects failure to comply with information requirements.

(2) The Secretary of State may by regulations specify forms for notices under subsection(1).

(3) An order under subsection (1) is an order directing the trustees or managers to make good the default within such time as may be specified in the order.

(4) The power to make such an order shall be exercisable by the appropriate court on the application of any person mentioned in subsection (5).

(5) The persons referred to in subsection(4) are—

- (a) the Secretary of State;
- (b) any person authorised by the Secretary of State to make an application under this section; and
- (c) any aggrieved person.

(6) In this section “the appropriate court” means—

- (a) in England and Wales, a county court; and
- (b) in Scotland, the sheriff.

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<sup>1</sup> S. 113(2)(e) inserted (6.4.06) by Pensions Act 2004 (c. 35), Sch. 12, para. 17.  
<sup>2</sup> S. 113(3A) inserted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, s. 52.  
<sup>3</sup> Words substituted in s. 113(3A) (1.11.07) by Pensions Act 2007 (c. 22), Sch. 5, para. 6.  
<sup>4</sup> S. 113A inserted (1.1.06 for reg. making purposes, 6.4.06 for all other purposes) by Pensions Act 2004 (c. 35), Sch. 12, para. 18.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 115-123**

(7) An application to the sheriff shall be made by summary application.

(8) An order under this section may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

**116.** . . . . .repealed by 1995 c. 26, see Annex 1, page 5.1701.

Regulations as to form and content of advertisements.

**117.** Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

**118.** . . . . .repealed by 1995 c. 26, see Annex 1, page 5.1701.

**PART VII  
INSOLVENCY OF EMPLOYERS  
CHAPTER I  
INDEPENDENT TRUSTEES**

**119–122.** . . . . .repealed by 1995 c. 26, see Annex 1, page 5.1701.

**CHAPTER II  
PAYMENT BY SECRETARY OF STATE OF UNPAID SCHEME CONTRIBUTIONS**

Interpretation of Chapter II.

**123.—(1)** For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in England and Wales—

- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (b) he has died and his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986; or
- (c) where the employer is a company—
  - (i) a winding-up order or an administration order is made or a resolution for voluntary winding up is passed with respect to it,
  - (ii) a receiver or manager of its undertaking is duly appointed,
  - (iii) possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or
  - (iv) a voluntary arrangement proposed for the purpose of Part I of the Insolvency Act 1986 is approved under that Part.

(2) For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in Scotland—

1889 c. 39.

- (a) sequestration of his estate is awarded or he executes a trust deed for his creditors or enters into a composition contract;
- (b) he has died and a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide his insolvent estate among his creditors; or
- (c) where the employer is a company—
  - (i) a winding-up order or an administration order is made or a resolution for voluntary winding up is passed with respect to it,
  - (ii) a receiver of its undertaking is duly appointed, or
  - (iii) a voluntary arrangement proposed for the purpose of Part I of the Insolvency Act 1986 is approved under that Part.

1986 c. 45.

(3) In this Chapter—

[<sup>1</sup>“employer”, “employment”, “worker” and “worker’s contract” and other expressions which are defined in the Employment Rights Act 1996 have the same meaning as in that Act (see further subsections (3A) and (3B));]

<sup>1</sup> Defn. of “Contract of Employment” in s. 123(3) substituted (11.9.14) by s. 42(2)(a) of the Pensions Act 2014 (c. 19).

“holiday pay” means–

- (a) pay in respect of holiday actually taken; or
- (b) any accrued holiday pay which under [<sup>1</sup>the worker’s contract] would in the ordinary course have become payable to him in respect of the period of a holiday if his employment with the employer had continued until he became entitled to a holiday;

[...<sup>2</sup>]

[<sup>3</sup>(3A) Section 89 of the Pensions Act 2008 (agency workers) applies for the purposes of this Chapter as it applies for the purposes of Part 1 of that Act.

(3B) References in this Chapter to a worker include references to an individual to whom Part 1 of the Pensions Act 2008 applies as if the individual were a worker because of regulations made under section 98 of that Act; and related expressions are to be read accordingly.]

(4) [...<sup>2</sup>]

(5) Any reference in this Chapter to the resources of a scheme is a reference to the funds out of which the benefits provided by the scheme are from time to time payable.

**124.**—(1) If, on an application made to him in writing by the persons competent to act in respect of an occupational pensions scheme or a personal pension scheme, the Secretary of State is satisfied–

- (a) that an employer has become insolvent; and
- (b) that at the time he did so there remained unpaid relevant contributions falling to be paid by him to the scheme,

then, subject to the provisions of this section and section 125, the Secretary of State shall pay into the resources of the scheme the sum which in his opinion is payable in respect of the unpaid relevant contributions.

(2) In this section and section 125 “relevant contributions” means contributions falling to be paid by an employer to an occupational pension scheme or a personal pension scheme, either on his own account or on behalf of [<sup>3</sup>a worker]; and for the purposes of this section a contribution shall not be treated as falling to be paid on behalf of [<sup>3</sup>a worker] unless a sum equal to that amount has been deducted from the pay of [<sup>3</sup>the worker] by way of a contribution from him.

(3) [<sup>4</sup>Subject to subsection (3A),] the sum payable under this section in respect of unpaid contributions of an employer on his own account to an occupational pension scheme or a personal pension scheme shall be the least of the following amounts–

- (a) the balance of relevant contributions remaining unpaid on the date when he became insolvent and payable by the employer on his own account to the scheme in respect of the 12 months immediately preceding that date;
- (b) the amount certified by an actuary to be necessary for the purpose of meeting the liability of the scheme on dissolution to pay the benefits provided by the scheme to or in respect of [<sup>3</sup>the worker] of the employer;
- (c) an amount equal to 10 per cent. of the total amount of remuneration paid or payable to those [<sup>3</sup>worker’s] in respect of the 12 months immediately preceding the date on which the employer became insolvent.

<sup>1</sup> Words in defn. of “holiday pay” in s. 123(3) substituted (11.9.14) by s. 42(2)(a) of the Pensions Act 2014 (c. 19).

<sup>2</sup> Defn. of “occupational pension scheme” & subsection (4) of s. 123 omitted (22.9.05) by the Pensions Act 2004 (c. 35), Sch. 12, para. 19

<sup>3</sup> S. 123(3A) & (3B) inserted & words in s. 124 substituted (11.9.14) by s. 42(2)(c) & (3) of the Pensions Act 2014 (c. 19).

<sup>4</sup> Words inserted (2.10.95) into s. 124(3) by s. 90 of Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 124-125

[<sup>1</sup>(3A) Where the scheme in question is a money purchase scheme, the sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection].

1986 c. 50.  
1992 c. 4.  
1996 c. 18.

(4) For the purposes of subsection (3)(c) “remuneration” includes holiday pay, statutory sick pay, statutory maternity pay under Part V of the Social Security Act 1986 or Part XII of the Social Security Contributions and Benefits Act 1992, [<sup>2</sup>and any payment such as is referred to in section 184(2) of the Employment Rights Act 1996.]

(5) Any sum payable under this section in respect of unpaid contributions on behalf of [<sup>3</sup>a worker] shall not exceed the amount deducted from the pay of [<sup>3</sup>the worker] in respect of [<sup>3</sup>the worker’s] contributions to the scheme during the 12 months immediately preceding the date on which the employer became insolvent.

[<sup>4</sup>(6) In this section “on his own account”, in relation to an employer, means on his own account but to fund benefits for, or in respect of, one or more [<sup>3</sup>workers].]

Certification of amounts payable under s. 124 by insolvency officers.

**125.**—(1) This section applies where one of the officers mentioned in subsection (2) (“the relevant officer”) has been or is required to be appointed in connection with an employer’s insolvency.

- (2) The officers referred to in subsection (1) are—
- (a) a trustee in bankruptcy;
  - (b) a liquidator;
  - (c) an administration;

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<sup>1</sup> S. 124(3A) inserted (2.10.95) by s. 90 of Pensions Act 1995 (c. 26).

<sup>2</sup> Words in s. 124(4) substituted (22.8.96) by Employment Rights Act 1996 (c. 18), Sch. 1, para. 61(3).

<sup>3</sup> Words in s. 124 substituted (11.9.14) by s. 42(3) of the Pensions Act 2014 (c. 19).

<sup>4</sup> Subsection (6) inserted in s. 124 (22.9.05) by the Pensions Act 2004 (c. 35), Sch. 12 para. 20.



- (d) a receiver or manager; or
- (e) a trustee under a composition or arrangement between the employer and his creditors or under a trust deed for his creditors executed by the employer;

and in this subsection “trustee” in relation to a composition or arrangement, includes the supervisor of a voluntary arrangement proposed for the purposes of and approved under Part I or VIII of the Insolvency Act 1986.

1986 c. 45.

(3) Subject to subsection (5), where this section applies the Secretary of State shall not make any payment under section 124 in respect of unpaid relevant contributions until he has received a statement from the relevant officer of the amount of relevant contributions which appear to have been unpaid on the date on which the employer became insolvent and to remain unpaid; and the relevant officer shall on request by the Secretary of State provide him as soon as reasonably practicable with such a statement.

(4) Subject to subsection (5), an amount shall be taken to be payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124 only if it is so certified by the relevant officer.

(5) If the Secretary of State is satisfied—

- (a) that he does not require a statement under subsection (3) in order to determine the amount of relevant contributions that was unpaid on the date on which the employer became insolvent and remains unpaid, or
- (b) that he does not require a certificate under subsection (4) in order to determine the amounts payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124,

he may make a payment under that section in respect of the contributions in question without having received such a statement or, as the case may be, such a certificate.

**126.**—(1) Any persons who are competent to act in respect of an occupational pension scheme or a personal pension scheme and who have applied for a payment to be made under section 124 into the resources of the scheme may present a complaint to an industrial tribunal that—

Complaint to industrial tribunal.

- (a) the Secretary of State has failed to make any such payment; or
- (b) any such payment made by him is less than the amount which should have been paid.

(2) Such a complaint must be presented within the period of three months beginning with the date on which the decision of the Secretary of State on that application was communicated to the persons presenting it or, if that is not reasonably practicable, within such further period as is reasonable.

(3) Where an industrial tribunal finds that the Secretary of State ought to make a payment under section 124, it shall make a declaration to that effect and shall also declare the amount of any such payment which it finds that the Secretary of State ought to make.

**127.**—(1) Where in pursuance of section 124 the Secretary of State makes any payment into the resources of an occupational pension scheme or a personal pension scheme in respect of any contributions to the scheme, any rights and remedies in respect of those contributions belonging to the persons competent to act in respect of the scheme shall, on the making of the payment, become rights and remedies of the Secretary of State.

Transfer to Secretary of State of rights and remedies.

(2) Where the Secretary of State makes any such payment as is mentioned in subsection (1) and the sum (or any part of the sum) falling to be paid by the employer on account of the contributions in respect of which the payment is made constitutes—

- (a) a preferential debt within the meaning of the Insolvency Act 1986 for the purposes of any provision of that Act (including any such provision as applied by an order made under that Act) or any provision of the Companies Act 1985; or
- (b) a preferred debt within the meaning of the Bankruptcy (Scotland) Act 1985 for the purposes of any provision of that Act (including any such provision as applied by section 11A of the Judicial Factors (Scotland) Act 1889),

1986 c. 45.

1985 c. 66.

1985 c. 6.

1889 c. 39.

then, without prejudice to the generality of subsection (1), there shall be included among the rights and remedies which become rights and remedies of the Secretary of State in accordance with that subsection any right arising under any such provision by reason of the status of that sum (or that part of it) as a preferential or preferred debt.



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 127-129

(3) In computing for the purposes of any provision referred to in subsection (2)(a) or (b) the aggregate amount payable in priority to other creditors of the employer in respect of—

(a) any claim of the Secretary of State to be so paid by virtue of subsection (2); and

(b) any claim by the persons competent to act in respect of the scheme, any claim falling with paragraph (a) shall be treated as if it were a claim of those persons; but the Secretary of State shall be entitled, as against those persons, to be so paid in respect of any such claim of his (up to the full amount of the claim) before any payment is made to them in respect of any claim falling within paragraph (b).

## CHAPTER III PRIORITY IN BANKRUPTCY

Priority in bankruptcy  
etc.  
1986 c. 45.

**128.** Schedule 4 shall have effect for the purposes of paragraph 8 of Schedule 6 to the Insolvency Act 1986 and paragraph 4 of Schedule 3 to the Bankruptcy (Scotland) Act 1985 (by virtue of which sums to which Schedule 4 to this Act applies are preferential or, as the case may be, preferred debts in cases of insolvency).

## PART VIII RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

**129.**<sup>[1...]</sup>—(1) Subject to subsection (2), the provisions of Chapters II, III <sup>[2, IV and V]</sup> of Part IV, <sup>[3[2any of those Chapters or] Chapters I and II of Part IVA.]</sup> section 110(1), <sup>[1...]</sup>and any regulations made<sup>[1...]</sup> or under section 113 or 114 <sup>[1...]</sup> override any provision of a scheme to which they apply to the extent that it conflicts with them.

(2) Chapter II of Part IV (as it applies to occupational pensions schemes), <sup>[4and chapter III of that Part]</sup> do not override a protected provision of a scheme <sup>[...5]</sup>

(3) In subsection (2) “protected provision” means—

(a) <sup>[...6]</sup>

(b) <sup>[...7]</sup>

(c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 20(1);

(d) any provision of a scheme to the extent that it deals with commutation, suspension or forfeiture of the whole or part of a pension; and

(e) any provision of a scheme whereby, as respect so much of a <sup>[7widow’s, widower’s or surviving civil partner’s]</sup> pension as exceeds the guaranteed minimum pension—

(i) no pension or a pension at a reduced rate is payable if the earner and the <sup>[7widow, widower or surviving civil partner]</sup> married <sup>[8or, as the case may be, formed a civil partnership]</sup> not more than six months before the earner’s death;

(ii) the whole or any part of the pension is not paid to the <sup>[7widow, widower or surviving civil partner]</sup> but instead comparable benefits are provided for one or more dependants of the deceased earner; or

(iii) no pension, or a pension at a reduced rate, is payable to the <sup>[7widow, widower or surviving civil partner]</sup> (or, where a provision such as is mentioned in sub-paragraph (ii) operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner.

<sup>1</sup> Words in s. 129(1) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3, para. 31(a).

<sup>2</sup> Words substituted & inserted in s. 129(1) (6.4.06) by The Pensions Act 2004 (c. 35), Sch. 12, para. 21.

<sup>3</sup> Words in s. 129 (1) inserted (1.12.00) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 39 (2).

<sup>4</sup> Words in s. 129(2) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch 3, para. 31(b).

<sup>5</sup> Words in s. 129(2) & 129(3)(b) repealed (6.4.05) by Sch. 13 of the Pensions Act 2004 (c. 35).

<sup>6</sup> S. 129 (3)(a) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3, para. 31(c).

<sup>7</sup> In s. 129(3)(e) words substituted (5.12.05) by para. 15 of the Sch. to S.I. 2005/2053.

<sup>8</sup> Words inserted in s. 129(3)(e)(i) by para. 2 of Sch. 1 to S.I. 2005/3029 as from 5.12.05.

(4) For the purposes of the application of Chapter II of Part IV to schemes which are not contracted-out, subsection (3) shall have effect with the omission—

- (a) from paragraph (c), of the words from “authorised” to the end; and
- (b) from paragraph (e), of the words from “as respects” to “guaranteed minimum pension”.

*Defn. of protected provision extended by reg. 6 of S.I. 1991/166 (Contracting-out, Protection of Pensions.).*

“Protected provision” in s. 129 is also modified by reg. 7 of S.I. 1991/168.

Extra-statutory benefits.

**130.** It is hereby declared that—

- (a) nothing in Part III precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes and, in particular, nothing in section 16(3) is to be taken as preventing the scheme from providing increases above the alternative minima there mentioned; and
- (b) nothing in the provisions of Chapter II [<sup>1</sup>, IV or V] of part IV precludes a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.

**131.** It is hereby declared that nothing in Chapter I of Part IV—

- (a) applies with direct effect to any scheme, or to the rights or liabilities of any person in, under or by virtue of a scheme; or
- (b) precludes a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in that Chapter) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.

Relationship of preservation requirements and scheme rules.

**132.** Where the rules of an occupational pension scheme to which the preservation requirements, [...<sup>2</sup>] [...<sup>3</sup>] apply do not comply with those requirements it shall be the responsibility of—

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration,

Duty to bring schemes into conformity with indirectly-applying requirements.

to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

**133–135.** . . . . .repealed by 1995 c. 26, see Annex 1, page 5.1701.

## PART IX

### MODIFICATION AND WINDING UP OF SCHEMES

#### *Modification*

**136–143.** . . . . .repealed by 1995 c. 26, see Annex 1, page 5.1701.

[S. 144, as in force where scheme has members in pensionable service, is reproduced as follows:-]

*(For s. 144 as in force where scheme has no members in pensionable service, see further below, immediately after the following version of s. 144).*

*Note: S. 144 is to be deleted (prosp.) by pensions Act 1995 (c. 26), Sch. 3, para. 38, and Sch. 7, Part I.*

**144.—**(1) If, in the case of an occupational pension scheme which is not a money purchase scheme, the value at the applicable time of the scheme’s liabilities exceeds the value of its assets, then an amount equal to the excess shall be treated as a debt due from the employer to the trustees of the scheme.

Deficiencies in the assets of a scheme on winding up.

<sup>1</sup> Words substituted in s. 130(b) (6.4.06) by The Pensions Act 2004 (c. 35), Sch. 12, para. 22.

<sup>2</sup> Words in S. 132 repealed (1.1.96) by Pensions Act 1995 (c. 26) by Pensions Act 1995 (c. 26), Sch. 3, para. 32.

<sup>3</sup> Words omitted in s. 132 (6.4.06) by The Pensions Act 2004 (c. 35), s. 267.

S. 144

[<sup>1</sup>(1A) The amount of the debt due from each employer shall be such amount as, in the opinion of the actuary referred to in regulation 2(3) of the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1994<sup>2</sup>, bears the same proportion to the deficiency under the scheme as the amount of the scheme's liabilities attributable to employment with that employer (including liabilities in respect of any transfer credits allowed under the scheme in connection with employment with that employer) bears to the total amount of the scheme's liabilities.

(1B) Where a scheme which applies to earners in employments under different employers is divided into two or more sections and the provisions of the scheme are such that—

- (a) different sections of the scheme apply to different employers,
  - (b) contributions payable to the scheme by an employer, or by an earner in employment under that employer, are allocated to that employer's section, and
  - (c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other such section,
- each section of the scheme shall be treated as a separate scheme for the purposes of this section.]

(2) If—

- (a) a relevant insolvency event occurs in relation to the employer; and
  - (b) the debt mentioned in subsection (1) has not been discharged at the time that event occurs,
- then for the purposes of the law relating to winding up, bankruptcy or sequestration as it applies in relation to the employer, that debt shall be taken to arise immediately before that time.

(3) In this section—

[<sup>3</sup>“the applicable time” means—

- (a) if the scheme is being wound up before a relevant insolvency event occurs in relation to the employer, any time when it is being wound up before such an event occurs; and

(b) otherwise, immediately before the relevant insolvency event occurs;] and [<sup>3</sup>“the employer” means the employer of persons of the description or category of employment to which the scheme relates].

[<sup>4</sup>“the applicable time” means—

- (a) in relation to a scheme which is being wound up, any time—
  - (i) after the commencement of the winding up, or, where on the 1st July 1992<sup>5</sup> a scheme was being wound up, on or after that date, and
  - (ii) before a relevant insolvency event occurs in relation to all of the employers to whom the scheme relates; and
- (b) in relation to a scheme which is not being wound up, each of the times on or after 1st July 1992 at which a relevant insolvency event occurs in relation to any of the employers to whom the scheme relates;] and

[<sup>6</sup>“the employer” means every employer of persons in the description or category of employment to which the scheme relates and includes any person who was an employer of such persons immediately before the scheme—

- (a) commenced winding up, or
- (b) if earlier, ceased to admit new members].

<sup>1</sup> S. 144(1A) and (1B) inserted, where there are earners under different employers, by reg. 3(a) of S.I. 1994/895 as from 19.4.94 (S. 144(1A) re-enacts earlier modification by reg. 3(a) of S.I. 1992/1555 as from 1.7.92).

<sup>2</sup> S.I. 1994/895.

<sup>3</sup> Defns. of “the applicable time” and “the employer” as in force where all earners are under one employer.

<sup>4</sup> Defn. of “the applicable time” in s. 144(3) substituted, **where there are earners under different employers**, by reg. 4(c) (applying reg. 3(b)(i)) of S.I. 1994/895 as from 19.4.94 (re-enacting in revised terms earlier modification by reg. 4(b) of, applying reg. 3(b)(i) of, S.I. 1992/1555 as from 1.7.92).

<sup>5</sup> 1st July 1992 is the date on which the Occupational Pension Schemes (Deficiency on Winding Up etc.) Regulations 1992 S.I. 1992/1555 came into force. Regulation 3(b) of S.I. 1994/895 re-enacts regulation 3(b) of those Regulations, which are now revoked: *see* regulation 5 of S.I. 1994/895.

<sup>6</sup> Defn. of “the employer” in s. 144(3) substituted by reg. 4(a) of S.I. 1994/895 as from 19.4.94 (re-enacting earlier modification by reg. 4(a) of S.I. 1992/1555 as from 1.7.92).

(4) For the purposes of this section a relevant insolvency event occurs in relation to the employer—

(a) in England and Wales—

- (i) where the employer is a company, when it goes into liquidation, within the meaning of section 247(2) of the Insolvency Act 1986; or 1986 c. 45.
- (ii) where the employer is an individual, at the commencement of his bankruptcy, within the meaning of section 278 of that Act; or

(b) in Scotland—

- (i) where the employer is a company, at the commencement of its winding up, within the meaning of section 129 of that Act; or
- (ii) where the employer is a debtor within the meaning of the Bankruptcy (Scotland) Act 1985, on the date of sequestration as defined in section 12(4) of that Act. 1985 c. 66.

(5) The value of a scheme's assets and liabilities for the purposes of subsection (1) shall be determined in accordance with regulations and such regulations may provide that, in calculating the value of the scheme's liabilities, any provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets is to be disregarded.

(6) This section is without prejudice to any other right or remedy which the trustees may have in respect of the deficiency in the scheme's assets.

(7) A debt due by virtue only of this section shall not be regarded—

- (a) as a preferential debt for the purposes of the Insolvency Act 1986, nor 1986 c. 45.
- (b) as a preferred debt for the purposes of the Bankruptcy (Scotland) Act 1985. 1985 c. 66.

(8) The provisions of this section and of any regulations made under section 153(5) modifying this section override any provision of a scheme to the extent that it conflicts with this section or those regulations.

## PART X INVESTIGATIONS; THE PENSIONS OMBUDSMAN

**145.**—(1) For the purpose of conducting investigations in accordance with this Part or any corresponding legislation have effect in Northern Ireland there shall be a commissioner to be known as the Pensions Ombudsman. The Pensions Ombudsman.

(2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold [and vacate] office upon such terms and conditions the Secretary of State may think fit.

[<sup>1</sup>(3) The Pensions Ombudsman may resign or be removed from office in accordance with those terms and conditions.]

[...<sup>2</sup>] *(There is no longer a subsection (4) in s. 145.)*

[<sup>2</sup>(4A)The Pensions Ombudsman may (with the approval of the Secretary of State as to numbers) appoint such persons to be employees of his as he thinks fit, on such terms and conditions as to remuneration and other matters as the Pensions Ombudsman may with the approval of the Secretary of State determine.

(4B) The Secretary of State may, on such terms as to payment by the Pensions Ombudsman as the Secretary of State thinks fit, make available to the Pensions Ombudsman such additional staff and such other facilities as he thinks fit.

(4C) Any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part, may be performed by, any—

<sup>1</sup> Words in s. 145(2) inserted & (3) substituted (17.12.04) by s. 274(1) & (2) of Pensions Act 2004 (c. 35).

<sup>2</sup> S. 145(4A)-(4C) substituted (2.10.95) for s. 145(4) by s. 156 of Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 145-145A

- (a) employee appointed by the Pensions Ombudsman under subsection (4A), or
- (b) member of staff made available to him by the Secretary of State under subsection (4B),

who is authorised for that purpose by the Pensions Ombudsman.]

(5) The Secretary of State may—

- (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine [<sup>1</sup>]; and
- (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.

1985 c. 66.

(6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for each financial year, and shall submit it to the Secretary of State as soon as practicable afterwards.

(7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6).

#### [<sup>2</sup>145A Deputy Pensions Ombudsmen

(1) The Secretary of State may appoint one or more persons to act as a deputy to the Pensions Ombudsman (“a Deputy Pensions Ombudsman”).

(2) Any such appointment is to be upon such terms and conditions as the Secretary of State thinks fit.

(3) A Deputy Pensions Ombudsman—

- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
- (b) may resign or be removed from office in accordance with those terms and conditions.

(4) A Deputy Pensions Ombudsman may perform the functions of the Pensions Ombudsman—

- (a) during any vacancy in that office,
- (b) at any time when the Pensions Ombudsman is for any reason unable to discharge his functions, or
- (c) at any other time, with the consent of the Secretary of State.

(5) References to the Pensions Ombudsman in relation to the performance of his functions are accordingly to be construed as including references to a Deputy Pensions Ombudsman in relation to the performance of those functions.

(6) The Secretary of State may—

- (a) pay to or in respect of a Deputy Pensions Ombudsman such amounts—
  - (i) by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or
  - (ii) by way of provision for any such benefits, as the Secretary of State may determine, and
- (b) reimburse the Pensions Ombudsman in respect of any expenses incurred by a Deputy Pensions Ombudsman in the performance of any of the Pensions Ombudsman’s functions.]

<sup>1</sup> Words in s. 145(5)(a) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 6, para. 7, and Sch. 7, Part IV.

<sup>2</sup> S. 145A inserted (17.12.04) by s. 274(3) of the Pensions Act 2004 (c. 35).

**146.**—<sup>[1]</sup>(1) The Pensions Ombudsman may investigate and determine the following <sup>[2]</sup>matters]

- (a) a complaint made to him by or on behalf of an actual or potential beneficiary of an occupational or personal pension scheme who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of a person responsible for the management of the scheme,
- (b) a complaint made to him—
  - (i) by or on behalf of a person responsible for the management of an occupational pension scheme who in connection with any act or omission of another person responsible for the management of the scheme, alleges maladministration of the scheme, or
  - (ii) by or on behalf of the trustees or managers of an occupational pension scheme who in connection with any act or omission of any trustee or manager of another such scheme, allege maladministration of the other scheme,

and in any case falling within sub-paragraph (ii) references in this Part to the scheme to which the complaint relates <sup>[3]</sup>are references to the other scheme referred to in that sub-paragraph]

- <sup>[2]</sup>(ba) a complaint made to him by or on behalf of an independent trustee of a trust scheme who, in connection with any act or omission which is an act or omission either—
  - (i) of trustees of the scheme who are not independent trustees, or
  - (ii) of former trustees of the scheme who were not independent trustees, alleges maladministration of the scheme,]
- (c) any dispute of fact or law <sup>[...<sup>3</sup>]</sup> in relation to an occupational or personal pension scheme between—
  - (i) a person responsible for the management of the scheme, and
  - (ii) an actual or potential beneficiary,
 

and which is referred to him by or on behalf of the actual or potential beneficiary, and
- (d) any dispute of fact or law <sup>[...<sup>3</sup>]</sup> between the trustees or managers of an occupational pension scheme and—
  - (i) another person responsible for the management of the scheme, or
  - (ii) any trustee or manager of another such scheme,
 

<sup>[4]</sup>and in a case falling within sub-paragraph (ii) references in this Part to the scheme to which the reference relates are references to each of the schemes,
- (e) any dispute not falling within paragraph (f) between different trustees of the same occupational pension scheme,
- <sup>[5]</sup>(f) any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—
  - (i) other trustees of the scheme, or
  - (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, and]

<sup>1</sup> S. 146(1)-(4) substituted (1.6.96 for regulation-making purposes) for s. 146(1)-(4), by s. 157(1) of Pensions Act 1995 (c. 26).

<sup>2</sup> Words in s. 146(1) substituted (1.12.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(9)(a) & (b).

<sup>3</sup> Words in s. 146(1)(c) & (d) omitted (1.1.01) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(9)(c).

<sup>4</sup> Paragraph (ba) inserted in s. 146(1) & words & paras. (e) - (g) inserted (1.12.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(2) & (3).

<sup>5</sup> S. 146(1)(f) substituted (6.4.05) by Sch. 12, para. 24(a) of the Pensions Act 2004 (c. 35).



S. 146

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

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

- (a) in the case of a dispute falling within subsection (1)(c), by or on behalf of the actual or potential beneficiary who is a party to the dispute,
- (b) in the case of a dispute falling within subsection (1)(d), by or on behalf of any of the parties to the dispute,
- (c) in the case of a dispute falling within subsection (1)(e), by or on behalf of at least half the trustees of the scheme,
- (d) in the case of a dispute falling within subsection (1)(f), by or on behalf of the independent trustee who is a party to the dispute,
- (e) in the case of a question falling within subsection (1)(g), by or on behalf of the sole trustee.

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

(2) Complaints and references made to the Pensions Ombudsman must be made to him in writing.

(3) For the purposes of this Part, the following persons (subject to subsection (4)) are responsible for the management of an occupational pension scheme [<sup>2</sup>or a personal pensions scheme]—

- (a) the trustees or managers, and
- (b) the employer;

but, in relation to a person falling within one of those paragraphs, references in this Part to another person responsible for the management of the same scheme are to a person falling within the other paragraph.

(3A) [...<sup>2</sup>]

(4) Regulations may provide that, subject to any prescribed modifications or exceptions, this Part shall apply in the case of an occupational or personal pension scheme in relation to any prescribed person or body of persons where the person or body—

- (a) is not a trustee or manager or employer, but
- (b) is concerned with the financing or administration of, or the provision of benefits under, the scheme,

as if for the purposes of this Part he were a person responsible for the management of the scheme].

[<sup>3</sup>(4A) For the purposes of subsection (4) a person or body of persons is concerned with the administration of an occupational or personal pension scheme where the person or body is responsible for carrying out an act of administration concerned with the scheme.]

(5) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before 1st October 1990 (the date on which the provisions under which his office was constituted came into force).

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<sup>1</sup> Subsections (1A) - (1B) & words in subsection (3) inserted (1.12.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(4) & (5).

<sup>2</sup> Subsection (3A) repealed by the Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 9, Part IV, section (3).

<sup>3</sup> Para (4A) inserted in s. 146 (6.4.05) by s. 275(1) of the Pensions Act 2004 (c. 35).



(6) The Pensions Ombudsman shall not investigate or determinate a complaint or dispute—

- [<sup>1</sup>(a) if, before the making of the complaint or the reference of the dispute—
  - (i) proceedings in respect of the matters which would be the subject of the investigations have been begun in any court or employment tribunal, and
  - (ii) those proceedings are proceedings which have not been discontinued or which have been continued on the basis of a settlement or a compromise binding all the persons by or on whose behalf the complaint or reference is made;]
- (b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or
- (c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.

(7) The persons who, for the purposes of this Part are [<sup>2</sup>actual or potential beneficiaries] in relation to a scheme are—

- (a) a member of the scheme,
- (b) the [<sup>3</sup>widow, widower or surviving civil partner] or any surviving dependant, of a deceased member of the scheme;
- [<sup>4</sup>(ba) a person who is entitled to a pension credit as against the trustee or managers of the scheme;]
- [<sup>5</sup>(bb) a person who has given notice in accordance with section 8 of the Pensions Act 2008 (right to opt out of membership of an automatic enrolment scheme;]
- (c) where the complaint or dispute relates to the question—
  - (i) whether a person who claims to be such a person as is mentioned in [<sup>3</sup>paragraph (a), (b)]<sup>5</sup>, (ba) or (bb)] is such a person, or
  - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled.
 the person so claiming.

(8) In this Part—

“employer”, in relation to a pension scheme, includes a person—

- (a) who is or has been an employer in relation to the scheme, or
- (b) who is or has been treated under section 181(2) as an employer in relation to the scheme for the purposes of any provision of this Act, or under section 176(2) of the Pension Schemes (Northern Ireland) Act 1993 as an employer in relation to the scheme for the purposes of any provision of that Act;

1993 c. 49.

[<sup>6</sup>“independent trustee”, in relation to a scheme means—

- (a) a trustee of the scheme appointed under [<sup>7</sup>section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)],
- (b) a person appointed under section 7(1) of that Act to replace a trustee falling within paragraph (a) or this paragraph;]

“member”, in relation to a pension scheme, includes a person—

- (a) who is or has been in pensionable service under the scheme, or

<sup>1</sup> S. 146(6)(a) substituted (1.12.00) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 53(6).

<sup>2</sup> Words in s. 146(7) substituted (6.4.97) by s. 157(3) of the Pensions Act 1995 (c. 26).

<sup>3</sup> Words in s. 146(7)(b) substituted (5.12.05) by para. 16 of the Sch. to S.I. 2005/2053.

<sup>4</sup> S. 146(7)(ba) inserted & words in (c)(i) substituted (1.12.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(7).

<sup>5</sup> S. 146(7)(bb) inserted & words in s. 146(7)(c)(i) substituted (30.6.12) by the Pensions Act 2008, s. 66(2) & (3).

<sup>6</sup> Defn. of “independent trustee” in s. 146(8) inserted (1.12.00) by the Child Support, Pensions & Social Security Act 2000 (c. 19), s. 53(8).

<sup>7</sup> Words in para. (a) of defn. of “independent trustee” in s. 146(8) substituted (6.4.05) by Sch. 12, para. 24(c) of the Pensions Act 2004 (c. 35).

**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 146-148**

1993 c. 49

- (b) who is or has been treated under section 181(4) as a member in relation to the scheme for the purposes of any provision of this Act or under section 176(3) of the Pension Schemes (Northern Ireland) Act 1993 as a member in relation to the scheme for the purposes of any provision of that Act;

“Northern Ireland public service pension scheme” means a public service pension scheme within the meaning of section 176(1) of that Act;

“pensionable service” in this subsection includes pensionable service as defined in section 176(1) of that Act;

“trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

Death, insolvency or disability of authorised complainant.

**147.**—(1) Where an [<sup>1</sup>actual or potential beneficiary] dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) applies—

- (a) any complaint or dispute (whenever arising) which the [<sup>1</sup>actual or potential beneficiary] might otherwise have made or referred under this Part may be made or referred by the appropriate person, and
- (b) anything in the process of being done by or in relation to the [<sup>1</sup>actual or potential beneficiary] under or by virtue of this Part may be continued by or in relation to the appropriate person,

and any reference in this Part, except this section, to an [<sup>1</sup>actual or potential beneficiary] shall be construed as including a reference to the appropriate person.

(2) For the purposes of subsection (1) “the appropriate person” means—

- (a) where the [<sup>1</sup>actual or potential beneficiary] has died, his personal representatives; or
- (b) in any other case, a member of [<sup>1</sup>his] family, or some body or individual suitable to represent him.

(3) Where a person is acting as an insolvency practitioner in relation to [<sup>1</sup>a person by whom, or on whose behalf, a complaint or reference has been made under this Part], investigations under this Part shall be regarded for the purposes of the Insolvency Act 1986 and the Bankruptcy (Scotland) Act 1985 as legal proceedings.

1986 c. 45.  
1985 c. 66.

(4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

Staying court proceedings where a complaint is made or a dispute is referred.

**148.**—(1) This section applies where—

- (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and
- (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.

(2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgment of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.

(3) In Scotland, where this section applies any party to the legal proceedings may—

- (a) if the proceedings are in the Court of Session, at any time—
  - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
  - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
- (b) if the proceedings are in the sheriff court, at any time—

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<sup>1</sup> Words in 147(1) (2) and (3) substituted (6.4.97) by s. 157(4) & (5) of Pensions Act 1995 (c. 26).

- (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
- (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken.

apply to the court for a sist of process.

(4) On an application under subsection (2) or (3) the court may make an order staying or, in Scotland, assisting the proceedings if it is satisfied—

- (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
- (b) that the applicant was at the time when the legal proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the investigation.

(5) For the purposes of this section the parties to an investigation are—

- [<sup>1</sup>(a) the person by whom, or on whose behalf, the complaint or reference has been made,
- (b) any person responsible for the management of the scheme to which the complaint or reference relates];
- (ba)-(bb) [...<sup>2</sup>]
- (c) any person against whom allegations are made in the complaint or reference; and
- (d) any person claiming under a person falling within paragraphs (a) to (c).

**149.**—(1)-(1B) [...<sup>2</sup>]

Procedure on an investigation.

<sup>1</sup> S. 148(5)(a) and (b) substituted (6.4.97) by s. 157(6) of Pensions Act 1995 (c. 26).

<sup>2</sup> In s. 148, para. (5)(ba) & (bb) & in s. 149, paras. (1)-(1B) omitted (6.4.05) by s. 276(2)(a) & (b) of the Pensions Act 2004 (c. 35).

S. 149

(2) The Secretary of State may make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part.

(3) The rules may include provision—

- (a) requiring any oral hearing held in connection with such an investigation to take place in public, except in such cases as may be specified in the rules;[...<sup>1</sup>]
- (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation as defined in section 148(5);

(ba) [...<sup>2</sup>]

[<sup>3</sup>(c) for the payment by the Ombudsman of such travelling and other allowances (including compensation for loss of remunerative time) as the Secretary of State may determine, to—

- (i) actual or potential beneficiaries of a scheme to which a complaint or reference relates, or
- (ii) persons appearing and being heard on behalf of such actual or potential beneficiaries,

who attend at the request of the Ombudsman any oral hearing held in connection with an investigation into the complaint or dispute.]

(d) [...<sup>2</sup>]

(4) Subject to any provision made by the rules, the procedure for conducting such an investigation shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

[<sup>4</sup>(5) The Pensions Ombudsman may disclose any information which he obtains for the purposes of an investigation under this Part to any person to whom subsection (6) applies, if the Ombudsman considers that the disclosure would enable or assist that person to discharge any of his functions.

(6) This subsection applies to the following—

(a) the Regulatory Authority,

[<sup>5</sup>(b) the Board of the Pension Protection Fund,

(ba) the Ombudsman for the Board of the Pension Protection Fund,]

(c) [...<sup>6</sup>]

(d) any department of the Government (including the government of Northern Ireland).

(e) the [<sup>7</sup>Financial Services Authority],

(f)-(g) [...<sup>8</sup>],

[<sup>8</sup>(h) a person appointed under—

- (i) Part 14 of the Companies Act 1985,
- (ii) section 167 of the Financial Services and Markets Act 2000,
- (iii) subsection (3) or (5) of section 168 of that Act, or
- (iv) section 284 of that Act,

to conduct an investigation;].

<sup>1</sup> Word “and” deleted (1.6.96) for regulation-making purposes, 16.10.96 for rule-making purposes).

<sup>2</sup> In s. 149(3), sub-paras. (ba) & (d) omitted (6.4.05) by s. 276(c) & (d) of the Pensions Act 2004 (c. 35).

<sup>3</sup> S. 149(3)(c) inserted (1.6.96 for regulation-making purposes, 16.10.96 for rule-making purposes) by s. 158(a) of Pensions Act 1995 (c. 26).

<sup>4</sup> S. 149(5)-(7) inserted (6.4.97) by s. 159(1) of Pensions Act 1995 (c. 26).

<sup>5</sup> In s. 149, subsection (6)(b) substituted (6.4.05) by s. 276(e) & Sch. 12, para. 25 of the Pensions Act 2004 (c. 35).

<sup>6</sup> S. 149(6)(c) repealed (6.4.6) by The Pensions Act 2004 (c. 35), Sch. 13.

<sup>7</sup> In s. 149(6)(e) words substituted by para. 69(2) of Sch. 5 to the Bank of England Act 1998 (c. 11).

<sup>8</sup> In s. 149(6), paras. (f)&(g) repealed and (h) substituted (1.12.01) by reg. 123 of S.I. 2001/3649.

- (j) an inspector appointed by the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986. S.I. 1986/1032 (N.I. 6).
  - [<sup>1</sup>(k) a body designated under section 326(1) of the Financial Services and Markets Act 2000; [...<sup>2</sup>
  - (l) a recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).]
  - [<sup>3</sup>(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.]
  - [<sup>4</sup>(o) a body corporate established in accordance with paragraph 2(1) of schedule 17 to the Financial Services and Markets Act 2000 (the scheme of the ombudsman scheme); 2000 c. 8.
  - (p) an ombudsman as defined in paragraph 1 of that schedule (interpretation).]
- (7) The Secretary of State may by order—
- (a) amend subsection (6) by adding any person or removing any person for the time being specified in that subsection, or
  - (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in that subsection.]

(8) [...<sup>3</sup>

**150.**—(1) For the purposes of an investigation under this Part or under any corresponding legislation having effect in Northern Ireland, the pensions ombudsman may require— Investigations: further provisions.

- (a) [<sup>5</sup>any person responsible for the management of the scheme to which the complaint or reference relates],
  - or
  - (b) any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation,
- to furnish any such information or produce any such documents.

(2) For the purposes of any such investigation the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.

(3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.

(4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of any act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.

(5) Where an offence is certified under subsection (4) the court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

<sup>1</sup> In s. 149(6) paras. (k)-(m) substituted with (k) & (l) 1.12.01 by reg. 123 of S.I. 2001/3649.

<sup>2</sup> Word “and” repealed in s. 149(6)(k) (6.4.06) by the Pensions Act 2004 (c. 35), Sch. 13.

<sup>3</sup> In s. 149, subsection (8) substituted & (6)(n) inserted (6.4.05) by s. 276(e) & Sch. 12, para. 25 of the Pensions Act 2004 (c. 35).

<sup>4</sup> In s. 149(6) paras. (o) & (p) inserted (1.11.05) by reg. 2 of S.I. 2005/2743.

<sup>5</sup> Words in s. 150(1)(a) substituted (6.4.97) by s. 157(8) of Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 150-151

(6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may with the approval of the Treasury determine.

(7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.

- (8) In this section “the court” means—
- (a) in England and Wales, a county court;
  - (b) in Scotland, the sheriff.

(9) Subsections (4) and (5) shall be construed, in their application to Scotland, as if contempt of court were categorised as an offence in Scots law.

**151.**—(1) Where the Pensions Ombudsman has conducted an investigation under this Part he shall send a written statement of his determination of the complaint or dispute in question—

- [<sup>1</sup>(a) to the person by whom, or on whose behalf, the complaint or reference was made, and
- (b) to any person (if different) responsible for the management of the scheme to which the complaint or reference relates]
- (c) [...<sup>2</sup>]

and any such statement shall contain the reasons for his determination.

(2) Where the Pensions Ombudsman makes a determination under this Part or under any corresponding legislation have effect in Northern Ireland, he may direct [<sup>3</sup>any person responsible for the management of the scheme to which the complaint or reference relates] to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) or otherwise in writing.

(3) Subject to subsection (4), the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2), shall be final and binding on—

- [<sup>4</sup>(a) the person by whom, or on whose behalf, the complaint or reference was made,
- (b) any person (if different) responsible for the management of the scheme to which the complaint or reference relates,
- (ba)-(bb) [...<sup>5</sup>]
- (c) any person claiming under a person falling within [...<sup>5</sup>]].

(4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3).

- (5) Any determination or direction of the Pensions Ombudsman shall be enforceable—
- (a) in England and Wales, in a county court as if it were a judgment or order of that court, and
  - (b) in Scotland, [<sup>6</sup>in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]

<sup>1</sup> Paras. (a) and (b) of s. 151(1) substituted (6.4.97) by s. 157(a) of Pensions Act 1995 (c. 26).

<sup>2</sup> S. 151(1)(c) omitted (6.4.05) by s. 276(f) of the Pensions Act 2004 (c. 35).

<sup>3</sup> Words in s. 151(2) substituted (6.4.97) by s. 157(10) of Pensions Act 1995 (c. 26).

<sup>4</sup> Paras. (a)-(c) of s. 151(3) substituted (6.4.97) by s. 157(11) of Pensions Act 1995 (c. 26).

<sup>5</sup> In s. 151(3), sub-paras. (ba) & (bb) & words in (c) omitted (6.4.05) by s. 276(g) & (h) of the Pensions Act 2004 (c. 35).

<sup>6</sup> Words in s. 151(5)(b) substituted (6.4.97) by para. 8 of Sch. 6 to Pensions Act 1995 (c. 26).

(6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part and of the result of that investigation.

(7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—

- (a) in submitting or publishing a report under section 145(6) or subsection (6) of this section

[<sup>1</sup>(aa) in disclosing any information under section 149(5), or].

- (b) in sending to any person a statement under subsection (1) or a direction shall be absolutely privileged.

[<sup>2</sup>**151A.** Where under this Part the Pensions Ombudsman directs a person responsible for the management of an occupational or personal pension scheme to make any payment in respect of benefit under the scheme which, in his opinion, ought to have been paid earlier, his direction may also require the payment of interest at the prescribed rate].

Interest on late payment of benefit.

**152.**—(1) The Secretary of State may make rules—

- (a) regulating the practice, and the forms of proceedings, which are to be followed in county courts in any proceedings under or by virtue of this Part; and
- (b) prescribing the scales of costs to be paid in connection with any such proceedings.

Power to make special county court rules.

(2) Without prejudice to the generality of subsection (1), rules under this section may, to any extent and with or without modifications, apply any county court rules to proceedings under or by virtue of this Part.

<sup>1</sup> S. 151(7)(aa) to be inserted (6.4.97) by s. 159(2) of Pensions Act 1995 (c. 26).

<sup>2</sup> S. 151A inserted (6.4.97) by s. 160 of Pensions Act 1995 (c. 26).



PART XI  
GENERAL AND MISCELLANEOUS PROVISIONS

*Modification powers*

Power to modify certain provisions of this Act.

**153.**—(1) The Secretary of State may by regulations direct that Chapters II, III and IV of Part IV [...] shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.

(2) Regulations may modify Chapter I of Part IV—

- (a) in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment;
- (b) in such manner as the Secretary of State thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme begin wound up;
- (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Secretary of State considers to be necessary for particular cases or classes of case;

and regulations under paragraph (a) may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.

(3) [...<sup>2</sup>]

(4) [...<sup>2</sup>]

(5) The Secretary of State may make regulations modifying [...<sup>3</sup>], section 129 (so far as it applies to that Chapter) or section 144, in their application—

- (a) to any occupational pension scheme which applies to earners in employments under different employers;
- (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme; [<sup>4</sup>or]
- (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme;
- (d) [...<sup>3</sup>]

(6) [...<sup>3</sup>]

(7) [...<sup>3</sup>]

(8) The Secretary of State may by order provide that any enactment in Chapter II of Part VII which is specified in the order—

- (a) shall not apply to persons or to employments of such classes as may be prescribed in the order; or
- (b) shall apply to persons or employments of such classes as may be so prescribed subject, but without prejudice to paragraph (a), to such exceptions or modifications as may be so prescribed;

and in this subsection “employments” has the same meaning as in that Chapter.

Application of enactments as respect personal pension schemes.

**154.**—(1) Regulations may provide that any provision of this Act [<sup>5</sup>or of sections 22 to 26 and 40 of the Pensions Act 1995] which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.

<sup>1</sup> Words deleted (6.4.97) from s. 153(1) by Pensions Act 1995 (c. 26), Sch. 3, para. 39(a), and Sch. 7, parat. Part 1

<sup>2</sup> S. 153(3) and (4) repealed (1.1.96) by Pensions Act 1995 (c. 26), Sch. 3, para. 39(b).

<sup>3</sup> Words in s. 153(5), para. (d) of s. 153(5) and the preceding word “or”, and s. 153(6) and (7) repealed (6.4.97) by para. 39(c)-(d) of Sch. 3 to, and by Part 1 of Sch. 7 to, Pensions Act 1995 (c. 26).

<sup>4</sup> Word inserted (6.4.97) at end of s. 153(5)(b) by para. 39(c) of Sch. 3 to Pensions Act 1995 (c. 26).

<sup>5</sup> Words inserted (6.4.97) in s. 154(1) by para. 40 of Sch. 3 to Pensions Act 1995 (c. 26).

(2) This subsection applies to section 66, section 111 so far as it relates to occupational pension schemes, (and Part VIII and section 153 so far as they have effect for the purposes of section 111 as it so relates), sections 117, 123 to 127, 155, 157, 160 and 161.

*Information about schemes*

**155.** Regulations may require the furnishing by prescribed persons to the Secretary of State.<sup>[...<sup>1</sup>]</sup> [<sup>2</sup>or the Inland Revenue] of such information as he [<sup>3</sup>requires] [<sup>2</sup>or they require] for the purposes of [<sup>3</sup>Part III\*], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), section 117 and section 159 (so far as it relates to protected rights payments).

Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.

*\*Part III comprises ss. 7-68.*

[<sup>4</sup>**156.**—(1) The Secretary of State or the Inland Revenue may give rise to the trustees or managers of an occupational pension scheme [<sup>5, 6</sup>or a personal pension scheme which was an appropriate scheme before the abolition date] such information as appears to the Secretary of State or Inland Revenue appropriate to give to them for the purpose of enabling them to comply with their obligations under Part III.

Information for purposes of [obligations under Part III].

(2) The Secretary of State or Inland Revenue may also give to such persons as may be prescribed any information that they could give under subsection (1) to trustees or managers of a scheme.]

**157.**—(1) Where an application is made to the Secretary of State under section 124 in respect of contributions to an occupational pension scheme or person pension scheme falling to be made, by an employer, the Secretary of State may require—

Power of Secretary of State to obtain information in connection with applications under s. 124.

- (a) the employer to provide him with such information as the Secretary of State may reasonably require for the purpose of determining whether the application is well founded; and
- (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Secretary of State any such document in that person's custody or under his control which is of such a description as the Secretary of State may require.

(2) Any such requirement shall be made in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.

(3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) This section shall be construed as if it were in Chapter II of Part VII.

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<sup>1</sup> Words in s. 155 repealed (6.4.97) by para. 65(a) of Sch. 5 to, and by Part III of Sch. 7 to Pensions Act 1995 (c. 26).  
<sup>2</sup> Words substituted in s. 155 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 59.  
<sup>3</sup> Words in s. 155 substituted (6.4.97) by para. 65(b) and (c) of Sch. 5 to Pensions Act 1995 (c. 26).  
<sup>4</sup> S. 156 substituted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 9.  
<sup>5</sup> Words substituted in s. 156(1) & the sidenote (26.9.07) by Pensions Act 2007, Sch. 4, para. 30(2)-(3) but repealed immediately before 6.4.12 by 2011/1730, art. 8(1).  
<sup>6</sup> Words substituted in s. 156(1) (6.4.12) by 2011/1730, art. 5(16).

**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 158**

Disclosure of  
information between  
government departments  
etc.

**158.**—(1) No obligation as to secrecy imposed by statute or otherwise on [<sup>1</sup>Revenue and Customs officials] employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—

- (a) to the Secretary of State
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161) or of any corresponding enactment of Northern Ireland legislation.

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<sup>1</sup> Words substituted in s. 158(1) (18.4.05) by Commissioners for Revenue and Customs Act 2005 (c. 11), Sch. 4, para. 51.

[<sup>1</sup>(1A) No obligation as to secrecy imposed by statute or otherwise on [<sup>2</sup>Revenue and Customs officials] shall prevent information obtained or held for the purposes of Part III of this Act from being disclosed—

- (a) to the Secretary of State,
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information,

in connection with the operation of this Act or of any corresponding enactment of Northern Ireland legislation.]

(2)-(3) [...<sup>3</sup>]

- (a) is required by him solely to enable him to perform that duty adequately; and
- (b) is information which the Board have power under any enactment to require any person to provide.

(4) In relation to persons who are carrying on or have carried on [<sup>4</sup>wholly or partly in the United Kingdom] a trade, profession or vocation income from which is chargeable to tax under [<sup>4</sup>Part 2 of the Income Tax (Trading and Other Income) Act 2005 or] Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.

(5) [<sup>1</sup>Subsections (1) and (1A)] extend only to disclosure by or under the authority of the Inland Revenue.

(6) [...<sup>5</sup>] information which is the subject of disclosure to any person by virtue of subsection (1), [<sup>1</sup>or (1A)] [...<sup>6</sup>] shall not be further disclosed to any other person, except where the further disclosure is made—

- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
- (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161); or
- (c) for the purposes of [<sup>7</sup>Chapter II of Part I of the Social Security Act 1998] or any corresponding provisions of Northern Ireland legislation; [<sup>1</sup>or
- (ca) for the purposes of Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 or any corresponding provisions of Northern Ireland legislation;]
- (d) [...<sup>6</sup>]

(7) [...<sup>5</sup>]

(8) [...<sup>8</sup>]

[<sup>2</sup>(9) In this section “Revenue and Customs officials” has the meaning given by section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality).]

<sup>1</sup> Words substituted & paras. added to subsection 158 (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 6, paras. 7 & 8.

<sup>2</sup> In s. 158 words substituted in ss. (1A) & ss. (9) inserted (15.4.05) by Commissioners for Revenue and Customs Act 2005 (c. 11), Sch. 4, para. 51.

<sup>3</sup> S. 158(2) and (3) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 66(a), and Sch. 7, Part III.

<sup>4</sup> Words inserted in s. 158(4) (6.4.05) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1, para. 468(a) & (b).

<sup>5</sup> Words in s. 158(6) & s. 158(7) repealed (6.4.06) by Pensions Act 2004 (c. 35), Sch. 13.

<sup>6</sup> Words in s. 158(6) and s. 158(6)(d) and the word “or” immediately preceding it repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 66(b), and Sch. 7, Part III.

<sup>7</sup> Words substituted in s. 158(6)(c) (5.7.99) by S.S. Act 1998 (c. 14), Sch. 7, para. 129.

<sup>8</sup> S. 158(8) repealed by Pensions Act 1995 (c. 26), Sch. 5, para. 66(d), and Sch. 7, Part III.

**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 158A**

Other disclosures by the Secretary of State.

[<sup>1</sup>**158A.**—(1)The Secretary of State may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on him or on persons employed in [<sup>2</sup>the Department for Work and Pensions], disclose [<sup>3</sup>any regulated information] to any person specified in the first column of the following Table if he considers that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.

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<sup>1</sup> S. 158A inserted (6.4.96) by Pensions Act 1995 (c. 26), Sch. 6, para. 9.

<sup>2</sup> Words in s. 158A(1) substituted (27.6.02) by para. 9 of the Sch. to S.I. 2002/1397.

<sup>3</sup> Words in s. 158A(1) substituted (6.4.05) by Sch. 12, para. 26(2) of Pensions Act 2004 (c. 35).

## TABLE

<i>Persons</i>	<i>Functions</i>
[...] <sup>1</sup> The Bank of England.	[ <sup>2</sup> any of its functions]
[ <sup>2</sup> The Financial Services Authority	[ <sup>1</sup> Functions under the legislation relating to friendly societies, under the Building Societies Act 1986 or under the Financial Services and Markets Acts 2000.]]
The Regulatory Authority.	Functions under this Act[ <sup>3</sup> , the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments.]
[ <sup>3</sup> The Pensions Ombudsman.	Functions conferred by or by virtue of this Act or any enactment in force in Northern Ireland corresponding to it.
The Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.
The Ombudsman for the Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.]
[ <sup>1</sup> A person appointed under—	Functions in relation to that investigation
(a) section 167 of the Financial Services and Markets Act 2000,	
(b) subsection (3) or (5) of section 168 of that Act, or	
(c) section 284 of that Act, to conduct an investigation.	
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.]
[ <sup>3</sup> (1AA) In subsection (1), “regulated information” means information received by the Secretary of State in connection with his functions under—	
(a) this Act,	
(b) the Pensions Act 1995, or	
(c) the Pensions Act 2004,	
other than information supplied to him under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement planning purposes etc).]	

<sup>1</sup> In table in s. 158A(1) entries repealed, substituted and inserted (1.12.01) by reg. 124 of S.I. 2001/3649.

<sup>2</sup> In table in s. 158A(1) entries substituted and inserted by para. 69(2) & (3) of Sch. 5 to the Bank of England Act 1998 (c. 11).

<sup>3</sup> In s. 158A(1) in the table, words substituted & subsection (1AA) inserted (6.4.05) by Sch. 12, para. 26(3) & (4) of Pensions Act 2004 (c. 35).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 158A-159**

[<sup>1</sup>(1A)The Inland Revenue may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on them or on their officers, disclose any information received by them in connection with their functions under Part III of this Act to any person specified in the first column of the Table in subsection (1) if they consider that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.]

- (2) The Secretary of State may by order—
- (a) amend the Table in subsection (1) by—
    - (i) adding any person exercising regulatory functions and specifying functions in relation to that person.
    - (ii) removing any person for the time being specified in the Table, or
    - (ii) altering the functions for the time being specified in the Table in relation to any person, or
  - (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in the Table].

*Avoidance of certain transactions and provisions*

Inalienability of guaranteed minimum pension and protected rights payments.

**159.—(1) Where—**

- (a) a person is entitled or prospectively entitled to guaranteed minimum pension under an occupational pension scheme or [<sup>2</sup>entitled] to payments giving effect to protected rights under such a scheme; and
- (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;

then—

- (i) every assignment of or charge on that pension or those payments, and
- (ii) every agreement to assign or charge that pension or those payments,

shall be void.

(2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b).

(3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

(4) Every assignment of or charge on and every agreement to assign or charge [<sup>2</sup>payments giving effect to protected rights under a personal pension scheme] shall be void.

[<sup>3</sup>(4A)Where a person—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
- (b) is entitled to [...<sup>2</sup>] such a payment as is mentioned in subsection (4),

no order shall be made by any court the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by either of those subsections.

(4B) Subsection (4A) does not prevent the making of an attachment of earnings order under the Attachment of Earnings Act 1971.]

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

<sup>1</sup> Subsection (1A) inserted in s. 158A (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 6, para. 8.

<sup>2</sup> Words inserted, substituted and omitted in s. 159(1), (4) & (4)(b) (6.4.12) by 2011/1730, art. 5(7).

<sup>3</sup> S. 159(4A) and (4B) inserted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3 para. 41.

<sup>4</sup> S. 159(5) repealed by Welfare Reform and Pensions Act 1999 (c. 30) Part I of Sch. 13 and s. 88.



(6) In the application of this section to Scotland—

- (a) references to assignment shall be construed as references to assignation and “assign” shall be construed accordingly; and
- (b) the reference to a person’s bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.

1980 c. 46.

*S. 159 is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 8, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 34, para. 5, w.e.f. 27.7.87.*

**[<sup>2</sup>159A.**—(1) A person’s rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.

No forfeiture on bankruptcy of rights under personal pension schemes.

(2) For the purposes of this section—

- (a) a person shall be treated as having a right under a personal pension scheme where—
  - (i) he is entitled to a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (sharing of rights on divorce etc. [<sup>3</sup>or on dissolution etc. of a civil partnership]),
  - (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter 1 of Part IV of that Act), and
  - (iii) the person so responsible has not discharged his liability in respect of the credit; and
- (b) forfeiture shall be taken to include any manner of deprivation or suspension.]

**160.**—(1) Subject to such exceptions as may be prescribed—

- (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—
  - (i) of a personal or occupational pension scheme,
  - (ii) of a particular personal or occupational pension scheme, or
  - (iii) of one or other of a number of particular personal or occupational pension schemes,
 shall be void; and
- (b) any such term of rule to the effect that contributions shall be paid by or in respect of an employed earner—
  - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
  - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,
 shall be unenforceable for so long as he is not a member of the scheme of any of the schemes.

Terms of contracts of service or schemes restricting choice to be void.

(2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—

- (a) to make contributions to a person or occupational pension scheme; or
- (b) to increase an employed earner’s pay in lieu of making contributions to a personal or occupational pension scheme.

**161.** Any provision in an agreement (whether a [<sup>3</sup>worker’s contract] or not) shall be void in so far as it purports—

Provisions excluding Chapter II of Part VII to be void.

<sup>1</sup> S. 159A inserted (6.4.02) by Welfare Reform and Pensions Act 1999 (c. 30), s. 14.

<sup>3</sup> Words in s. 159A(2)(a)(i) inserted (5.12.05) by para. 17 of the Sch. to S.I. 2005/2053.

<sup>3</sup> Words in s. 161 substituted (11.9.14) by s. 42(4) of the Pensions Act 2014 (c. 19).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 161-163

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII of this Act; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that chapter.

Removal of restrictions on friendly societies' pension business.

**162.**—(1) The Secretary of State may make such regulations as he thinks appropriate for enabling a friendly society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.

(2) The power to make regulations under this section shall extend to enabling friendly societies to conduct group insurance business freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.

(3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1).

(4) In this section

1974 c. 46.  
1992 c. 40.  
1988 c. 1.

- (a) “the relevant legislation” means the Friendly Societies Act 1974, the Friendly Societies Act 1992 and section 464 of the Income and Corporation Taxes Act 1988;
- (b) “friendly society”, has the same meaning as in the Friendly Societies Act 1992; and
- (c) “group insurance business” means—
  - (i) in relation to a registered friendly society, group insurance business within the meaning of section 65A<sup>1</sup> of the Friendly Societies Act 1974, and
  - (ii) in relation to an incorporated friendly society, group insurance business within the meaning of section 11 of the Friendly Societies Act 1992, and in this paragraph “registered friendly society” and “incorporated friendly society” have the same meaning as in that Act of 1992.

Exemption of certain schemes from rule against perpetuities.

**163.**—(1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension schemes at any time when this section applies to it.

(2) This section applies to—

- (a) a public service pension scheme;
- (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;

[...<sup>2</sup>] and

- (d) an occupational or personal pension scheme which satisfies prescribed requirements.

(3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to Perpetuities (including, where applicable, section 3(1) of the perpetuities and Accumulations Act 1964 (“wait and see”)) already require to be treated as void before this section applies to the scheme.

1964 c. 55.

<sup>1</sup> The amendment to s. 162(4)(c)(i) provided for in para. 6 of Sch. 9 to the Pension Schemes Act 1993 (c. 48) did not come into force because, before the Pension Schemes Act 1993 was passed, the date 1.1.94 had been appointed (under Sch. 6 to S.I. 1993/2213 (c. 43)) for bringing into force para. 23 of Sch. 16 to the Friendly Societies Act 1993 under S.I. 1994/86 (c. 3)). para. 1(1) of Sch. 9 to the Pension Schemes Act 1993 did not operate so as to bring into effect para. 6 of that Schedule.

<sup>2</sup> S. 163(2)(c) omitted (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 4, para. 31.

- (4) Regulations under subsection (2)(d) may require a scheme—
- (a) to contain provisions in any prescribed form, or to any prescribed effect; or
  - [<sup>1</sup>(b) to be a registered pension scheme under section 153 of the Finance Act 2004 or to be a scheme that may be expected to satisfy the conditions for registration.]

(5) [...<sup>1</sup>]

(6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the [<sup>2</sup>Secretary of State considers] to be reasonable in the case of a particular scheme.

(7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.

(8) Subsection (7) is without prejudice to any rights which vested while this section applied.

[<sup>3</sup>(9) *Regulations may provide for a scheme, whose fund was registered under the superannuation and other Trust Funds (Validation) Act 1927 immediately before the repeal of that Act took effect, to retain the benefit of that Act subject to prescribed conditions and either indefinitely or for a prescribed period.*]

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<sup>1</sup> S. 163(4)(b) substituted and (5) omitted (6.4.06) by S.I. 2006/745, art. 7.

<sup>2</sup> Words “Board consider” in s. 163(6) replaced (6.4.97) with the words “Secretary of State considers” by para. 21 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>3</sup> S. 163(9) as enacted but, in consequence of paragraph 2 of Sch. 9 to Pension Schemes Act 1993 (c. 48), not due to come into force until a day is appointed under para. (a) of the definition of “the appointed day” in para. 1(3) *ibid.*

*Special classes of earner*

Crown employment. **164.**—(1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—

- (a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements—
- (b) the remaining provisions of this Act except for—
  - (i) sections [...<sup>1</sup>], [...<sup>2</sup>], 153(2), 158(1) to (5), 162, 163, [...<sup>1</sup>] and 176 [...<sup>1</sup>];
  - (ii) Chapter II of Part VII and sections 157 and 161;
  - (iii) section 166 and the provisions mentioned in subsection (2).

[<sup>3,4</sup>(2)A person who is employed by or under the crown shall be treated as an employed earner for the purposes of—

- (a) sections 31 and 33, so far as they relate to personal pension schemes;
- (b) sections 43 and 45;
- (c) section 48, so far as it relates to minimum contributions;
- (d) section 117, 154 and 155;
- (e) section 159, so far as it relates to protected rights payments; and
- (f) sections 160 and 166.]

(3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.

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<sup>1</sup> References in s. 164(1)(b)(i) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 67, and Sch. 7, Part III.

<sup>2</sup> References in s. 164(1)(b)(i) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 6, para. 10 and Sch. 7, Part IV.

<sup>3</sup> S. 164(2) substituted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 32 but repealed immediately before 6.4.12 by 2011/1730, art. 8.

<sup>4</sup> S. 164(2) substituted (6.4.12) by 2011/1730, art. 5(18).

(4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the provisions within subsection (1)(b) and those within subsection (2) (except for sections 154 and 166) as an employed earner in respect of his membership of those forces.

(5) The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.

(6) .....repealed by 1996 c. 18, see Annex 1, page 5.1701

(7) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

**165.**—(1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—

Application of certain provisions to cases with foreign element.

- (a) employed on board any ship, vessel, hovercraft or aircraft;
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations.

(2) The provisions referred to in subsection (1) are—

- (a) [Part III], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166; and
- (b) sections 41 and 42, subsections (1), (6) and (7) of section 46 (and subsection (8) of that section so far as it has effect for the purposes of those subsections), and sections 47(2) and (5) and 48.

(3) Subject to subsection (4), regulations under subsection (1) may in particular provide—

- (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with regulations.

(4) Paragraph (b) of subsection (3) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of that subsection do not apply as respects the application of those provisions to such persons as are mentioned in paragraph (b) or (c) of subsection (1).

(5) Without prejudice to the generality of subsection (1)(c), regulations made by virtue of that subsection as respects any provision mentioned in subsection (2)(b) may provide for that provision to apply to such a person as is mentioned in that subsection notwithstanding that he does not fall within the description of an employed or self-employed earner or does not fulfil conditions as to residence or presence in Great Britain.

<sup>1</sup> Words in s. 165(2)(a) replaced (6.4.97) by para. 68 of Sch. 5 to Pensions Act 1995 (c. 26).

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 165-166

(6) Without prejudice to the generality of section 153(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined, in their operation to the United Kingdom.

1964 c.55.

(7) Chapter II of Part VII and section 157 do not apply—

- (a) to employment where under his [<sup>1</sup>worker's contract the worker] the employee ordinarily works outside the territory of the member States, or
- (b) to employment as master or as a member of the crew of a fishing vessel where the [<sup>1</sup>worker] is remunerated only by a share in the profits or gross earnings of the vessel,

and sections 124 and 125 do not apply to employment as a merchant seaman, but [<sup>2</sup>section 201 of the Employment Rights Act 1996] (power to extend employment protection legislation) applies to Chapter II of Part VII and section 157 as it does to the provisions of that Act.

1964 c. 55.

(8) In this section—

“continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section; and  
“employment as a merchant seaman” has the meaning given in [<sup>3</sup>section 199(5) of the Employment Rights Act 1996.]

#### *Reciprocity with other countries*

Reciprocity with other countries.

**166.**—(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question.

Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.

(2) An Order in Council made by virtue of subsection (1) may, instead of or in addition to making specific modifications adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications of this Act which may be made by virtue of subsection (1) include provision—

- (a) for securing that acts, omissions and events having effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit).
- (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
- (c) for making any necessary financial adjustments.

<sup>1</sup> Words in S. 165(7)(a) & (b) substituted (11.9.14) by S. 42(5) of the Pensions Act 2014 (c. 19).

<sup>2</sup> Words in S. 165(7) substituted (22.8.96) by Employment Rights Act 1996 (c. 18), Sch. 1, para 61(4)(a).

<sup>3</sup> Words in S. 165(8) substituted (22.8.96) by Employment Rights Act 1996 (c. 18), Sch. 1, para. 61(4)(b).

(4) An Order in Council made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 164 may, in particular, provide for the Secretary of State to make payments for any period beginning on or after 6th April 1987 and may make provision with respect to any matters relating to payments so made.

(5) References in this section to this Act do not include references to <sup>[1]</sup> Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections <sup>[2]</sup> 153(2), 157 158(1) to (5), 161, 162, 163, <sup>[1]</sup> and 176 <sup>[1]</sup>.

*Application of provisions relating to social security administration*

**167.**—(1) The Social Security Administration Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 164(1)(b) of this Act (in this section referred to as “the relevant provisions”).

Application of certain provisions to cases with foreign element.

(2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration Act 1992—

section 116 (legal proceedings)

section 125 (regulations as to notification of deaths)

[...<sup>3]</sup>

section 180 (payment of travelling expenses by the Secretary of State).

[<sup>4</sup>section 180A (payment of travelling expenses by Inland Revenue)]

[...<sup>5]</sup>

[...<sup>6]</sup>

[<sup>7</sup>(5) Sections 124 to 124B of the Social Security Administration Act 1992 (provisions relating to age, death, marriage and civil partnership) shall apply as if information for the purposes mentioned in section 124(1) of that Act included information for the purposes of the relevant provisions.]

(6) Section 121 of the Social Security Contributions and Benefits Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

*General provisions as to offences*

[<sup>8</sup>**168.**—(1) Regulations under any provision of this Act (other than Chapter II of Part VII) may make such provision as is referred to in subsection (2) or (4) for the contravention of any provision contained in regulations made or having effect as if made under any provision of this Act.

(2) The regulations may provide for the contravention to be an offence under this Act and for the recovery on summary conviction of a fine not exceeding level 5 on the standard scale.

(3) An offence under any provision of the regulations may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under such a provision by reference to any period of time following the proceeding conviction of the offence.

<sup>1</sup> Words in s. 166(5) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 69, and Sch. 7, Part III.

<sup>2</sup> Words in s. 166(5) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 6, para. 11, and Sch. 7, Part IV.

<sup>3</sup> Words in s. 167(2) repealed (2.12.99) by NI Act 1998, Sch. 15.

<sup>4</sup> Words substituted in s. 167(2) (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 7, para. 18(2).

<sup>5</sup> Ss. (3) omitted (5.7.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) Sch. 7, para. 18(3).

<sup>6</sup> Ss. (4) shall cease to have effect (5.7.99) by S.S. Act 1998 (c. 14) Sch. 7, para. 130(2).

<sup>7</sup> S. 167(5) substituted (5.12.06) by S.I. 2005/3129, Sch. 1, para. 5.

<sup>8</sup> Ss. 168 and 168A substituted for S. 168 (1.6.96) for the purpose only of authorising the making of regulations, by s. 155(1) of Pensions Act 1995 (c. 26).



**PENSION SCHEMES ACT 1993 (c. 48)**

**Ss. 168-169**

(4) The regulations may provide for a person who has contravened the provision [to be required by notice in writing] to pay to the Regulatory Authority, within a prescribed period, a penalty not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in section 10(2)(a) of the Pensions Act 1995.

(5) Regulations made by virtue of subsection (4) do not affect the amount of any penalty recoverable under the subsection by reason of an act or omission occurring before the regulations are made.

(6) Where—

- (a) apart from this subsection, a penalty under subsection (4) is recoverable from a body corporate or Scottish partnership by reason of any act or omission of the body or partnership as a trustee of a trust scheme, and
- (b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any persons mentioned in subsection (7),

such a penalty is recoverable from each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.

(7) The persons referred to in subsection (6)(b)—

- (a) in relation to a body corporate, are—
  - (i) any director, manager, secretary, or other similar officer of the body, or a person purporting to act in any such capacity, and
  - (ii) where the affairs of a body corporate are managed by its members, any member in connection with his functions of management, and
- (b) in relation to a Scottish partnership, are the partners.

(8) Where the Regulatory Authority requires any person to pay a penalty by virtue of subsection (6), they may not also require the body corporate, or Scottish partnership, in question to pay a penalty in respect of the same act or omission.

(9) A penalty under subsection (4) is recoverable by the Authority and any such penalty recovered by the Authority must be paid to the Secretary of State.

(10) Where by reason of the contravention of any provision contained in regulations made, or having effect as if made, under this Act—

- (a) a person is convicted of an offence under this Act, or
- (b) a person pays a penalty under subsection (4),

then, in respect of that contravention, he shall not, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (b), be convicted of such an offence.

(11) In this section “contravention” includes failure to comply, and “Scottish partnership” means a partnership constituted under the law of Scotland.

Offence in connection with the Registrar.  
Offences by bodies corporate.

**168A.** .....repealed by 2004 c. 35, see Annex 1 p. 5.1701

**169.**—(1) Where an offence under this act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

<sup>1</sup> Words inserted in s. 168(4) (6.4.06), by para. 27 of Sch. 12 to The Pensions Act 2004 (c. 35).

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

*General provisions as to determinations and appeals*

[<sup>1</sup>170.—(1) Section 2 (use of computers) of the Social Security Act 1998 (“the 1998 Act”) applies as if, for the purposes of subsection (1) of that section, this Act were a relevant enactment. Decisions and appeals.

[<sup>2</sup>(2) It shall be for an officer of the Inland Revenue—

- (a) to make any decision that falls to be made under or by virtue of Part III of this Act, other than a decision which under or by virtue of that Part falls to be made by the Secretary of State;
- (b) to decide any issue arising in connection with payments under section 7 of the Social Security Act 1986 (occupational pension schemes becoming contracted-out between 1986 and 1993); and
- (c) to decide any issue arising by virtue of regulations made under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (continuing in force of certain enactments repealed by the Social Security Act 1973).

(3) In the following provisions of this section a “relevant decision” means any decision which under subsection (2) falls to be made by an officer of the Inland Revenue, other than a decision under section 53 [...<sup>3</sup>].

(4) Sections 9 and 10 of the 1998 Act (revision of decisions and decisions superseding earlier decisions) apply as if—

- (a) any reference in those sections to a decision of the Secretary of State under section 8 of that Act included a reference to a relevant decision; and
- (b) any other reference in those sections to the Secretary of State were, in relation to a relevant decision, a reference to an officer of the Inland Revenue.

(5) Regulations may make provision—

- [<sup>3</sup>(a) generally with respect to the making of relevant decisions;
- (b) with respect to the procedure to be adopted on any application made under section 9 or 10 of the 1998 Act by virtue of subsection (4); and
- (c) generally with respect to such applications, revisions under section 9 and decisions under section 10;]

but may not prevent [<sup>3</sup>a revision under section 9 or decision under section 10] being made without such an application.

(6) Section 12 of the 1998 Act (appeal to appeal tribunal) applies as if, for the purposes of subsection (1)(b) of that section, a relevant decision were a decision of the Secretary of State falling within Schedule 3 to the 1998 Act.

(7) The following provisions of the 1998 Act (which relate to decisions and appeals)—

- sections 13 to 18,
- sections 25 and 26,
- section 28, and

<sup>1</sup> S. 170 substituted (4.3.99) by para. 131 of Sch. 7 to the S.S. Act 1998 (c. 14).

<sup>2</sup> Paras. (2) to (7) substituted for (2) to (4) (5.7.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), s. 16(2).

<sup>3</sup> Sub-paras (a) to (c) substituted for (a) & (b) and words substituted (11.11.99) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 22.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 170-173

Schedules 4 and 5, shall apply in relation to any appeal under section 12 of the 1998 Act by virtue of subsection (6) above as if any reference to the Secretary of State were a reference to an officer of the Inland Revenue.]].

Questions arising in proceedings.

**171.**—(1) Where in any proceedings—

- (a) for an offence under this Act; or
- (b) involving any question as to the payment of a [1contributions equivalent premium];

[2any relevant decision as defined by section 170(3) is made by the Inland Revenue, the decision] shall be conclusive for the purpose of the proceedings.

[2(2) If—

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of the Inland Revenue has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the Social Security Act 1998,

the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II or Part I of that Act.

(3) Subsection (1) does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined,
- (b) an application for leave to appeal has been made but not determined,
- (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
- (d) an application has been made under section 9 or 10 of that Act.

(4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings.]

Reports by Inland Revenue.

[2**171A.**—(1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 170(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.

(2) Any report under this section—

- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament [...3]

(3) A copy of every report under this section shall be laid before each House of Parliament, unless the report is included in [...3] a report of which a copy is so laid.]

**172-173.** [...4]

<sup>1</sup> Words in s. 171(1)(b) substituted (6.4.97) by para. 71 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>2</sup> Words & paras. substituted and inserted (5.7.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) by Sch. 7, paras. 19 & 20.

<sup>3</sup> S. 171A(2)(b) & words in subsec. (3) repealed (8.5.12) by the Welfare Reform Act 2012. (c. 5), Sch. 14, Pt. 14.

<sup>4</sup> Ss. 172 and 173 (reviews and appeals) repealed (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5, para. 72 and Sch. 7, Part III.

*Financial provisions*

**174.**—(1) The [<sup>2</sup>Regulatory Authority] may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.

[<sup>1</sup>Grants by the Secretary of State to advisory bodies.]

(2) The Secretary of State may pay the [<sup>2</sup>Regulatory Authority] such sums as the may think fit towards any expenditure of theirs in making grants under this section.

[<sup>1</sup>(3) The Secretary of State may make grants on such terms and conditions as the Secretary of State thinks fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.]

[<sup>3</sup>**175.**—(1) For the purpose of meeting expenditure—

Levies toward certain expenditure.

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

(b) under Part X and section 174, [...<sup>4</sup>]

[<sup>4</sup>(c) of the Regulatory Authority (including the establishment of the Authority under the Pensions Act 2004), or

(d) of the Lord Chancellor in meeting the costs of the legal assistance scheme established by virtue of section 106 of the Pensions Act 2004 (legal assistance in connection with proceedings before [<sup>5</sup>a Tribunal in relation to a decision of the Pensions Regulator]

regulations may make provision for imposing levies in respect of prescribed occupational or prescribed personal pension schemes.

(2) Any levy imposed under subsection(1) is payable to the Secretary of State by or on behalf of—

(a) the administrators of any prescribed public service pension scheme,

(b) the trustees or managers of any other prescribed occupational or prescribed personal pension scheme, or

(c) any other prescribed person,

at prescribed rates and at prescribed times.

(3) Regulations made by virtue of subsection (1)—

(a) in determining the amount of any levy in respect of the Regulatory Authority, must take account (among other things) of

[<sup>4</sup>(i) any amounts paid to the Secretary of State under section 168(4) of this Act or section 10 of the Pensions Act 1995 (civil penalties), and

(ii) any fees paid to the Authority under paragraph 25 of Schedule 1 to the Pensions Act 2004 (fees for certain applications), and]

(b) in determining the amount of expenditure in respect of which any levy is to be imposed, may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into force of this subsection).

<sup>1</sup> Heading substituted and subsection (3) inserted in s. 174 (3.1.12) by Pensions Act 2011 (c. 19), s. 35.

<sup>2</sup> Words “Regulatory Authority” substituted (1.4.97) by Pensions Act 1995 (c. 26). Sch. 5, para. 73.

<sup>3</sup> S. 175 substituted (16.10.96 for regulation - making purposes, 1.4.97 for all other purposes) by S. 165 of Pensions Act 1995 (c. 26).

<sup>4</sup> In s. 175, para. (1)(a) & word ‘or’ in (1)(b) repealed, (1)(c) & words in para. (3)(a) substituted (10.2.05 for reg. making, 1.4.05 for all other purposes) by Sch. 1, para. 26, & Sch. 13 of Pensions Act 2004 (c. 35).

<sup>5</sup> In s. 175(1)(d) words substituted (6.1.10) by Transfer of Tribunal Functions Order 2010, s. 20.

## PENSION SCHEMES ACT 1993 (c. 48)

### S. 175

(4)-(7) [...<sup>1</sup>]

[<sup>1</sup>(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Secretary of State, and an amount so payable shall be recoverable by the Secretary of State accordingly or, if the Secretary of State so determines, by the Regulatory Authority on his behalf.]

(9) Without prejudice to the generality of [<sup>2</sup>subsection (1)], regulations under this section may include provision relating to—

- (a) the collection and recovery of amounts payable by way of levy under this section, or
- (b) the circumstances in which any such amount may be waived.]

*S. 175 reproduced below is the version for transitional provision purposes as per para. 1 of Sch. 2 & Sch. 3 to S.I. 2005/695 page 5.4797.*

[<sup>3</sup>175.—(1) For the purpose of meeting expenditure—

- (a) [...<sup>1</sup>]
- (b) under Part X and section 174, [...<sup>1</sup>]
- (c) of the Regulatory Authority (including the establishment of the authority and, if the authority are appointed as Registrar under section 6 of this Act, their expenditure as Registrar),

regulations may make provision for imposing levies in respect of prescribed occupational or prescribed personal pension schemes.

(2) Any levy imposed under subsection(1) is payable to the Secretary of State by or on behalf of—

- (a) the administrators of any prescribed public service pension scheme,
- (b) the trustees or managers of any other prescribed occupational or prescribed personal pension scheme, or
- (c) any other prescribed person,

at prescribed rates and at prescribed times.

(3) Regulations made by virtue of subsection (1)—

- (a) in determining the amount of any levy in respect of the Regulatory Authority, must take account (among other things) of any amounts paid to the Secretary of State under section 168(4) of this Act or section 10 of the Pensions Act 1995, and
- (b) in determining the amount of expenditure in respect of which any levy is to be imposed, may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into force of this subsection).

(4) Regulations may make provision for imposing a levy in respect of prescribed occupational pension schemes for the purpose of meeting expenditure of the Pensions Compensation Board (including the Establishment of the Board).

(5) Any levy imposed under subsection (4) is payable to the Board by or on behalf of—

- (a) the trustees of any prescribed occupational pension scheme, or
- (b) any other prescribed person,

<sup>1</sup> In s. 175, para. (8) substituted & paras. (4)-(7) repealed (10.2.05 for reg. making, 1.4.05 for all other purposes) by Sch. 12, para. 28 of Pensions Act 2004 (c. 35).

<sup>2</sup> In subsection (9) of s. 175, words substituted (10.2.05 for reg. making purposes, 1.4.05 for all other purposes) by Sch. 12, para. 28 of Pensions Act 2004 (c. 35).

<sup>3</sup> S. 175 substituted (16.10.96 for regulation - making purposes, 1.4.97 for all other purposes) by S. 165 of Pensions Act 1995 (c. 26).

at prescribed rates and at a rate, not exceeding the prescribed rate, determined by the Board.

(6) In determining the amount of expenditure in respect of which any levy under subsection (4) is to be imposed, the Board, and regulations made by virtue of subsection (5), may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into force of this subsection).

(7) Notice of the rates determined by the Board under subsection (5) must be given to prescribed persons in the prescribed manner.

(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the appropriate person, that is—

- (a) if the levy is imposed under subsection (1), the Secretary of State, and
- (b) if the levy is imposed under subsection (4), the Board,

and an amount so payable shall be recoverable by the appropriate person accordingly or, if the appropriate person so determines, be recoverable by the Registrar on behalf of the appropriate person.

(9) Without prejudice to the generality of subsection (1) and (4), regulations under this section may include provision relating to—

- (a) the collection and recovery of amounts payable by way of levy under this section, or
- (b) the circumstances in which any such amount may be waived.]

**176.** Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme [by the Secretary of State], the Secretary of State may require the payment of fees for the provision of those services.

Fees for official services to schemes.

**177.**—(1) Subject to the following provisions of this section, all expenses incurred by the Secretary of State [or the Inland Revenue] under this Act shall be paid out of money provided by Parliament except so far as they may be required by an enactment to be paid or borne in some other way.

General financial arrangements.

(2) There shall be paid out of the National Insurance Fund—

[<sup>3</sup>(za) payments by the Inland Revenue under [<sup>4</sup>section 41 (1D) or section 42A (2C) or (3)]]

- (a) minimum contributions paid by the [<sup>2</sup>Inland Revenue] under section 43;
- (b) payments by [<sup>1</sup>the Secretary of State] under section 124.

(3) Subject to subsection (4), there shall be paid out of the National Insurance Fund into the Consolidation Fund—

- (a) sums equal to the amount of any expenses incurred by the Secretary of State (or by persons acting on his behalf) in exercising his functions under Chapter II of Part VII and section 157;
- (b) such sums as the Secretary of State may estimate to be the amount of the administrative expenses of the Secretary of State or any government department in carrying into effect the remaining provisions of this Act, other than—

<sup>1</sup> Words substituted (6.4.97) by para. 74 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>2</sup> Words in s. 177 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 61.

<sup>3</sup> Sub-para. (za) inserted (25.2.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), s. 20(1)(a).

<sup>4</sup> Words substituted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30). Sch. 9, para. 8(2).



**PENSION SCHEMES ACT 1993 (c. 48)**

**S. 177**

- (i) [...] Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections [...] 153(2), 158(1) to (5), 162, 163 [...] and 176 [...];
  - [<sup>2-3</sup>(ii) sections 31, 33, 117, 154 and 155;
  - (iii) section 159, so far as it relates to protected rights payments; and
  - (iv) sections 160 and 166.]
  - [<sup>4</sup>(c) such sums as the Inland Revenue may estimate to be the amount of their administrative expenses in exercising their functions under Part III.]
- (4) The sums payable under subsection (3)(b)–
- (a) shall be estimated in accordance with any directions given by the Treasury and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as the treasury may direct, or any enactment may require, to be so excluded; and
  - (b) shall be payable at such times and in such manner as the Treasury may direct.
- (5) There shall be paid into the Consolidated Fund–
- (a) subject to subsection (6), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State [<sup>4</sup>or the Inland Revenue] under or by virtue of the provisions within subsection (3)(b)(ii);
- [...<sup>5</sup>]
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that fund.
- (7) There shall also be paid into the National Insurance Fund–
- (a) sums recovered under section [<sup>6</sup>41(1E), 42A(2D) or (5) or] 43(5) or (6);
  - (b) [...<sup>7</sup>]
  - (c) any sum recovered by the Secretary of State in exercising any right or pursuing any remedy which is his by virtue of section 127; and
  - (d) any sums received by [<sup>8</sup>the Inland Revenue] by way of such payments as are mentioned in paragraph 5(4) of Schedule 2.

<sup>1</sup> Words in s. 177(3)(b)(i) and (ii) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 75(a) & Sch. 6, para. 12.

<sup>2</sup> In s. 177(3)(b) sub-paras. (ii)-(ix) substituted for (ii) (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 33 but repealed immediately before 6.4.12 by 2011/1730, art. 8(1).

<sup>3</sup> S. 177(3)(b)(ii)-(iv) substituted for (ii) (6.4.12) by 2011/1730, art. 5(21).

<sup>4</sup> Words in s. 177 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 61.

<sup>5</sup> S. 177(5)(b) and word “and” preceding it repealed (6.4.06) by Pensions Act 2004 (c. 35), Sch. 13.

<sup>6</sup> Words inserted (22.12.99 for reg. making purposes, 6.4.00 for all other purposes) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 9, para. 8(3).

<sup>7</sup> S. 177(7)(b) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 75(b).

<sup>8</sup> Words inserted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 61(6).



## PART XII SUPPLEMENTARY PROVISIONS

### *Interpretation*

**178.** The Secretary of State may by regulations provide—

- (a) who is to be treated as a manager of an occupational pension scheme for any of the purposes of the provisions of this Act (except Chapter II of Part VII or section 157), the Social Security Acts 1975 to 1991, [...]<sup>1</sup> Part VI of the Social Security Administration Act 1992 [...]<sup>1</sup>[...]<sup>2</sup> [...]<sup>3</sup> [<sup>4</sup>, section 25D of the Matrimonial Causes Act 1973, section 12 A of the Family Law (Scotland) Act 1985 or [<sup>5</sup> Part III or IV of the Welfare Reform and Pensions Act 1999 or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act 2000.]]; or
- (b) who is to be treated as a trustee of a scheme for the purposes of [...]<sup>6</sup> Chapter I of Part IV, [<sup>4</sup>chapter I of Part IV A,] Part VIII so far as it applies for the

Trustees and managers  
of schemes.

1992 c. 5.

<sup>1</sup> Words deleted and inserted into s. 178(a) (6.4.97) by Pensions Act 1995, Sch. 3, para. 43.

<sup>2</sup> Words in s. 178(a) repealed (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13, Part III.

<sup>3</sup> Words in s. 178(a) repealed (1.3.02) by Sch. 9, Part III, s. 2 of Child Support, Pensions and Social Security Act 2000 (c. 12).

<sup>4</sup> Words in s. 178(a) & (b) inserted (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 40(2)(b).

<sup>5</sup> Words in s. 178(a) substituted (12.2.01 for reg. making purposes, 1.6.01 for all other purposes) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, Part II, para. 17(9).

<sup>6</sup> Words deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 76.

**PENSION SCHEMES ACT 1993 (c. 48)**

purposes of Chapter I of Part IV, sections [...] 153(2), 158(1) to (5), 162, 163 [...<sup>2</sup>], and 176 [...<sup>2</sup>].

**179.**—(1) Subject to subsections (2) to (4), for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if— Linked qualifying service.

- (a) under [<sup>3</sup>Chapter 4 or 5 of Part 4 or under the rules of a scheme] applying to him in the earlier period of service—
  - [<sup>3</sup>(i) there was made a transfer of his rights (including any transfer credits allowed) under that scheme, or a transfer payment in respect of those rights, to, or to the trustees or managers of, another scheme applying to him in the later period of service;]
  - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service; [<sup>3</sup>or]
  - [<sup>3</sup>(iii) a cash equivalent (within the meaning of Chapter 4 of Part 4) or cash transfer sum (within the meaning of Chapter 5 of that Part) was paid in respect of him to the trustees or managers of another scheme applying to him in the later period of service; and]
- (b) in consequence of the transfer of his accrued rights to the second scheme, [<sup>3</sup>or the payment to the trustees or managers of that scheme,] there are (or were) allowed to him transfer credits under the rules of that other scheme.

(2) For any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.

(3) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.

(4) For the purposes of Chapter I of Part IV, as respects any case where the rules of the scheme provide—

- (a) that an earner is not entitled to become a member unless he satisfies specified conditions, but
- (b) that, if he becomes a member, rights are to accrue to him in respect of periods of service before he satisfied any such conditions,

regulations may provide for any such periods to be treated, in such cases and to such extent as may be prescribed, as linked qualifying service with alter periods of service.

**180.**—(1) In this Act “normal pension age”, in relation to a scheme and a member's pensionable service under it, means— Normal pension age.

- (a) in a case where the scheme provides for the member only a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies; and
- (b) in any other case, the earliest age at which the member is entitled to receive benefits (other than a guaranteed minimum pension) on his retirement from such employment.

(2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

<sup>1</sup> Words deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 6, para. 13.

<sup>2</sup> Words deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 76.

<sup>3</sup> In s. 179(1) words substituted in para. (a), (a)(ii) & (b), para. (a)(i) substituted & (a)(iii) inserted (6.4.06) by the Pensions Act 2004 (c. 35), Sch. 12, para. 30.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 180A-181

Insurer and long-term insurance business

[<sup>1</sup>180A.—(1) In this Act “insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

(2) In this Act “long term insurance business” means business which consists of the effecting or carrying out of contracts of long-term insurance.

(3) This section must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

General interpretation.

181.—[<sup>2</sup>(1) In this Act, unless the context otherwise requires—

[<sup>3</sup>“abolition date” means the day appointed for the commencement of section 15(1) of the Pensions Act 2007;]

“age”, in relation to any person, shall be construed so that—

- (a) he is over or under a particular age if he has or, as the case may be, has not attained that age;
- (b) he is between two particular ages if he has attained the first but not the second;

[<sup>3</sup>“appropriate scheme” and “appropriate scheme certificate” are to be construed in accordance with section 181A;]

“Category A retirement pension” and “Category B retirement pension” mean the retirement pensions of those descriptions payable under Part II of the Social Security Contributions and Benefits Act 1992;

1992 c. 4.

“contract of service” has the same meaning as in section 122(1) of the Social Security Contributions and Benefits Act 1992;

“contracted-out employment” shall be construed in accordance with section 8;

“contracting-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 7 [<sup>3</sup>and section 181A];

“contributions equivalent premium” has the meaning given in section [<sup>4</sup>55(2)];

“earner” and “earnings” shall be construed in accordance with sections 3,4, and 112 of the Social Security Contributions and Benefits Act 1992;

“earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits Act 1992;

[<sup>5</sup>“employed earner” and “self-employed earner” have the meaning given by section 2 of the Social Security Contributions and Benefits Act 1992;]

<sup>1</sup> S. 180A inserted (1.12.01) by reg. 126 of S.I. 2001/3649.

<sup>2</sup> Defn. in s. 181(1) deleted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 77(a)(i).

<sup>3</sup> In s. 181(1), defn. of “abolition date” & words in defn. of “contracting-out certificate” inserted & defn. of “appropriate scheme certificate” substituted (26.9.07) by the Pensions Act 2007 (c. 22), Sch. 4, para. 34(2)(a)-(c).

<sup>4</sup> Words in defn. of “contributions equivalent premium” substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 77(a)(ii).

<sup>5</sup> Defn. of “employed earner” substituted (25.4.00) by s. 18 of the Welfare Reform and Pensions Act 1999 (c. 30).

“employee” means a person gainfully employed in Great Britain either under a contract of service or in an office (including an elective office) with [<sup>1</sup>general earnings (as defined by section 7 of the Income Tax (Earnings and Pensions) Act 2003)]

“employer” means—

- (a) in the case of an employed earner employed under a contract of service, his employer;
- (b) in the case of an employed earner employed in an office with emoluments—
  - (i) such person as may be prescribed in relation to that office; or
  - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly except in the expression “employed earner”;

[<sup>2</sup>“Financial Services Compensation Scheme” means the Financial Services Compensation Scheme referred to in section 213(2) of the Financial Services and Markets Act 2000.]

[...<sup>3</sup>]

[...<sup>4</sup>]

“guaranteed minimum pension” has the meaning given in section 8(2);

“independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992;

1992 c. 52.

[<sup>5</sup>“HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;]

“industrial tribunal” means a tribunal established or having effect as if established under [<sup>6</sup>section 1(1) of the Industrial Tribunals Act 1996]

“the Inland Revenue” means the Commissioners of Inland Revenue;

[...<sup>2</sup>]

“linked qualifying service” has the meaning given in section 179;

“long-term benefit” has the meaning given in section 20(2) of the Social Security Contributions and Benefits Act 1992;

“lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits Act 1992 and “current”, in relation to those limits, means for the time being in force;

“minimum contributions” shall be construed in accordance with section 43 to 45;

“minimum payment” has the meaning given in section 8(2);

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“money purchase benefits”, in relation to a member of a personal or occupational pension scheme or the [<sup>7</sup>widow, widower or surviving civil partner] of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and [<sup>8</sup>which fall within section 181B];

<sup>1</sup> In s. 181, words substituted (6.4.03) in defn. of “employee” by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6, para. 222.

<sup>2</sup> Defn. of “Financial Services Compensation Scheme” inserted and “insurance company” repealed (1.12.01) by reg. 128 of S.I. 2001/3649.

<sup>3</sup> Defn. of “equal access requirements” in s. 181(1) repealed (1.1.96) by Pensions Act 1995 (c. 26), Sch. 3, para. 44(a)(i).

<sup>4</sup> Defn. of “the flat rate introduction year” repealed by National Insurance Contributions Act 2008 (c. 16), Sch. 2.

<sup>5</sup> Defn. of “HMRC” inserted (26.9.07) by Pensions Act 2007 (c. 22), Sch. 4, para. 34(2)(a).

<sup>6</sup> Words substituted (22.8.96) by Industrial Tribunals Act 1996 (c. 17), Sch. 1, para. 11.

<sup>7</sup> Words in defn. of “money purchase benefits” substituted (5.12.05) by para. 18 of the Sch. to S.I. 2005/2053.

<sup>8</sup> Words substituted in defn. of “money purchase benefits” (24.7.14) by the Pensions Act 2011 (c. 19), s. 29(1).

[<sup>1</sup>“money purchase contracted-out scheme” is to be construed in accordance with section 181A;]

“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;

“normal pension age” has the meaning given in section 180;

“occupational pension scheme” has the meaning given in section 1;

[<sup>2</sup>“overseas arrangement” means a scheme or arrangement which–

- (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
- (b) is administered wholly or primarily outside Great Britain;
- (c) is not an appropriate scheme; and
- (d) is not an occupational pension scheme;]

[<sup>3</sup>“pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;]

[<sup>4</sup>“pension debit” means a debit under section 29(1)(a) of the Welfare Reform and Pensions Act 1999;]

[<sup>5</sup>“pensionable age”–

- (a) so far as any provisions (other than sections 46 to 48) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and
- (b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.]

“pensionable service” has the meaning given in section 70(2);

“personal pension scheme” has the meaning given in section 1;

“prescribe” means prescribe by regulations and “prescribed” shall be construed accordingly;

[...<sup>6</sup>]

“the preservation requirements” has the meaning given in section 69(2);

“primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in the Social Security Contributions and Benefits Act 1992;

“protected rights” has the meaning given in section 10 [<sup>7</sup>, as it had effect immediately prior to the abolition date];

“public service pension scheme” has the meaning given in section 1;

[...<sup>8</sup>]

“regulations” means regulations made by the Secretary of State under this Act;

[<sup>9</sup>“the Regulatory Authority” means the Pensions Regulator,]

<sup>1</sup> Defn. of “money purchase contracted-out scheme” substituted by Pensions Act 2007 (c. 22), Sch. 4, para. 34(d).

<sup>2</sup> Defn. of “overseas arrangement” inserted (1.1.01) by Child Support, Pensions & Social Security Act 2000 (c. 19), Sch. 5, para. 2(3).

<sup>3</sup> Defns. of “pension credit” inserted (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 41.

<sup>4</sup> Defn. of “pension debit” inserted (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), s. 32(5).

<sup>5</sup> Defn. of “pensionable age” substituted (19.7.95) by Pensions Act 1995 (c. 26), Sch. 4, para. 17.

<sup>6</sup> Defn. of “prescribed equivalent” repealed (6.4.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 13, Pt VI.

<sup>7</sup> Words inserted in defn. of “protected rights” (6.4.12) by 2011/1730, art. 5(22)(9).

<sup>8</sup> Defns. of “the register” & “the Registrar” in subsection (1) repealed (6.4.05) by Sch. 13 of Pensions Act 2004 (c. 35).

<sup>9</sup> Defn. of “the Regulatory Authority” substituted (6.4.05) by Pensions Act 2004 (c. 35), s. 7.

“resources”, in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;

“rights”, in relation to accrued rights (within the meaning of section 73, 136 of 179) or transfer credits, includes rights to benefit and also options to have benefits paid in a particular form or at a particular time;

[<sup>1</sup>“safeguarded rights” has the meaning given in section 68A;]

[...<sup>2</sup>]

“short service benefit” has the meaning given in section 71(2);

[...<sup>3</sup>]

“tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day thereafter, the last day of a tax year (or, in a leap year, the last two days) being treated accordingly as a separate tax week;

“tax year” means the 12 months beginning with 6th April in any year;

“trade or business”, in relation to public or local authority, includes the exercise and performance of the powers and duties of the authority;

“transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to<sup>4</sup>—

- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than rights attributable (directly or indirectly) to a pension credit, or
- (b) a cash transfer sum paid under Chapter 5 of Part 4 in respect of him, to the trustees or managers of the scheme;]

[<sup>5</sup>“the upper accrual point” has the meaning given by section 122 of the Social Security Contributions and Benefits Act 1992;]

[...<sup>6</sup>]

“week” means a period of seven days beginning with Sunday;

[<sup>7</sup>“working life”, in relation to a person, means the period beginning with the tax year in which the person attains the age of 16 and ending with—

- (a) the tax year before the one in which the person attains the age of 65 in the case of a man or 60 in the case of a woman, or
- (b) if earlier, the tax year before the one in which the person dies.]

(2) References to employers in the provisions of this Act (other than sections 123 to 127, 157<sup>8</sup> and 160), (“the excluded provisions”) are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those provisions.

(3) Subject to any such regulations, references to an employer in any of the

<sup>1</sup> Defn. of “safeguarded rights” inserted 1.12.00. by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 41.

<sup>2</sup> Defn. of “self-employed pension arrangement” repealed (25.4.00) by s. 18 of Welfare Reform and Pensions Act 1999 (c. 30).

<sup>3</sup> Defn. of “tax exemption” & “tax approval” omitted (6.4.06) by S.I. 2006/745, art. 7.

<sup>4</sup> Words substituted in defn. of “transfer credits” (6.4.06) by Pensions Act 2004 (c. 35), Sch. 12, para. 31.

<sup>5</sup> Defn. of “the upper accrual point” inserted (27.9.07) by Pensions Act 2007 (c. 22), Sch. 1, para. 38.

<sup>6</sup> Defn. of “voluntary contributions requirements” omitted (6.4.06) by Pensions Act 2004 (c. 35).

<sup>7</sup> Defn. of “working life” substituted (6.4.05) by s. 282 of Pensions Act 2004 (c. 35).

<sup>8</sup> Words in s. 181(2) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3, para. 44(b).



## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 181-181A

provisions of this Act (other than the excluded provisions or [...] 6, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections [...<sup>2</sup>], 153(2), 158(1) to (5), 162, 163, [...] and 176 [...<sup>1</sup>]) shall, in relation to an earner employed in an office with emoluments, be construed as references to—

- (a) such person as may be prescribed in relation to that office; or
- (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.

*Certain references are to be deleted (prosp.) from s. 181(3) by para. 77(b) of Sch. 5, para. 14 of Sch. 6, and Parts III and IV of Sch. 7, to Pensions Act 1995 (c. 26).*

(4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section [...<sup>3</sup>] [...<sup>4</sup>] 31, [...<sup>4</sup>] 43, [...<sup>5</sup>], 111, 160, 164, 165, or 169) prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.

(5) In sections 165 to 166—

- (a) references to the United Kingdom include reference to the territorial waters of the United Kingdom; and
- (b) reference to Great Britain include reference to the territorial waters of the United Kingdom adjacent to Great Britain.

(6) Any reference in section 185 or 186 to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with it; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.

(7) In the application of section 158 [...<sup>6</sup>] to Northern Ireland and reference to a government department is to be taken to be, or to include (as the context may require), a Northern Ireland department.

Interpretation of references to money purchase contracted-out schemes or appropriate schemes after abolition date

**[<sup>5</sup>181A.—**(1) This section applies for the interpretation of this Act on and after the abolition date.

(2) An occupational pension scheme was a money purchase contracted-out scheme at a time before the abolition date if, at that time, the scheme was contracted-out by virtue of satisfying section 9(3) (as it then had effect).

(3) A money purchase contracted-out scheme was, at a time before the abolition date, a contracted-out scheme in relation to an earner's employment if it was, at that time, specified in a contracting-out certificate in relation to that employment; and references to the contracting-out of a scheme are, in relation to a money purchase contracted-out scheme, references to its inclusion in such a certificate.

(4) Any reference to a contracting-out certificate is, in relation to a money purchase contracted-out scheme, a reference to a certificate issued by virtue of section 7, as it had effect before the abolition date, in relation to the employment of an earner in employed earner's employment which was contracted-out by reference to that scheme.

<sup>1</sup> Words substituted and deleted in s. 181(3) (6.4.97) by Pensions Act 1995 (c. 26), Sch. 5, para. 77(b).

<sup>2</sup> Words in s. 181(2) substituted (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3, para. 44(b).

<sup>3</sup> In S. 181(4) word "6" repealed by Sch. 13 of Pensions Act 2004 (c. 35).

<sup>4</sup> Ref. omitted in s. 181(4) (6.4.12) by 2011/1730, art. 5(22)(b).

<sup>5</sup> Reference in s. 181(4) omitted & s. 181A inserted (26.9.07) by Pensions Act 2007 (c. 22) Sch. 4, para. 34(3) & 35.

<sup>6</sup> Words omitted in s. 181(7) (6.4.97) by Pensions Act 95 (c. 26), Sch. 5, para. 77.

(5) Any certificate so issued that was, at a time before the abolition date, 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.

(6) A personal pension scheme was an appropriate scheme at a time before the abolition date 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; and "appropriate scheme certificate" means such a certificate.

(7) Any appropriate scheme certificate in force in relation to a scheme at any time before the abolition date is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.

*Money purchase benefits: supplementary*

[<sup>1</sup>**181B.**—(1) The section applies for the purposes of the definition of "money purchase benefits" in section 181(1).

(2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.

(3) A benefit which is a pension in payment falls within this section if—

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
- (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection(2).

(4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

(5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).]

*Subordinate legislation etc.*

**182.**—(1) Any power under this Act to make regulations or orders (except a power of [...] the court to make orders) and the powers to make rules under sections 149(2) and 152(1) shall be exercisable by statutory instrument.

Orders and regulations  
(general provisions).

(2) Except in so far as this Act otherwise provides, any power conferred by it to make an Order in Council, regulations or an order (except an order under section 153(8) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
  - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
  - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
  - (iii) any such provision either unconditionally or subject to any specified condition,

<sup>1</sup> S. 181B inserted (24.7.14) by the Pensions Act 2011 (c. 19), s. 29(2).

<sup>2</sup> Words "the Board or" deleted (6.4.97) from s. 182(1) by Pensions Act 1995 (c. 26), Sch. 5, para. 78 and Sch. 7.

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and any power to make an Order in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make an Order in Council, regulations or an order for the purposes of any other provision.

(3) Any power conferred by it to make an Order in Council, regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to Her Majesty or the authority making the regulations or order to be expedient for the purposes of the Order in Council regulations or order.

(4) Any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

(5) Any power conferred on the Secretary of State by any provision of this Act to make any regulations or order (except an order under section 153(8), where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

**183.**—(1) Without prejudice to any specific provisions in this Act, a power conferred by this act to make an Order in Council, regulations or an order (other than regulations and orders made under sections [...]<sup>1</sup>, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections [...]<sup>2</sup>, 153(2), 158(1) to (5), 162, 163, [...]<sup>2</sup> and 176 [...]<sup>1</sup> includes power to provide for a person to exercise a discretion in dealing with any matter.

(2) [...]<sup>3</sup>

(3) Regulations under section [...]<sup>4</sup> 63(2)<sup>5</sup>, 97(1) [<sup>6</sup>, 101AF (1)] and 101I], may provide that the values there mentioned shall be calculated and verified [...]<sup>7</sup>

(a) in such manner as may, in the particular case, be approved—

(i) by a prescribed person;

(ii) by a person with prescribed professional qualifications or experience;  
or

(ii) by a person approved by the Secretary of State; or

(b) in accordance with guidance prepared [<sup>8</sup>and from item to item revised] by a prescribed body;

**184.**—(1) Subject to section 173 of the Social Security Administration Act 1992 (cases where consultation not required), where the Secretary of State proposes to make regulations under section 36(6), he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).

(2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) and shall make to the Secretary of State a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.

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<sup>1</sup> References in s. 183(1) deleted (6.4.97) by Pensions Act 1995 (c. 26) Sch. 5, para. 79 and Sch. 7, Part III

<sup>2</sup> References in s. 183(1) deleted (6.4.97) by Pensions Act 1995 (c. 26) Sch. 5, para. 79 and Sch. 7, Part IV.

<sup>3</sup> S. 183(2) repealed (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5, para. 79 and Sch. 7. Part III.

<sup>4</sup> Ref. omitted in s. 183(3) (6.4.12) by 2011/1730, art. 5(23).

<sup>5</sup> Words in s. 183(3) substituted (1.12.00) by Welfare Reform and Pensions Act 1999 (c. 30), Sch. 12, para. 42.

<sup>6</sup> Words in s. 183(3) inserted (6.4.06) by Pensions Act 2004 (c. 35), Sch. 12, para. 32.

<sup>7</sup> Words in s. 183(3) repealed (6.4.97) by Pensions Act 1995 (c. 26), Sch. 3, para. 45.

<sup>8</sup> Words inserted (6.4.97) in s. 183(3)(b) by para. 15(b) of Sch. 6 to Pensions Act 1995 (c. 26)

(3) If after receiving a report of the Committee the Secretary of State lays before Parliament regulations which comprise the whole or part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee's report and a statement showing—

- (a) the extent (if any) to which he has in framing the regulations given effect to the Committee's recommendations; and
- (b) in so far as effect has not been given to them, his reasons why not.

**185.**—(1) [<sup>1</sup>Subject to subsection (2), before the Secretary of State makes] any regulations for the purposes of Parts I to VI, Chapter [...<sup>2</sup>] III of Part VII, Part VIII, IX or X or section 153, 154, 155, 156, 160, 162, 163, 174 or 175 of this Act he shall [<sup>1</sup>consult such persons as he may consider appropriate].

(2) Subsection (1) does not apply to—

- (a) regulations prescribing actuarial tables; or
- (b) regulations made for the purpose only of consolidating other regulations revoked by them; or
- (c) regulations under section 36(6)
- [<sup>3</sup>(d) regulations in the case of which the Secretary of State considers consultation inexpedient because of urgency, or
- (e) regulations which—
  - (i) state that they are consequential upon a specified enactment, and
  - (ii) are made before the end of the period of six months beginning with the coming into force of that enactment].

(3) and (4) [...<sup>4</sup>]

(5) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in [<sup>5</sup>subsection (1)] to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.

(6) [...<sup>6</sup>]

<sup>1</sup> Words in s. 185(1) substituted (6.4.97) by Pensions Act 1995 (c. 26) Sch. 5, para. 80(a).

<sup>2</sup> Words in s. 185(1) deleted (6.4.97) by Pensions Act 1995 (c. 26). Sch 3, para. 46. and Sch. 7. Part I.

<sup>3</sup> S. 185(2)(d) and (e) added (6.4.97). by Pensions Act 1995 (c. 26). Sch. 5. para. 80(b).

<sup>4</sup> S. 185(3) and (4) repealed (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5. para. 80(c). and Sch. 7. Part III.

<sup>5</sup> Words in s. 185(5) substituted (6.4.97) for "subsections (1) to (4)" by para. 80(d) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>6</sup> S. 185(6) repealed (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5. para. 80(c). and Sch. 7. Part III.

**PENSION SCHEMES ACT 1993 (c. 48)**

(7) The power of the Secretary of State to make regulations under section 162 of this Act shall be exercisable only after consultation with the [<sup>1</sup>Financial Services Authority or, if the matter concerns section 464 of the Income and Corporation Taxes Act 1988, the Commissioners of the Inland Revenue].

(8) The power of the Secretary of State to make regulations under [<sup>2</sup>section 170(5)] shall be exercisable only after consultation with the [<sup>3</sup>Administrative Justice and Tribunals Council].

(9) Before making any regulations under paragraph 7 of Schedule 2 the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.

**186.**—(1) Subject to subsections (2) and (3), a statutory instrument which contains (whether alone or with other provisions) any regulations or order made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Parliamentary control of orders and regulations.

(2) Subsection (1) shall not apply to any order which under any provision of this Act is required to be laid before Parliament after being made or is subject to a requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament or to any order made under section 193 or paragraph 1 of Schedule 9.

(3) Subject to subsection (4), a statutory instrument which contains (whether alone or with other provisions)—

- [<sup>4</sup>(a) regulations made under section 24B(5), or]
- [<sup>4</sup>(b) regulations made by virtue of section 49, or]
- [<sup>4</sup>(c) an order under section 153(8), or]
- [<sup>4</sup>(d) regulations made by virtue of subsection (1)(a) of section 165 applying such provisions as mentioned in subsection (2)(b) of that section, [<sup>5</sup>or]
- [<sup>4</sup>(e) regulations made by virtue of section 168(2)]

shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(4) Subsection (3) does not apply to such regulations as mentioned in paragraph [<sup>4</sup>(b) or (d)] of that subsection if—

- (a) they are made for the purpose only of consolidating regulations which they revoke, or
- (b) so far as they are made under powers conferred by the provisions mentioned in that paragraph, they only replace provisions of previous regulations with new provisions to the same effect.

(5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 184(3) [...<sup>6</sup>] shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement in question are laid before that House not later than the second day on which the House sits after the laying of the regulations.

**187.**—(1) Subject to any Order made after 13th July 1990 by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters specified in subsection (2) shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

Northern Ireland Constitution Act 1973: “reserved matters” 1973 c. 36.

<sup>1</sup> In s. 185(7) words substituted (1.12.01) by reg. 128 of S.I. 2001/3649.

<sup>2</sup> Ref. in s. 185(8) substituted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c. 30), Sch. 11, para. 23.

<sup>3</sup> Words substituted in s. 185(8) (1.11.07) by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Sch. 8, para. 32.

<sup>4</sup> S. 186(3)(a) inserted, (a) to (d) renumbered & ss. (4) substituted (6.4.09) by s. 14(12) of Part 2 to the Pensions Act 2007 (c. 22).

<sup>5</sup> Word and para. (e) inserted 1.6.96 for the purpose of making regulations relating to s. 113 of this Act) into s. 186(3) by s. 155(2) of Pensions Act 1995 (c. 26).

<sup>6</sup> Words in s. 186(5) deleted (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5, para. 81.

## PENSION SCHEMES ACT 1993 (c. 48)

### Ss. 187-192

(2) The matters referred to in subsection (1) are the matters dealt with by section 6(1) and (2) (except paragraph (a)(ii), (3), (4) and (8) and by section 145 (except subsections (4) and (5)(b)).

#### *Supplemental provisions*

Repeals.

**188.**—(1) The enactments specified in Parts I, [<sup>1</sup>II] and III of Schedule 5 are repealed to the extent specified in the third column.

(2) The subordinate legislation specified in Part IV of that Schedule is revoked to the extent specified in the third column.

(3) The repeals and revocations have effect subject to any relevant savings in Schedule 6.

Transitional provisions and savings.

**189.**—(1) Schedule 6 (which makes transitional provision and contains savings in connection with the repeals and revocations made by this Act) shall have effect.

1978 c. 30.

(2) Nothing in that Schedule affects the general operation of section 16 of the Interpretation Act 1978 (general savings implied on repeal).

Prospective and consequential amendments.

**190.** [<sup>2</sup>Schedule 7 (which re-enacts or makes consequential amendments of provisions which make prospective amendments of enactments including those repealed by this Act, so that the re-enacted or amended provisions prospectively amend this Act and other enactment) and] Schedule 8 (which makes other consequential amendments) shall have effect subject to any relevant transitional provisions in Schedule 6.

Transitory modifications.

**191.** Schedule 9 (which makes transitory modifications of this Act pending the commencement of the provisions there mentioned) shall have effect.

Extent.

**192.**—(1) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part, except that the repeals in Part III of Schedule 5 do not extend to Northern Ireland.

(2) The following provisions of this Act extend to Northern Ireland—  
[<sup>3</sup>section 1],  
[...<sup>4</sup>]  
section 145 (except subsections (4) and (5)(b),  
section 154 (as it has effect for the purposes of provisions extending to Northern Ireland).  
[...<sup>5</sup>]  
section 179.  
sections 181 to 183 (as they have effect for those purposes),  
sections 185 and 186 (as they have effect for those purposes),  
section 187,  
sections 188 to 191 (as they have effect for those purposes, but subject to subsection (1)).  
this section,  
section 193,  
paragraph 17 of Schedule 6.

<sup>1</sup> Not commenced. The repeals specified in Part II to Sch. 5 are not otiose having been superseded by identical repeals effective from 1.1.96 in the Pensions Act 1995 (c. 26) Sch. 3 and Part I of Sch. 7.

<sup>2</sup> Prosp.

<sup>3</sup> Words “section 1” in s. 192(2) substituted (6.4.97) for “sections 1 to 5” by para. 82 of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>4</sup> Words in s. 192(2) repealed (6.4.05) by Sch. 13 of the Pensions Act 2004 (c. 35).

<sup>5</sup> Words “section 172(4) and (5)” repealed (6.4.97) by Pensions Act 1995 (c. 26) Sch. 5, para. 82 and Sch. 7, Part III.



(3) Except as provided by subsection (2), this Act does not extend to Northern Ireland.

**193.**—(1) This Act may be cited as the Pension Schemes Act 1993.

Short title and commencement.

(2) Subject to the provisions of Schedule 9, this Act shall come into force on such day as the Secretary of State may by order appoint.

(3) As respects the coming into force of—

- (a) Part II of Schedule 5 and section 188(1) so far as it relates to it; or
- (b) Schedule 7 and section 190 so far as it relates to it,

an order under subsection (2) may appoint different days from the day appointed for the other provisions of this Act or different days for different purposes.

## SCHEDULES

Section 39.

Sch 1 ..... repealed by 1995 c. 26, see Annex 1, p. 5.1701

### SCHEDULE 2

#### CERTIFICATION REGULATIONS

#### PART I

#### OCCUPATIONAL PENSION SCHEMES

##### *General regulations; beginning and ending of employment*

**1.**—(1) In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which employments are or have been contracted-out, regulations may make provision generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end and, in particular, as to the matters mentioned in sub-paragraphs (2) to (4).

(2) Regulations may make provision for treating an earner's employment which ends before a person succeeds to the business of the earner's employer as having been employment under the employer's successor.

(3) Regulations may make provision—

- (a) for changes in an earner's employment due to the death of an employer or another cause, or any cesser of contracted-out employment so due, to be disregarded; or
- (b) for employment under one employer to be treated as a continuation of that under another and any contracting-out certificate issued to, or election made by, the former employer to be treated as issued to or made by the latter.

(4) Regulations may also make provision—

- (a) for temporary interruptions in an earner's employment or contracted-out employment to be disregarded; and
- (b) for the employment in either case to be treated as continuing during the interruption.

(5) References in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.

**2.**—(1) Subject to sub-paragraph (2), regulations may enable the [<sup>1</sup>Inland Revenue] to determine in prescribed circumstances that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date ("the determined date") earlier than would otherwise be the case.

(2) The determined date for any earner may not be earlier than—

- (a) the date on which his relevant employment began, or
- (b) the date on which a contracting-out certificate was issued in respect of it, whichever is the later.

**3.** Provision may be made by regulations for requiring an employer to give notice to the [<sup>1</sup>Inland Revenue]—

- (a) when an earner's employment becomes or ceases to be contracted-out employment; and
- (b) when an earner's employment in contracted-out employment begins or ends.

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<sup>1</sup> Words substituted in Sch. 2, paras. 2(2) & 3 (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 1, para. 62(2) & (3).

*Power to modify Part III etc.*

4.—(1) Regulations may modify the provisions of Part III (other than sections 18, 19 [<sup>1</sup>, 67 and 68], Chapter III of Part IV and Chapter II of Part V (except, so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to cases in which—

- (a) a person is employed at the same time in two or more employments (whether or not under the same employer); and
- (b) at least one but not all of those employment's is contracted-out employment, with a view to enabling the employment's to be treated either separately or together for the purposes of those provisions.

(2) Regulations may also modify those provisions in their application to cases in which—

- (a) any description of benefit under a scheme is subject to a limit (however, imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits; or
- (b) earners qualify for the benefits of a scheme by reference to both—
  - (i) service in employment which is contracted-out in relation to them by reference to the scheme; and
  - (ii) service in the same employment or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment.

(3) Regulations under this paragraph may include provision for securing that in the cases to which they apply an earner's employment [<sup>2</sup>which, apart from the regulations, would not be contracted-out employment is treated as contracted-out employment where any benefits provided under the scheme are attributable to a period when the scheme was contracted-out].

*State scheme premiums*

5.—(1) Regulations may make provision for requiring persons to furnish the [<sup>3</sup>Inland Revenue] [...<sup>3</sup>] with such information as [<sup>3</sup>they] may require for the purposes of sections 37, 38, 50 to [<sup>4</sup>63], 139(1), 142(5), and (6) and 159(1) to (3), (5) and (6) (except as they apply to personal pension schemes, the members of such schemes or rights in respect of them).

(2) Regulations may provide that for the purposes of sections 50, 55 to 60 and 63 [...<sup>5</sup>] (except as they so apply) the prescribed person shall be treated as the employer—

- (a) of any employed earners who, in any period of service in contracted-out employment—
  - (i) have been paid earnings in any income tax week by more than one person in respect of different employments; or
  - (ii) have worked under the general control or management of a person other than their immediate employer, or
- (b) of any other employed earners in the case of whom it appears to the Secretary of State that such provision is needed.

(3) Regulations may, [...<sup>6</sup>], provide—

- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- [(b) [...<sup>6</sup>]]

<sup>1</sup> Ref. in para. 4(1) substituted (6.4.12) by Pensions Act 2007 (c. 22), Sch. 4, para. 59(2).

<sup>2</sup> Words in para. 4(3) substituted (6.4.97) by para. 84(b) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>3</sup> Words in Sch. 2 para. 5 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) Sch. 1, para. 62(4).

<sup>4</sup> Ref. in para. 5(1) substituted (6.4.97) by para. 84(c)(ii) of Sch. 5 to Pensions Act 1995 (c. 26).

<sup>5</sup> Words in para. 5(2) repealed (6.4.97) by para 84(d) of Sch. 5 and by Part III of Sch. 7 to Pensions Act 1995 (c. 26).

<sup>6</sup> Words in and para. (b) of. para. 5(3) repealed (6.4.97) by s. 141(2)(a) of and by Part III of Sch. 7 to Pensions Act 1995 (c. 26).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Sch. 2**

1992 c. 4.

- (c) for treating part of a premium payable in prescribed circumstances in respect of a person as having been paid and for modifying the provisions mentioned in paragraph 4(1) in relation to a case in which such a part is so treated;
- (d) for treating a premium wrongly paid or an overpayment in respect of a premium as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the Social Security Contributions and Benefits Act 1992;
- (e) for the return of premiums paid in error or, in prescribed circumstances, of premiums which the [<sup>1</sup>Inland Revenue are] satisfied ought to be repaid;
- (f) for the [<sup>1</sup>Inland Revenue], in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;
- (g) for any other matters incidental to the payment, collection or return of premiums

[<sup>2</sup>and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium].

[<sup>3</sup>(3A) Sub-paragraph (3B) applies in relation to a member of a contracted-out occupational pension scheme which is being wound up if, in the opinion of the [<sup>1</sup>Inland Revenue]–

- (a) the resources of the scheme are insufficient to meet the whole of the liability for the cash equivalent of the member’s rights under the scheme, and
- (b) if the resources of the scheme are sufficient to meet a part of that liability, that part is less than the amount required for restoring his State scheme rights.

(3B) Where this sub-paragraph applies–

- (a) regulations may provide for treating the member as if sections 46 to 48 or, as the case may be, section 48A(1) did not apply, or applied only to such extent as is determined in accordance with the regulations, and
- (b) the amount required for restoring the member’s State scheme rights, or a prescribed part of that amount, shall be a debt due from the trustees or managers of the scheme to the [<sup>1</sup>Inland Revenue].

(3C) Regulations may make provision–

- (a) for determining the cash equivalent of a member’s rights under a scheme and the extent (if any) to which the resources of the scheme are insufficient to meet the liability for that cash equivalent,
- (b) for the recovery of any debt due under sub-paragraph (3B)(b), and
- (c) for determining the amount required for restoring a member’s State scheme rights including provision requiring the [<sup>1</sup>Inland Revenue] to apply whichever prescribed actuarial table in force at the appropriate time is applicable.

(3D) Section 155 shall apply as if sub-paragraphs (3A) and (3B)(a), and regulations made by virtue of this sub-paragraph and sub-paragraph (3B)(b), were included among the provisions there referred to,

(3E) In sub-paragraphs (3A) and (3B), “State scheme rights”, in relation to a member of a scheme, are the rights for which, if the scheme had not been a contracted-out scheme, the member would have been eligible by virtue of section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension).]

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<sup>1</sup> Words in Sch. 2 para. 5 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, paras. 62(4) & (5).

<sup>2</sup> Words added (6.4.97) at end of para. 5(3) by s. 141(2)(a)(iii) of Pensions Act 1995 (c. 26).

<sup>3</sup> Para. 5(3A)-(3E) inserted (6.4.97) by s. 141(2)(b) of Pensions Act 1995 (c. 26).

(4) The [<sup>1</sup>Inland Revenue] may accept payments in connection with a case in which a premium or part of it is treated as having been paid.

(5) [...<sup>2</sup>]

*Schemes covering different employers*

6.—(1) Regulations may modify Chapters I and III of Part III (other than sections 8, 18, 19, 35, to 39, [<sup>3</sup>, 67 and 68]), Chapter III of Part IV and Chapter II of Part V (except so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.

(2) Regulations under this paragraph may provide for the adjustment of rights and liabilities as between employers, earners and the trustees or managers.

*Special provisions for certain public service pension schemes*

7.—(1) This paragraph applies to the following classes of employment, that is to say employment's in which an earner's service qualifies him for benefit under—

- |  |             |
|--|-------------|
| (a) section 26 of the Fire Service Act 1947;         | 1947 c. 41. |
| (b) the Police Pensions Act 1976;                    | 1976 c. 35. |
| (c) sections 7 to 10 of the Superannuation Act 1972. | 1972 c. 11. |

(2) Where employment would fall within one of the classes specified in sub-paragraph (1) but for rules having effect under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as falling within that class and not within any other class to which this paragraph applies. 1948 c. 33.

(3) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (1), that provisions shall be deemed to be included among the enactments so specified.

(4) In relation to employments of any class to which this paragraph applies the Secretary of State may by regulations—

- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked [<sup>4</sup>by the Inland Revenue] instead of by the employer;
- (b) make provision for other things which by or under the provisions mentioned in paragraph 4(1) are required or authorised to be done by or to an employer to be done instead by or to the [<sup>4</sup>Inland Revenue];
- (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
- (d) make provision for the recovery by the [<sup>1</sup>Inland Revenue] of any state scheme premium from any person where it has been paid by the [<sup>4</sup>Inland Revenue] instead of by that person.

<sup>1</sup> Words in Sch. 2 para. 5 substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, paras. 62(4) & (5).

<sup>2</sup> Para. 5(5) repealed (6.4.97) by Pensions Act 1995 (c. 26). s. 141(2)(c) and Part III of Sch. 7.

<sup>3</sup> Ref. in para. 6(1) substituted (6.4.12) by Pensions Act 2007 (c. 22), Sch. 4, para. 59(4).

<sup>4</sup> Words in Sch. 2 para. 7(4) substituted (1.4.99) by Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), Sch. 1, para. 62(5).

- 8.** Regulations may make provision—
- (a) for any incidental matters connected with the provisions mentioned in paragraph 4(1) in relation to any employment which is, has been or may become contracted-out employment; and
  - (b) for any incidental matters otherwise connected with those provisions.
- 9.** [...<sup>1</sup>]

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<sup>1</sup> Part II of Sch. 2 omitted (6.4.12) by 2011/1730, art. 5(24).

## SCHEDULE 3

## METHODS OF REVALUING ACCRUED PENSION BENEFITS

*The final salary method*

[<sup>1</sup>1.—(1) The final salary method is to add to the amount that would be payable but for Chapter 2 of Part 4, or regulations made under it, the additional amount specified in sub-paragraph (1A), (1B), (1C) or (1D) (whichever applies).

(1A) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
- (b) the whole of the member's pensionable service falls on or after 1st January 1985,

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

(1B) Where—

- (a) the termination of pensionable service occurs before 1st January 1991, and
  - (b) some of the member's pensionable service falls before 1st January 1985,
- the additional amount is such proportion of the appropriate higher revaluation percentage of the accrued benefit as the member's pensionable service falling on or after 1st January 1985 bears to the member's total pensionable service.

(1C) Where the termination of pensionable service occurs—

- (a) on or after 1st January 1991, but
- (b) before the day on which section 101 of the Pensions Act 2008 comes into force ("the 2008 Act commencement day"),

the additional amount is the appropriate higher revaluation percentage of the accrued benefit.

(1D) Where the termination of pensionable service occurs on or after the 2008 Act commencement day, the additional amount is the aggregate of—

- (a) the appropriate higher revaluation percentage of so much of the accrued benefit as is attributable to the member's pensionable service falling before the 2008 Act commencement day, and
- (b) the appropriate lower revaluation percentage of so much of the accrued benefit as is attributable to the member's pensionable service falling on or after that day.

(1E) In this paragraph "the accrued benefit" means the amount of the pension or other benefit which on the termination date has accrued to the member or to any other person in respect of the member (excluding any part of that amount which consists of—

- (a) the member's guaranteed minimum, or
- (b) the guaranteed minimum of the member's widow, widower or surviving civil partner).

(2) For the purposes of this paragraph, a member's pensionable service includes any notional pensionable service which is credited to the member by the scheme ("notional service").

But notional service shall not be taken into account in determining which of sub-paragraphs (1A), (1B), (1C) and (1D) applies.

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<sup>1</sup> Paras. 1(1)-(3A) substituted (6.4.09) by para. 2, Sch. 2 to the Pensions Act 2008 (c. 30).



## PENSION SCHEMES ACT 1993 (c. 48)

### Sch. 3

(3) For the purposes of determining the additional amount where sub-paragraph (1B) applies, any notional service shall be taken to have ended immediately before the member's actual pensionable service began.

(3A) For the purposes of determining the additional amount where sub-paragraph (1D) applies, any notional service shall be treated as falling on or after the 2008 Act commencement day only if, or to the extent that, it is so treated for the purposes of the scheme.]

(4) Any rule of a scheme the effect of which is that benefit falls to be revalued by reference to any period is to be disregarded in making any calculation required by this method.

*Para. 1 is modified where retirement benefit is varied at state pension age, by reg. 9 of S.I. 1991/168; it is also modified for the final salary method of revaluing accrued rights by reg. 10 ibid. (rounding); and it is further modified, for lump sums for service before April 1975, by reg. 13 ibid.*

#### *The revaluation percentage and the appropriate revaluation percentage*

2.—(1) For the purposes of paragraph 1 the Secretary of State shall in each calendar year by order [<sup>1</sup>specify (so far as it is necessary to do so)—

- (a) a higher revaluation percentage, and
- (b) a lower revaluation percentage, for each period]

which is a revaluation period in relation to that order.

(2) A period is a “revaluation period”, in relation to an order under this paragraph, if it is a period which—

- (a) begins with 1st January 1986 or with an anniversary of that date falling before the making of the order; and
- (b) ends with the next day after the making of the order which is 31st December.

[<sup>1</sup>(3) The higher revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—

- (a) the percentage which appears to the Secretary of State to be the percentage increase in the general level of prices in Great Britain during the period which is the reference period in relation to the revaluation period (“the inflation percentage”), and
- (b) the higher maximum rate.

(3A) The lower revaluation percentage which the Secretary of State is to specify in relation to a revaluation period is the lesser of—

- (a) the percentage which appears to the Secretary of State to be the inflation percentage, and
- (b) the lower maximum rate.]

(4) The Secretary of State may estimate the percentage increase mentioned in sub-paragraph (3)(a) in such manner as he thinks fit.

(5) For the purposes of that sub-paragraph, the reference period in relation to a revaluation period is—

- (a) in the case of the revaluation period beginning on 1st January 1986, the period which begins with 1st October 1985 and ends with the last day before the making of the order which is 30th September; and
- (b) in the case of the revaluation periods with later commencement dates, the period which—

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<sup>1</sup> Words in para. 2(1) substituted & paras. 2(3)-(3A) substituted for Para. 2(3) (6.4.09) by paras. 3(2) & (3) of Sch. 2 to the Pensions Act 2008 (c. 30).

- (i) begins with the last day before the commencement of the revaluation period which is 1st October; and
- (ii) ends with the last day before the making of the order which is 30th September,

[<sup>1</sup>(6) For the purposes of sub-paragraph (3)(b) and (3A)(b)–

“the higher maximum rate”, in relation to a revaluation period, is–

- (a) in the case of a revaluation period of 12 months, 5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 5 per cent compound per annum during the reference period in question;

“the lower maximum rate”, in relation to a revaluation period, is–

- (a) in the case of a revaluation period of 12 months, 2.5 per cent; and
- (b) in any other case, the percentage that would be the inflation percentage had the general level of prices increased at the rate of 2.5 per cent compound per annum during the reference period in question;

(7) In paragraph 1–

“the appropriate higher revaluation percentage” means the higher revaluation percentage specified in the last calendar year before the date on which the member attains normal pension age as the higher revaluation percentage for the revaluation period which is of the same length as the number of complete years in the pre-pension period;

“the appropriate lower revaluation percentage” has a corresponding meaning.]

*Where normal pension age is under 60, the reference to it in para. 2(7) above is modified by reg. 3(2) of S.I. 1991/168.*

#### *The average salary method*

**3.—(1)** The average salary method is to revalue the member’s salaries as respects the pre-pension period in any way in which they would have been revalued during that period if he had remained in the same pensionable service.

(2) In this paragraph “salaries” means, subject to sub-paragraph (4), the member’s salaries for the period between the date when his pensionable service began and the termination date, or such part of them as was relevant under the scheme to the calculation of the retirement benefits payable under the scheme to him or to any other person in respect of him.

(3) For the purpose of this paragraph those salaries are to be taken to include–

- (a) any amount which is attributed to them, otherwise than by virtue of this paragraph, as the result of a revaluation for which the rules of the scheme provide; and
- (b) any amount which is for any reason credited to the member by way of salary notionally earned.

(4) Where the member’s pensionable service ended before 1st January 1991, sub-paragraph (2) shall have effect with the substitution or the words from “means” to “termination date” of the words “means the member’s salaries for the period between 1st January 1985 and the termination date”.

(5) For the purposes of the application of this paragraph to a case where a member is credited with an amount by reference to salary notionally earned over a period of time of a particular length, that period shall be taken to have ended immediately before the member’s actual pensionable service began.

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<sup>1</sup> Paras. 2(6) & (7) substituted (6.4.09) by para. 3(4) of part. 1 to Sch. 2 of the Pensions Act 2008 (c. 30).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Sch. 3**

**[<sup>1</sup>The cash balance method**

**3A.** The cash balance method of revaluing a cash balance benefit is to revalue the available sum in respect of the benefit in any way in which it would have been revalued if the member's pensionable service had not terminated.]

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<sup>1</sup> Para. 3A of Sch. 3 inserted (24.7.14) by S.I. 2014/1954, reg. 3(3).

*The flat rate method*

4. The flat rate method is to revalue the benefits which have accrued to the member as respects the pre-pension period in any way in which they would have been revalued during that period if he had remained in the same pensionable service.

*The money purchase method*

5.—(1) Subject to sub-paragraphs (2) and (3), the money purchase method is to apply the investment yield and any bonuses arising from payments made by or on behalf of a member towards providing any pension or other retirement benefit which is payable under the scheme to him or to any other person in respect of him in the manner in which they would have been applied if his pensionable service had not terminated.

(2) The Secretary of State may by regulations authorise trustees and managers of occupational pension schemes to deduct from any pension or other retirement benefit provided by virtue of the money purchase method an appropriate amount in respect of the administrative expenses incurred by them in carrying this method into effect.

(3) The trustees and managers of a personal pension scheme may, when providing a pension or other retirement benefit by virtue of the money purchase method, deduct—

- (a) the actual administrative expenses of doing so, or
- (b) the amount of the administrative expenses which would have been incurred in providing a money purchase benefit for the same member if contributions had not ceased to be paid to the scheme in respect of him.

whichever is the less.

**SCHEDULE 4**

## PRIORITY IN BANKRUPTCY ETC.

*Earners's contributions to occupational pension scheme*

1. This Schedule applies to any sum owed on account of an earner's contributions to an occupational pension scheme being contributions deducted from earnings paid in the period of four months immediately preceding the relevant date or otherwise due in respect of earnings paid or payable in that period.

*Employer's contributions to occupational pension scheme*

2.—<sup>[1]</sup>(1) This Schedule applies to any sum owed on account of an employer's contributions to a salary related contracted-out scheme which were payable in the period of 12 months immediately preceding the relevant date.

(1A) The amount of the debt having priority by virtue of sub-paragraph (1) shall be taken to be an amount equal to the appropriate amount.

(2)-(3) [...<sup>2</sup>]

(3A) In sub-paragraph (1A) [...<sup>2</sup>] "the appropriate amount" means the aggregate of—

- (a) the percentage for non-contributing earners of the total reckonable earnings paid or payable, in the period of 12 months referred to in sub-paragraph (1) [...<sup>2</sup>], to or for the benefit of non-contributing earners; and
- (b) the percentage for contributing earners of the total reckonable earnings paid or payable, in that period, to or for the benefit of contributing earners.]

<sup>1</sup> Paras. 2(1) to (3A) substituted (25.4.00) for paras. 2(1) to (3) by s. 18 of Welfare Reform and Pensions Act 1999 (c. 30).

<sup>2</sup> In para. 2 sub-para. (2) & (3) omitted & words omitted in sub-para. 3A (6.4.12) by Pensions Act 2007 (c. 22), Sch. 4, para. 60(2) & (3).

Sch. 4

- (4) For the purposes of [<sup>1</sup>sub-paragraph (3A)]–
- (a) the earnings to be taken into account as reckonable earnings are those paid or payable to or for the benefit of earners in employment which is contracted-out by reference to the scheme in the whole or any part of the period of 12 months there mentioned; and
  - (b) earners are to be identified as contributing or non-contributing in relation to service of theirs in employment which is contracted-out by reference to the scheme according to whether or not in the period in question they were liable under the terms of the scheme to contribute in respect of that service towards the provision of pensions under the scheme.
- (5) In this paragraph  
[...<sup>2</sup>]  
“employer” shall be construed in accordance with regulations made under section 181(2); and  
[<sup>3</sup>“the percentage for contributing earners” means– [...<sup>2</sup>] 3 percent, [...<sup>2</sup>]  
“the percentage for non-contributing earners” means– [...<sup>2</sup>] [<sup>4</sup>4.6 percent], [...<sup>2</sup>]  
“reckonable earnings”, in relation to any employment, means the earner’s earnings from that employment so far as those earnings–
- (a) were comprised in any payment of earnings made to him or for his benefit at a time when the employment was contracted-out employment; and
  - (b) exceed the current lower earnings limit but not [<sup>5</sup>the upper accrual point]

*State scheme premiums*

3.—(1) This Schedule applies to any sum owed on account of a [<sup>6</sup>contributions equivalent premium] payable at any time before, or in consequence of, a person going into liquidation or being adjudged bankrupt, or in Scotland, the sequestration of a debtor’s estate, or (in the case of a company not in liquidation)–

- (a) the appointment of a receiver as mentioned in section 40 of the Insolvency Act 1986 (debenture-holders secured by floating charge), or

1986 c. 45.

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<sup>1</sup> Words in para. 2(4) substituted (25.4.00) by s. 18 of Welfare Reform and Pensions Act 1999 (c. 30).  
<sup>2</sup> Defn. of “appropriate flat-rate percentage” omitted, words omitted in defns. of “the percentage for contributing earners” and “the percentage for non-contributing earners” (6.4.12) by Pensions Act 2007 (c. 22), Sch. 4, para. 60(4).  
<sup>3</sup> Defns. of “percentage for contributing earners” and “percentage for non-contributing earners” to be inserted (prosp. but as from 6.4.96 for regulation-making purposes) in para. 2(5) by s. 137(7) of Pensions Act 1995 (c. 26).  
<sup>4</sup> Words “4.6 per cent” effectively substituted for “4.8 per cent” for earnings from 6.4.97 in consequence of art. 3 of S.I. 1996/1054, which, in respect of para. 2(3)(a) (to which this definition relates), specifies 4.6 per cent. for such earnings.  
<sup>5</sup> Words substituted in defn. of “reckonable earnings” & sub-para. (6) omitted (21.9.08) by National Insurance Contributions Act 2008 (c. 16).  
<sup>6</sup> Words in para. 3(1) substituted (6.4.97) by para. 85 of Sch. 5 to Pensions Act 1995 (c. 26).

- (b) the appointment of a receiver under section 53(6) or 54(5) of that Act (Scottish company with property subject to floating charge), or
- (c) the taking of possession by debenture-holders (so secured) as mentioned in section 196 of the Companies Act 1985.

1985 c. 6.

(2) Where any such premium is payable in respect of a period of service of more than 12 months (taking into account any previous linked qualifying service), the amount to be paid in priority by virtue of this paragraph shall be limited to the amount of the premium that would have been payable if the service had been confined to the last 12 months taken into account in fixing the actual amount of the premium.

(3) Where—

- (a) by virtue of this paragraph the whole or part of a premium is required to be paid in priority to other debts of the debtor or his estate; and
- (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 61 or under any provision made by the relevant scheme for the purposes of that section or otherwise,

then, subject to sub-paragraph (4), that other person shall be liable for any part of the premium for the time being unpaid.

(4) No person shall be liable by virtue of sub-paragraph (3) for an amount in excess of the sum which might be so recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under that sub-paragraph.

(5) The payment under sub-paragraph(3) of any amount in respect of a premium shall have the same effect on the rights and liabilities of the person making it (other than his liabilities under that sub-paragraph) as if it had been a payment of that amount on account of the sum recoverable from him in respect of a premium as mentioned in sub-paragraph (3)(b).

#### *Interpretation*

4.—(1) In this Schedule—

- (a) in its application in England and Wales, section 196(3) of the Companies Act 1985 and section 387 of the Insolvency Act 1986 apply as regards the meaning of the expression “the relevant date”; and
- (b) in its application in Scotland, that expression has the same meaning as in Part I of Schedule 3 to the Bankruptcy (Scotland) Act 1985.

1985 c. 66.

(2) In this Schedule references to a contracted-out scheme, contracted-out employment and a state scheme premium include references to a contracted-out scheme, contracted-out employment and a state scheme premium (other than a personal pension protected rights premium) within the meaning of any provisions in force in Northern Ireland and corresponding to the provisions of this Act.

SCHEDULE 5

REPEALS

PART I

GENERAL

.....effects repeals see Annex I. page 5 1701

[<sup>1</sup>PART II

PROVISIONS RELATING TO EQUAL ACCESS

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993	<p>Section 118</p> <p>In section 132, the words "the equal access requirements";</p> <p>in section 133(1), the words "the equal access requirements";</p> <p>In section 134, in subsection (3), the words "the equal access requirements" and in subsection 94) the words "or the equal access requirements" and the words from "or as the case may be" onwards.</p> <p>In section 136(2)(e)(iv), the words "or the equal access requirements";</p> <p>In section 139(2), the words "the equal access requirements";</p> <p>In section 140(4), paragraph (c) and the word "and" immediately preceding it.</p> <p>Section 153(3) and (4).</p> <p>Section 170(5) and (6).</p> <p>In section 181(1), the definition of "equal access requirements";]</p>

PARTS III and IV

.....see Annex I, page 5, 1701

<sup>1</sup> The repeals specified in Part II of this Sch. have not been commenced and are now otiose, having been superseded by identical repeals, effective from 1.1.96, in the Pensions Act 1995 (c. 26), Sch. 3 and Pt. I of Sch. 7.



## SCHEDULE 6

## TRANSITIONAL PROVISIONS AND SAVINGS

## PART I

## GENERAL PROVISIONS

1. In this schedule “the repealed enactments” means the enactments repealed or revoked by this act.

2.—(1) The substitution of this Act for the repealed enactments does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision of the repealed enactments has effect, if it could have been done under or for the purposes of the corresponding provision of this Act, as if done under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of this Act shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the repealed enactments has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any enactment, instrument or document to a provision of the repealed enactment’s shall be construed, so far as is required for continuing its effect as including a reference to the corresponding provision of this Act.

3. Where—

(a) this Act repeals an enactment relating to the coming into force of another provision, including—

(i) an enactment deeming a provision always to have had effect, or to have had effect from a date earlier than that which would otherwise apply, or enabling regulations or an order made under a provision to be framed so as to have such an effect, and

(ii) an enactment conferring power by regulations to provide or make savings in preparation for or in connection with the coming into force of a provision, and

(b) the effect of that provision is reproduced in this Act,

the repeal does not affect the operation of that enactment, in so far as it is not specifically reproduced in this Act but remains capable of having effect, in relation to the corresponding provision of this Act.

4.—(1) The repeal or revocation by this Act of an enactment previously repealed or revoked subject to savings does not affect the continued operation of those savings.

(2) The repeal or revocation by this Act of a saving to which a previous repeal or revocation of an enactment is subject does not affect the operation of the saving in so far as it is not specifically reproduced in this act but remains capable of having effect.

5. The repeal or revocation by this Act of an enactment which has effect as respects any provision of the repealed enactments (being a provision which is not reproduced in this Act but continues in effect by virtue of this Schedule or the Interpretation Act 1978) does not affect its operation as respects that provision.

Sch. 6

6. Any document made, served or issued after this act comes into force which contains a reference to any of the repealed enactments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this act.

PART II

SPECIFIC PROVISIONS

*Contracting-out requirements for schemes providing guaranteed minimum pensions*

7. An occupational pension scheme which—  
(a) at any time before the coming into operation for the first regulations made under—  
(i) paragraph (a) of subsection 92) of section 32 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 9(2)(a) of this Act), or  
(ii) subsection (8) of section 35 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 16(4) of this Act),  
did not satisfy that paragraph or, as the case may be, that subsection; but  
(b) would have satisfied it if those regulations had then been in operation,  
shall, for the purpose of determining whether the scheme satisfied that paragraph or, as the case may be, that subsection, be treated as if those regulations had been in operation at that time.

8. Any document the contents of which are in terms corresponding to those of section 35((7) of the Social Security Pensions Act 1975, as that subsection stood immediately before the passing of the Social Security Act 1985 (which corresponded to subsection (2) of section 16 of this Act, but with the substitution for the words form “is terminated before” onwards of the words “is terminated before he attains the scheme’s normal pension age shall be determined for the purposes of section 14(2) without reference to any order that comes into force under section 21 of the Social Security Pensions Act 1975 after the relevant year in which his service ends”) shall be construed as if its contents were and always had been in terms corresponding to those of section 16(2) of this Act.

9. The requirement of the Social Security Pensions Act 1975 that for an occupational pension scheme to be contracted-out in relation to an earner’s employment it must provide requisite benefits shall, except so far as it relates to guaranteed minimum pensions, be treated for the purposes of section 37 of that Act as if it had never existed.

10.—(1) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme made an increase in the rate of pensions currently payable to the members of the scheme who had attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this sub-paragraph, they would be required to make under section 109 in the tax year 1990-91.

(2) Subsections (1) and (4) of section 110 shall apply to sub-paragraph (1) as they apply to subsections (2) and (3) of that section.

*Overriding effect of certain requirements for existing contracted-out and appropriate schemes*

11.....<sup>1</sup>

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<sup>1</sup> Para. 11 deleted (6.4.97) by Pensions Act 1995 (c. 26). Sch. 5. para. 86. and Sch. 7. Part III.

12. If immediately before 13th July 1990—

- (a) there was in force in relation to an occupational pension scheme a contracting-out certificate which stated that the scheme was contracted-out by virtue of section 32(2A) of the Social Security Pensions Act 1975,
- or
- (b) there was in force in relation to a personal pension scheme an appropriate scheme certificate

1975 c. 60.

then, to the extent that the rules of the scheme are inconsistent with any provision of this Act derived from provision made by paragraph 19(1) or (2) or 20(1) to (3) of Schedule 6 to the Social Security Act 1989 (by virtue of which—

1989 c. 24.

- (i) section 27(3) applies to all protected rights and not only such rights as are mentioned in section 10(2) or (3);
- (ii) section 28 includes subsection (1) and, in subsection (3), the words “Subject to subsections (5) and (7)”, the words from “except” to “subsection (4)” and the word “ shall”; and
- (iii) section 29 includes subsection (2))

they shall be overridden by that provision.

*Transactions discharging trustees*

13. Without prejudice to section 16 of the Interpretation Act 1978—

1978 c. 30.

- (a) as respects a transaction which took place before 1st January 1986, sections 19(1) and 81 have effect with the omission of paragraph (c), and
- (b) as respects a transaction which took place before 1st November 1986, section 19 has effect with the substitution for the references to guaranteed minimum pensions of references to requisite benefits.

*Contributions equivalent premiums; earnings before 1987-88*

14.—(1) Where an earner’s earnings paid in any period before the tax year 1987-88-

- (a) exceeded the lower earnings limit; but
- (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,

it shall be assumed for the purposes of sections 58(4) and 61(2) that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them; and in this paragraph “Bracket 3” has the meaning given in section 9(3) of the Social Security Contributions and Benefits Act 1992.

1992 c. 4.

(2) Section 63(3) applies for the purposes of sub-paragraph (1), in so far as it applies as respects section 58(4), as if the reference in paragraph (b) of section 63(3) to earnings included a reference to earnings relevant for any purpose of that sub-paragraph.

(3) Where the [<sup>1</sup>Inland Revenue have] acted in pursuance of section 63(3) as applied by sub-paragraph (2) and [<sup>1</sup>they subsequently ascertain] the amount of those earnings—

- (a) if it appears to [<sup>1</sup>them] that the amount of the contributions equivalent premium would have been less if [<sup>1</sup>they] had not made the calculation on the basis described in sub-paragraph (1), [<sup>1</sup>they] shall refund the difference to the prescribed person, and
- (b) if it appears to the [<sup>1</sup>Inland Revenue] that that premium would have been greater if [<sup>1</sup>they] had not done so, the prescribed person shall pay the difference to [<sup>1</sup>them].

*Preservation*

15. Without prejudice to paragraph 3, in any case where—

- (a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending with 27th February 1991, otherwise than on the termination of his service in relevant employment, and

<sup>1</sup> Words in Sch. 6. para. 14(3) substituted (1.4.99) by Transfer of Functions Act 1999 (c. 11), Sch. 1, para. 63.

## PENSION SCHEMES ACT 1993 (c. 48)

### Sch. 6

- (b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,
- 1973 c. 38. paragraph 6(1) of Schedule 16 to the Social Security Act 1973 (which corresponded to section 71(1) of this Act) shall be taken at all items on and after 6th April 1988 to have had effect in relation to the member and his rights under the scheme with the amendment made by paragraph 5(1) of Schedule 4 to the Social Security Act 1990 (which substituted the words “pensionable service” for the words “service in relevant employment”).
- 1990 c. 27.

#### *Anti-franking*

16.—(1) If before 21st July 1989 an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Chapter III of Part IV shall apply in relation to him with the modifications set out in sub-paragraphs (2) and (3).

(2) In section 87—

- (a) in subsection (3) for the words “at any time” there shall be substituted the words “on the relevant date and at any time thereafter”;
- (b) after that subsection there shall be inserted—
- “(3A) In subsection (3) “relevant date”—
- (a) in the application of that subsection to a case where a scheme provides for any part of the pension in excess of the earner’s guaranteed minimum to commence from a date not more than 3 months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age, is to be construed in relation to the part of the pension as to which such provision is made as a reference to the date on which by virtue of it that part of the pension begins to be paid; and
- (b) in any other case means the commencement of payment date.”;
- (c) in subsection (4) of that section paragraph (d) shall be omitted.

(3) Section 90 shall be omitted.

#### *Modifications in consequence of enactment of Part I of the Social Security Act 1986*

17.—(1) Regulations may provide that any provision of this Act to which section 154 applies shall have effect subject to such modifications (other than those which may be made by virtue of that section) as the Secretary of State may consider necessary or expedient in consequence of Part I of the Social Security Act 1986 or any provision of this Act deriving from that Part.

(2) Regulations may provide that any provision contained in an Act to which this sub-paragraph applies shall have effect subject to such modifications as the Secretary of State may consider necessary or expedient in consequence of the provisions mentioned in sub-paragraph (1) or in consequence of any corresponding enactment extending to Northern Ireland.

(3) The Acts to which sub-paragraph (2) applies are—

- (a) the Fire Services Act 1947;
- (b) the Sheriffs’ Pensions (Scotland) Act 1961;
- (c) the Superannuation Act 1972;
- (d) the Parliamentary and Other Pensions Act 1972;
- (e) the Water Act 1973;
- (f) the Police Pensions Act 1976;
- (g) the Parliamentary Pensions Act 1978;

- (h) the Judicial Pensions Act 1981;
- (i) any Act which relates to the employment of persons by a harbour authority (within the meaning of section 57(1) of the Harbours Act 1964);
- [<sup>1</sup>(j) the Judicial Pensions and Retirement Act 1993.]

Sections 188, 189 and 190.

*Savings for statutory instruments*

18. The repeal by this Act of section 26 of the Social Security Act 1985 (misapplication of requirement that regulations be referred to the Board in the case of certain regulations made shortly after the commencement of that Act) shall not affect the validity of any regulations to which that section applied.

19. The repeal of subsection (2) of section 17A of the Social Security Act 1986 shall not affect the validity of any Order containing such provision as there mentioned (provision for the Secretary of State to make payments in relation to the provisions contained in Part I of that Act for any period beginning on or after 6th April 1987).

*Provisions contained in this act by virtue of statutory instruments*

20. Without prejudice to any express provision in this Act, where this Act repeals any provision contained in any enactment by virtue of any order or regulations (including a provision which has not come into force at the time of the repeal) and the provision is reproduced in this Act, the Secretary of State shall have the like power to make orders or regulations repealing or amending the provision of this act which reproduces the effect of the repealed provision as he had in relation to that provision.

*Saving for application of general provisions relating to social security*

21. The repeals made by this Act do not affect the operation of section 66(2) of the Social Security Pensions Act 1975 (or of any other provision in that Act or any other enactment as it applies by virtue of that section), so far as it is not given effect to in this act but remains capable of having effect (and paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 shall continue to have effect accordingly).

*Saving for section 7 of the Social Security Act 1986*

22. the repeal by this Act of section 7 of the Social Security Act 1986 (schemes becoming contracted-out between 1986 and 1993) or of any reference to that section in another of the repealed enactments does not affect—

- (a) the operation of that section so far as it is not reproduced in this Act but remains capable of having effect; or
- (b) the operation of that enactment so far as the reference is not reproduced in the corresponding provision of this Act and that enactment remains capable of having effect in relation to that section.

## SCHEDULE 7

RE-ENACTMENT OR AMENDMENT OF CERTAIN PROVISIONS NOT IN FORCE

*The Equal Pay Act 1970 (c. 41)*

1. *repealed by 1995 c. 26, see Annex 1, page 5. 1701*

[<sup>2</sup>*the Social Security Act 1989 (c. 24)*

2. *In Schedule 5 to the Social Security Act 1989—*

(a) *in paragraph 2(8) for the words “section 84(1) of the 1986 Act” there*

<sup>1</sup> Para. 17(3)(j) came into effect on 31.3.95, at which date, in consequence of para. 1(1) of Sch. 9 below, para. 7(3) of that Schedule ceased to have effect.

<sup>2</sup> Prosp.

**PENSION SCHEMES ACT 1993 (c. 48)**

- 1978 c. 30. *shall be substituted the words "section 181(1) of the Pension Schemes Act 1993";*
- (b) *in paragraph 7(d) for the words "the meaning given by section 51(3)(b) of the 1973 Act" there shall be substituted the words "the same meaning as "public service pension scheme" in section 1 of the Pension Schemes Act 1993";*
- (c) *in paragraph 8 for the words "section 15(1) of the 1986 Act" there shall be substituted the words "section 160(1) of the Pension Schemes Act 1993".]*

*This Act*

Section 190. 3. . . . . repealed by 1995 c. 26. see Annex 1, page 5.1701

**SCHEDULE 8**

CONSEQUENTIAL AMENDMENTS

. . . . . makes textual amendments, see Annex 1, page 5.1701

**SCHEDULE 9**

TRANSITORY MODIFICATIONS

Sections 191 and 193(2).

- 1.—(1) If—
- (a) no date has been appointed as the date on which a provision mentioned in column 1 of the following Table is to come into force before the commencement date, or
- (b) a date has been appointed which is later than the commencement date,
- then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect until the appointed day.

**TABLE**

	<i>Provision</i>	<i>Paragraph of this Schedule</i>
1973 c. 38.	(i) Section 69(7) of the Social Security Act 1973	Paragraph 2.
	[ <sup>1</sup> ]	
1990 c. 41.	(vi) Section 82(2) of the Courts and Legal Services Act 1990. <sup>2</sup>	Paragraph 5.
1992 c. 40.	(vii) Paragraph 23 of Schedule 16 to the Friendly Societies Act 1992. <sup>3</sup>	Paragraph 6.
	(viii) Paragraph 12 of Schedule 8 to the Judicial Pensions and Retirement Act 1993 <sup>4</sup>	Paragraph 7(1).
	(ix) Paragraph 18(1) of Schedule 8 to the Judicial Pensions and Retirement Act 1993. <sup>4</sup>	Paragraph 7(2).
1993 c. 8.	(x) Paragraph 18(2) of Schedule 8 to the Judicial Pensions and Retirement Act 1993. <sup>4</sup>	Paragraph 7(3).

- (2) If—
- (a) a date has been appointed as the date on which a provision mentioned in column 1 of the Table in sub-paragraph (1) is to come into force for some purposes of that provision but not for others, and
- (b) that date is on or before the commencement date,
- then the paragraph mentioned in column 2 of the Table opposite that provision shall have effect for those other purposes of that provision (in so far as it is capable of doing so until the relevant appointed day).

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<sup>1</sup> Entries (ii)-(v) in Table in para. 1(1) repealed (6.4.97) by para. 16(2)(a) of Sch. 6, and by Part IV of Sch. 7. to Pensions Act 1995 (c. 26).

<sup>2</sup> Under art. 2 of S.I. 1995/641 (C. 16). s. 82 of the Courts and Legal Services Act 1990 came into force on 6.3.95.

<sup>3</sup> The day appointed under Sch. 6 to S.I. 1990/2213 (C.43) for bringing into force the para. 23 referred to in para. 1(1)(vii) of this Schedule was 1.1.94.

<sup>4</sup> The day appointed under art. 2 of S.I. 1995/631 (C. 15) for bringing into force the Judicial Pensions and Retirement Act 1993 was 31.3.95.



(3) In this paragraph–

“the commencement date” means the date<sup>1</sup> on which the provisions of those Act other than those mentioned in subsection (3) of section 193 come into force by virtue of an order under subsection (2) of that section;

“the appointed day”, in relation to a provision mentioned in column 1 of the Table in sub-paragraph (1), means–

- (a) in the case mentioned in paragraph (a) of sub-paragraph (1), such day as may be appointed by order for the purposes of that provision–
  - (i) in the case of the provision mentioned in paragraphs (i)<sup>2</sup> of that Table, by the Secretary of State;
  - (ii) in the case of the provision mentioned in paragraph (vi) of that Table, by the Lord Chancellor or by the Secretary of State or by both acting jointly;
  - (iii) in the case of the provision mentioned in paragraph (vii) of that Table, by the Treasury; and
  - (iv) in the case of the provisions mentioned in paragraphs (viii) to (x) of that Table, by the appropriate Minister (within the meaning of section 30(1) of the Judicial Pensions and Retirement Act 1993); and
- (b) in the case mentioned in paragraph (b) of that sub-paragraph, the day appointed as the day on which that provision is to come into force.

1993 c .8.

(4) An order under sub-paragraph (3) may–

- (a) appoint different days for different provisions or for different purposes of the same provision;
- (b) in the case of an order appointing a day until which paragraph 2 has effect, may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with section 163(9), and may make such adaptations of that section or of any provision of this Act deriving from the Social Security Act 1973 as appear to the Secretary of State to be necessary or expedient in consequence of the postponed (or partly postponed) operation of that section (whether before on or after the day appointed by the order);
- (c) in the case of an order appointing a day until which paragraph 5 has effect, may contain such incidental, supplemental or transitional provisions or savings as the person making it considers expedient;
- (d) in the case of an order appointing a day until which paragraph 6 has effect, may make such transitional provision or savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the bringing into force of the words which have effect by virtue of that order;
- (e) in the case of an order appointing a day until which paragraph 7 has effect, may make such transitional, consequential, supplementary or incidental provision or savings (whether or not involving the modification of the operation of the Judicial Pensions and Retirement Act 1993 or any other enactment) as appear to the appropriate Minister (within the meaning of section 30(1) of that Act) to be necessary or expedient for the purposes of or in connection with the bringing into force of the provisions which have effect by virtue of that order;

1973 c. 38.

and in sub-paragraph (2) “the relevant appointed day”, in relation to any purpose of a provision, means the day appointed as the day on which the provision is to come into force for that purpose.

<sup>1</sup> 7.2.94. under S.I. 1994/86 (c. 3).

<sup>2</sup> Para. 1(3)(a)(i) amended (6.4.97) by para. 16(2)(b) of Sch. 6 to Pensions Act 1995 (c. 26) so as to refer only to the provision mentioned in paragraph (i) of the said Table.



**PENSION SCHEMES ACT 1993 (c. 48)**

**Sch. 9**

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

(6) The Treasury may by regulations make such transitional and consequential provisions and such savings as they consider necessary or expedient in preparation for or in connection with or in consequence of the coming into force of the words which come into force when paragraph 6 ceases to have effect and such regulations may make modifications of any enactment contained in the Friendly Societies Act 1992 or in any other Act.

*Rule against perpetuities*

2. In section 163, subsection (9) shall be omitted.

3-4...<sup>2</sup>

*Courts and legal services*

5. [...<sup>3</sup>]

*Para. 5 above ceased to have effect: see para 1(1) of this Schedule including footnote to para. 1(1)(vi).*

*Friendly Societies*

6. In section 162(4)(c)(i), for the words “section 65A” there shall be substituted the words “section 65(2)”.

*Judicial pensions*

7.—(1) In section 146, subsection (3) shall be omitted.

(2) [...<sup>3</sup>]

(3) In Schedule 6, paragraph 17(3)(j), shall be omitted.

*Para. 7 above ceased to have effect on 31.3.95; see para. 1(1) of this Schedule, including footnote to heads (viii) to (x) thereof.*

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<sup>1</sup> Para. 1(5) repealed (6.4.97) by Pensions Act 1995 (c. 26). Sch. 6. para. 16(c) and Part IV of Sch. 7.

<sup>2</sup> Paras. 3 and 4 repealed (6.4.97) by Pension Act 1995 (c. 26). Sch. 6. para. 16(3) and Part IV of Sch. 7.

<sup>3</sup> Paras. 5 & 7(2) repealed (6.4.06) by The Pensions Act 2004 (c. 35), Sch. 13.

## Pension Schemes Act 1993

## LIST OF OMISSIONS

*The following provisions have been omitted from the text for the reasons stated below:-*

- s. 46(2) ... .. repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 56(3) and Sch. 2
- s. 46(9) ... .. repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c. 18), Sch. 1, para. 56(7) and Sch. 2
- s. 118 ... .. repealed (1.1.96) by Pensions Act 1995 (c. 26), Sch. 3, para. 29
- s. 164(b) ... .. repealed (22.8.96) by Employment Rights Act 1996 (c.18), Sch. 3
- Sch. 5, Pt. I ... .. repeals specified provisions of:-
- The Social Security Act 1973 (c. 38)
  - The National Insurance Act 1974 (c. 14)
  - The Social Security (Consequential Provisions) Act 1975 (c. 18)
  - The Social Security Pensions Act 1975 (c. 60)
  - The Police Pensions Act 1976 (c. 35)
  - The Social Security (Miscellaneous Provisions) Act 1977 (c. 5)
  - The Employment Protection (Consolidation) Act 1978 (c. 44)
  - The Social Security Act 1979 (c. 18)
  - The Social Security Act 1980 (c. 30)
  - The Social Security Act 1981 (c. 33)
  - The Social Security and Housing Benefits Act 1982 (c. 24)
  - The Health and Social Security Act 1984 (c. 48)
  - The Social Security Act 1985 (c. 53)
  - The Insolvency Act 1985 (c. 65)
  - The Bankruptcy (Scotland) Act 1985 (c. 66)
  - The Insolvency Act 1986 (c. 45)
  - The Social Security Act 1986 (c. 50)
  - The Social Security Act 1988 (c. 7)
  - The Official Secrets Act 1989 (c. 6)
  - The Social Security Act 1989 (c. 24)
  - The Employment Act 1989 (c. 38)
  - The Social Security Act (1990) (c. 27)
  - The Courts and Legal Services Act 1990 (c. 41)
  - The Social Security (Consequential Provisions) Act 1992 (c. 6)
  - The Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)
  - The Social Security Act 1993 (c. 3)
  - The Judicial Pensions and Retirement Act 1993 (c. 8)
- Pt. III ... .. repeals, as respects Great Britain, specified provisions of:-
- The Social Security Act 1973 (c. 38)
  - The Social Security (Consequential Provisions) Act 1975 (c. 18)
  - The Social Security Pensions Act 1975 (c. 60)
  - The Social Security Act 1985 (c. 53)
- Pt. IV ... .. revokes specified regulations
- Sch. 7, paras. 1 and 3 ... .. repealed (1.1.96) by Pensions Act 1995 (c. 26), Sch. 3, para. 47, without having come into force

## PENSION SCHEMES ACT 1993 (c. 48)

### Annex 1

Sch. 8, paras. 1-23 except para. 11(1)

textually amend:—

The Parliamentary Commissioner Act 1967 (c. 13)

The Administration of Justice Act 1970 (c. 31)

The Attachment of Earnings Act 1971 (c. 32)

The Pensions (Increase) Act 1971 (c. 56)

The Superannuation Act 1972 (c. 11)

The Social Security Pensions Act 1975 (c. 60)

The Rent Act 1977 (c. 42)

The Judicial Pensions Act 1981 (c. 20)

The Forfeiture Act 1982 (c. 34)

The Companies Act 1985 (c. 6)

The Bankruptcy (Scotland) Act 1985 (c. 66)

The Insolvency Act 1986 (c. 45)

The Coal Industry Act 1987 (c. 3)

The Income and Corporation Taxes Act 1988 (c. 1)

The Official Secrets Act 1989 (c. 6)

The Finance Act 1989 (c. 26)

The Electricity Act 1989 (c. 29)

para. 11(1) ... .. repealed by Employment Rights Act 1996 (c. 18)

para. 24 ... .. repealed (6.4.02) by Welfare Reform and Pensions Act 1999 (c. 30), s. 88

para. 25 ... .. adds s. 70(3)(k) to the S.S. Admin. Act 1992 (c. 5)

para. 26 ... .. repealed (2.4.01) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 85

para. 27 ... .. amends s. 148(7) of the S.S. Admin. Act 1992 (c. 5)

para. 28 ... .. amends s. 150 of the S.S. Admin. Act 1992 (c. 5)

para. 29 ... .. amends s. 151 of the S.S. Admin. Act 1992 (c. 5)

para. 30 ... .. amends s. 155(7) of the S.S. Admin. Act 1992 (c. 5)

para. 31 ... .. amends s. 191 of the S.S. Admin. Act 1992 (c. 5)

para. 32 ... .. amends s. 1(3) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 33 ... .. amends s. 8(1) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 34 ... .. amends s. 9(4) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 35 ... .. amends s. 20(3) of the S.S. Conts. and Bens. Act 1992(c. 4)

para. 36 ... .. amends s. 23(2) of the S.S. Conts. and Bens. Act 1992(c. 4)

para. 37 ... .. amends s. 34(5) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 38 ... .. amends s. 44(8) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 39 ... .. amends s. 47(3) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 40 ... .. amends s. 50(2) of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 41 ... .. amends s. 174 of the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 42 ... .. amends Sch. 5 to the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 43 ... .. amends Sch. 3, para. 7, to the S.S. Conts. and Bens. Act 1992 (c. 4)

para. 44 ... .. amends the Tribunals and Inquiries Act 1993 (c. 53)

para. 45(a) ... .. repealed by Employment Rights Act 1996 (c. 18)

para. 45(b) ... .. amends s. 2(4)(b) of the S.S. Act 1993 (c. 3)

para. 46 ... .. amends the Judicial Pensions and Retirement Act 1993 (c. 8)

## Annex 2

### COMMENCEMENT

This Act is a consolidating one, Part II of Schedule 5, and s. 188(1) so far as it relates to that Part, have been superseded (1.1.96) by paragraphs 29, 32-37, 39(b), 42 and 44(a)(i) of, and paragraphs 1 and 3 of Schedule 7 have been repealed (1.1.96) by paragraph 47 of Schedule 3 to the Pensions Act 1995 (c. 26), Paragraph 2 of Schedule 7, and s. 10 so far as it relates to Sch. 7, have not yet been commenced. All other provisions were commenced on 7.2.94, under S.I. 1994/86 (C. 3), reproduced at page 5.4723.

The derivations of the provisions of this Act are shown in Annex 3 below.

The destinations of the repealed provisions re-enacted in this Act are set out in the Appendix to this binder (i.e.. to Part I of volume 5).

**PENSION SCHEMES ACT 1993 (c. 48)**

## Pension Schemes Act 1993 TABLE OF DERIVATIONS

*Notes:*

1. This Table shows the derivation of the provisions of the consolidation.
2. The following abbreviations are used in the Table:-

*Acts of Parliament*

1973	=	Social Security Act 1973 (c. 38)
1975	=	Social Security Act 1975 (c. 14)
1975P	=	Social Security Pensions Act 1975 (c. 60)
1977	=	Social Security (Miscellaneous Provisions) Act 1977 (c. 5)
1978	=	Employment Protection (Consolidation) Act 1978 (c. 44)
1980	=	Social Security Act 1980 (c. 30)
1982	=	Social Security and Housing Benefits Act 1982 (c. 24)
1984	=	Health and Social Security Act 1984 (c. 48)
1985	=	Social Security Act 1985 (c. 53)
1986	=	Social Security Act 1986 (c. 50)
1989	=	Social Security Act 1990 (c. 24)
1990	=	Social Security Act 1990 (c. 27)
1992	=	Social Security (Consequential Provisions) Act 1992 (c. 6)
1993	=	Social Security Act 1993 (c. 3)

*Subordinate legislation*

S.I. 1987/1116 = Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987

3. The abbreviation “Law Com Rec No.” followed by a number refers to the recommendation set out in the paragraph of that number in the Appendix to the Report of the Law Commission and the Scottish Law Commission (Cm. 2184).

4. The entry “drafting” indicates a provision of a mechanical or editorial nature only affecting the arrangement of the consolidation.

5. The Table does not show the effect of transfer of functions orders.

6. The Table does not show the effect of the saving by paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) which preserves provisions of the Social Security Act 1975 (c. 14) as that Act continues to operate for the purposes of the Social Security Pensions Act 1975 (c. 60) by virtue of s. 66(2) of the latter Act.

<i>Provision</i>	<i>Derivation</i>
1	1973 ss. 51(3), 99(1); 1975P s. 66(1); 1980 s. 4(1); 1986 s. 84 Sch. 10 para. 28.
2(1) (2)	1973 s. 66(1); drafting, 1973 s. 66(1), (10)(a); 1985 Sch. 5 para. 1; 1986 Sch. 10 para. 4.
3(1), (2)	1973 s. 66(2).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
4(1), (2) (3)	1973 s. 66(6); Social Security Act 1981 (c. 33), Sch. 2, para. 1. 1973 s. 66(6A); Social Security act 1981 (c. 33 Sch. 2 para. I.
5	Drafting
6(1 to (5) (6) to (8)	1975P s. 59K(1) to (5); 1990 s. 13(1). 1975P s. 59K, (9); 1990 s. 13(1).
7(1) (2) (3) (4) (5) (6) (7)	1975P ss. 30(1)(pt); 1986 ss. 1(8), 2(1)(a), 1975P s. 31(1)(pt). 1975P s. 32(1). 1986 s. 1(8). 1986 s. 2(6). 1986 s. 2(1)(c); 1975P s. 31(7)(pt.); 1986 s. 2(5)(pt).
8(1) (2) (3) (4) (5)	1975P s. 30(1); 1986 Sch. 2 para. 4(a), Sch. 10 para. 15. 1975P ss. 26(2), 30(1A), (1B); 1986 s. 9(4). Sch. 2, para. 4(b), Sch. 10, para. 12(b). 1975P s. 30(1C); 1986 Sch. 2 para. 4(b). 1975P s. 30(3). 1975P s. 30(4).
9(1) (2) (3) (4) (5) (6)	1975P s. 32(2); 1986 Sch. 2, para. 5. 1975P s. 32(2); 1986 s. 9(4)(b), Sch. 10 para. 16(a). 1975P s. 32(2A); 1986 Sch. 1. para.6. Sch. 2 para. 5. 1975P s. 32(5). 1986 s. 2(2). Sch. I para. 6; S.I. 1987/1116 reg. 3(1). 1975P s. 32(2)(b), (2A)(c); S.I. 1987/1116 reg. 3(1).
10(1) (2) (3)	1986 Sch. 1 para. 7(1). 1975P s. 32(2B)(c); 1986 Sch. 1 para. 7(2). 1986 Sch. 1 para. 7(2).
11(1), (2) (3), (4) (5)	1975P s. 31(3). 1975P s. 31(4). 1975P s. 31(5).
12(1), (2) (3)	1975P s. 32(2C); 1986 Sch. 2 para. 5(b). 1975 s. 32(2D); 1986 Sch. 2 para. 5(b).
13(1) (2) (3) (4), (5) (6) to (8)	1975P s. 33(1); 1986 Sch. 2 para. 6(1)(a). 1975P s. 33(1A); 1986 Sch. 10 para. 17; 1990 Sch. 4 para. 7(1); 1992 Sch. 2 para. 26. 1975P s. 33(2). 1975P s. 33(3). 1975P s. 33(5) to (7).
14(1) (2) (3) (4) (5),(6) (7) (8)	1975P s. 35(1). 1975P s. 35(2); 1986 Sch. 8 para. 8. 1975P s. 35(2ZA); 1990 Sch. 4 para. 7(2); 1992 Sch. 2 para. 27(1). 1975P s. 35(2A); 1989 Sch. 6 para. 5. 1975P s. 35(3); 1986 s. 9(1). 1975P s. 35(4). 1975P s. 35(9).



<i>Provision</i>	<i>Derivation</i>
15(1), (2) (3), (4)	1975P s. 35(6); 1977 s. 3(2). 1975P s. 35(6A), (6B); 1986 s. 9(2).
16(1)	1975P s. 35(5); Social Security act 1979 (c. 18), Sch. 3 para. 18(a); Social Security Act 1988 (c. 7) Sch. 2 para. 1(2), (3); 1992 Sch. para. 27(2).
(2)	1975P s. 35(7)(pt); 1985 Sch. 3 paras. 2, 7,
(3)	1975P ss. 35(7)(pt.). 45(1)(b); Social Security act 1979 (c. 18) Sch. 3, para. 18; 1992 Sch. 2 para. 27(2).
(4)	1975P s. 35(8); 1985 Sch. 3 para. 8.
(5)	1975P s. 35(9).
17(1)	1975P s. 36(1); 1986 s. 9(3)(a), Sch. 2 para. 6(1)(b).
(2), (3), (4)	1975P s. 36(3); 1986 s. 9(3)(b).
(5)	1975P s. 36(6),(8); 1992 Sch. 2 para. 28.
(6)	1975P s. 36(7A), (8); 1986 s.9(3)(c), (4).
(7)	1975P s. 36(7B); 1986 s. 9(3)(c).
18(1)	1975P s. 60A; Social Security Act 1979 (c. 18) s. 18.
(2)	1975P s. 60B; Social Security act 1988 (c. 7) Sch. 2 para. 2.
19(1)	1975P s. 5 2C(1)(pt); 1985 Sch. 1 para. 2; 1986 Sch. 10 para. 26; 1989 Sch. 6 para. 14.
(2)	1975P s. 52C(2); 1985 Sch. 1 para. 2; 1986 Sch. 10 para. 26.
(3), (4)	1975P s. 52C(2); 1985 Sch. 1 para. 2; 1986 Sch. 10 para. 26. 1990 Sch. 4 para. 10.
(5)	1975P s. 52C(5); 1985 Sch. 1 para. 2; 1986 Sch. 10 para. 26(2); Law Com Rec No. 1.
(6)	1975P s. 52C(6); 1985 Sch. 1 para. 2.
(7)	1975P s. 52C(7)(pt.); 1985 Sch.1 para. 2.
20(1)	1975P s. 38(1); 1984 s. 19(1); 1986 Sch. 10 para. 18.
(2) to (5)	1975P s. 38(1A) to (1D); 1984 s. 19(1).
(6)	1975P s. 38(3); 1986 s. 9(4).
21(1)	1975P s. 39(1).
(2)	1975P s. 39(4); 1986 s. 9(4)
22	1975P s. 40(1).
23(1)	1975P s. 40(2); 1985 Sch. 5 para. 20(a).
(2), (3)	1975P s. 40(3); 1977 s. 22(8).
(4)	1975P s. 40(2)(pt.), (3)(pt.); 1985 Sch. 1 para. 2; 1986 s.9(4)(h).
(5)	1975P s. 52D(4); 1985 Sch. 1 para. 2.
(6)	1975P s. 40(3)(pt.); 1985 Sch. 1 para. 2.
(7)	1975P s. 40(4).
24(1), (2)	1975P ss. 41(1), 52D(4); 1985 Sch. 1 para. 2, Sch. 5 para. 20(b); 1986 s. 9(4)(h).
(3)	1975P s. 41(1A); 1985 Sch. 5 para. 21.
(4)	1975P s. 41(5)(pt).
25(1)	1975P s. 41(1)(pt.), (5)(pt.).
(2)	1975P s. 41(2)(pt.).
(3)	1975P s. 41(3).
26	1986 Sch. 1 para. 2.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
27(1)	1986 Sch. 1 para. 7(3).
(2)	1986 Sch. 1 para. 7(4)(a); 1989 Sch. 6 para. 19.
(3)	1986 Sch. 1 para. 7(4)(b).
28(1)	1986 Sch. 1 para. 8; 1989 Sch. 6 para. 20.
(2)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(1).
(3)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(2); 1989 Sch. 6 para. 20.
(4) to (6)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(3) to (5); 1990 Sch. 4 para. 6(1).
(7)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(6).
29(1)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(7); 1990 Sch. 4 para. 6(1).
(2)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(7A); 1989 Sch. 6 para. 20.
(3), (4)	1975P s. 32(2B)(a) and (d); 1986 Sch. 1 para. 9(7); to (9).
30	1975P s. 32(2B)(a); 1986 Sch. 1 para. 10.
31(1)	1975P s. 32(2B)(a); 1986 Sch. 1 para. 3.
(2)	1975P s. 32(2B)(a); 1986 Sch. 1 para. 4.
(3)	1975P s. 32(2B)(a), (b); 1986 Sch. 1 para. 5(1)(pt.).
(4)	1975P s. 32(2B)(a); 1986 Sch. 1 para. 11.
33	1975P s. 32(2B)(a); 1986 Sch. 1 para. 12.
34(1)	1975P s. 31(2); 1986 s. 2(1)(b).
(2)	1975P s. 31(6).
(3)	1975P s. 32(3); 1986 s. 2(4).
(4)	1975P s. 32(4).
(5)	1986 s. 2(3).
(6)	1980 s. 3(10)(pt).
(7)	1975P s. 41(2), (5).
(8)	1975P s. 31(7); 1986 s. 2(5).
35(1)	1975P s. 51A(1); 1982 s. 40.
(2)	1975P s. 51A(3); 1982 s. 40.
(3)	1975P s. 51A(4); 1982 s. 40.
(4)	1975P s. 51A(9); 1982 s. 40.
(5)	1975P s. 51A(11)(pt.); 1982 s. 40.
(6)	1975P s. 51A(12); 1982 s. 40.
36(1)	1975P s. 51A(2); 1982 s. 40.
(2)	1975P s. 51A(3); 1982 s. 40.
(3)	1975P s. 51A(5); 1982 s. 40.
(4)	1975P s. 51A(6); 1982 s. 40.
(5)	1975P s. 51A(9); 1982 s. 40.
(6)	1975P s. 51A(10); 1982 s. 40; 1992 Sch. 2 para. 32.
(7)	1975P s. 51A(11)(pt); 1982 s. 40.
37(1)	1975P s. 50(1)(pt); 1980 s. 3(10)(pt.).
(2)	1975P s. 50(1A); 1986 Sch. 10 para. 25.
(3)	1975P s. 50(1)(pt.); 1986 Sch. 10 para. 25.
(4)	1975P s. 50(2).
(5)	1975P s. 50(3); 1986 Sch. 2 para. 10.
(6)	1986 s. 9(6)(c).

<i>Provision</i>	<i>Derivation</i>
38(1)	1975P s. 50(1); S.I. 1987/1116 reg. 3(4).
(2)	1975P s. 50(1A); S.I. 1987/1116 reg. 3(5).
(3)	1975P s.50(2); S.I. 1987/1116 reg. 3(4).
(4)	1975P s.50(2); S.I. 1987/1116 reg. 3(3).
(5)	S.I. 1987/116 reg. 3(6).
(6)	1975P s. 50(1); S.I. 1987/1116 reg. 3(4); Personal Pension Schemes (Appropriate Schemes) Regulations 1988 (S.I. 1988/137) reg. 2(1); Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988 (S.I. 1988/474) reg. 8(a).
(7)	S.I. 1987/1116 reg. 3(7).
39	1975P s. 52.
40	Drafting: 1975P s. 26(1); (1A); 1986 Sch. 2 para. 2, Sch. 10 para. 12; 1992 Sch. 2 para. 20.
41(1)	1975P s. 27(1). to (3); 1985 Sch. 5 para. 17; Social security (Class 1 Contributions; Contracted-out Percentages) Order 1992 (S.I. 1992/795) art. 2.
(2)	1975P s. 27(4); 1986 Sch. 10 para. 13.
(3)	1975P s. 27(5); 1992 Sch. 2 para. 21.
42(1)	1975P s. 28(1); (2), 1992 Sch. 2 para. 22.
(2) to (5)	1975P s. 28(3) to (6).
(6)	1975P s. 28(7); 1985 Sch. 5 para. 18.
43(1)	1986 s. 1(1)
(2)to (6)	1986 s. 1(3) to (7)
44	1986 s. 1(9) to (11).
45(1)	1986 s. 3(1)(a), (3), (4).
(2)	1986 s. 3(1)(aa); 1993 s. 1(1)
(3)	19086 ss. 1(2), 3(5); 1993 s. 1(2)
46(1)	1975P s. 29(1); 1986 s. 18 Sch. 10 para. 14; 1992 Sch. 2 para. 23(1).
(2)	1975P s. 29A(1); 1992 Sch. 2 para. 24.
(3)	1975P s. 29A(2); 1992 Sch. 2 para. 24.
(4), (5)	1975P s. 29B(1), (2); 1992 Sch. 2 para. 24.
(6), (7)	1975P s. 29C(1), (2), 1992 Sch. 2 para. 24.
(8)	1975P ss. 29(3), 29A(3), 29B), 29C(3); 1992 Sch. 2 para. 23(3), 24.
(9)	1975P s. 29A(4); 1992 Sch. 2 para. 24.
47(1)	1986 s. 9(5). 1992 Sch. 2 para. 79.
(2)	1975P s. 29(2)(d), (c); 1986 Sch. 10 para. 14; 1989 Sch. 1 para. 11; 11992 Sch. 2 para. 23(2).
(3), (4)	1975P s. 52D(1); 1985 Sch. 1 para. 2; 1986 s. 9(4)(h), Sch. 10 para. 27(1)(a), (b), (2); 1992 Sch. 2 para. 33.
(5)	1975P s. 29(2)(a), (b), 1986 Sch. 10 para. 14; 1989 Sch. 1 para. 11; 1992 Sch. 2 para. 23(2).
48(1), (2)	1975P s. 29(2A); 1986 s. 4(1). Sch. 2 para. 3; 1992 Sch. 2 paras. 23(2), 77.
(3)	1975P s. 29(2B); 1986 Sch. 2 para. 3.
(4)	1975P s. 29(2C); 1986 s. 4(2). Sch. 2 para. 3.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
49	1975 s. 130(1); 1975P s. 66(2); 1992 Sch. 2 para. 40, Sch. 3 para. 10.
50(1)	1975P ss. 44(1); 44ZA(1); 1986 s. 5(1), Sch. 2 para. 6(1)(f), & Sch. 10 para. 23.
(2), (3)	1975P ss. 44(1C),(1D), 44ZA(2), (3); 1986 s. 5(2), (3), Sch. 2 para. 7, Sch. 10 para. 23.
(4), (5)	1975P s. 44(1A), (1B); 1984 s. 19(2).
(6)	1980 s. 3(7)(a).
(7)	1975P s. 44(4); 1977 s. 21(1)pt.); drafting
51(1) to (3)	1977 s. 21(1); 1980 s. 3(4); 1985 Sch. 3 para. 6, 7(1); 1986 Sch. 8 para. 11; 1989 Sch. 6 para. 15(b); 1992 Sch. 2 para. 44.
(4)	1977 s. 21(2); 1980 s. 3(4); 1985 Sch. 3 para. 6, 7(1); 1986 Sch. 8 para. 11; 1989 Sch. 6 para. 15(b).
(5)	Drafting.
52(1)	Drafting.
(2)	1975P s. 49(1); 1986 Sch. 2 para. 9(a).
(3)	1975P s. 49(1); S.I. 1987/1116 reg. 3(2), Sch. 2 para. 1.
(4)	1975P ss. 49(1), 52D(4); 1985 Sch. 1 para. 2; 1986 s. 9(4)(h), Sch. 2 para. 9(a).
(5)	1975P s. 49(1); S.I. 1987/1116 reg. 5(2).
(6)	1975P s. 49(1); S.I. 1987/1116 reg. 3(2), Sch. 2 para. 1(d).
53(1), (2)	1975P s. 49(2); 1986 Sch. 2 para. 9(b).
(3)	1975P s. 49(2A); 1986 Sch. 10 para. 24.
(4), (5)	1975P s. 49(5); 1986 Sch. 2 para. 9(c).
54(1)	1975P s. 49(2); S.I. 1987/1116 reg. 3(2), Sch. 2 para. 2.
(2)	1975P s. 49(2A); S.I. 1987/1116 reg. 3(2), Sch. 2 para. 3.
(3)	1975P s. 49(5); S.I. 1987/1116 reg. 3(2), Sch. 2 para. 4.
55(1)	1975P ss. 44(2), 44ZA(4); 1985 Sch. 5 para. 27; 1986 s. 5(4), (6), Sch. 10 para. 23; S.I. 1987/1116 reg. 3(10).
(2)	1975P s. 42(1), (2), (3); 1985 Sch. 5 para. 25; 1986 Sch. 2 para. 6(1)(f), Sch. 10 para. 21
(3)	1975P s. 44A(1); 1985 Sch. 1 para. 1; 1986 Sch. 2 para. 6(2)(g); 1989 Sch. 6 para. 11.
(4), (5)	1975P s. 45(1), (6), 1977 s.22(7); 1985 Sch. 5 para. 25, 1986 Sch. 2 para. 6(1)(h).
(6)	1975P ss. 42(1), 44(3), 44za(5), 44a(2), 45(1); 1986 S. 5(5)
56(1)	1975p S. 44za(4); 1986 S. 5(4), Sch. 2 PARA. 7.
(2)	1975p SS. 43(6), 44(3), 44(2)(PT), 44za(6), 44a(1), 45(1), (2); 1986 S. 5(7).
(3)	1980 S. 3(7)(B).
(4)	1975P s. 43(2).
(5)	1975P s. 43(3).
(6)	1975P ss. 43(8), 45(6).
57(1)	1975P s. 43(6).
(2)	1975P s. 43(4).
(3)	1975P s. 43(5).
(4)	1975P s. 43(4).
58(1), (2)	1975P s. 44(5).

<i>Provision</i>	<i>Derivation</i>
(3)	1975P s. 44ZA(7); 1986 s. 5(8).
(4)	1975P s. 43(1).
(5)	1975P s. 45(2)(pt.).
(7)	1975P s. 43(2).
59(1),(2)	1975P ss. 44(6), 44A(3)(a); 1980 s. 3(8), 1985 Sch. 3 para. 4, 7; 1992 Sch. 2 para. 31.
(3)	1977 s. 22(13); 1980 Sch. 4 para. 12.
(4)	1975P s. 45(3); 1985 Sch. 3 para. 5, 7; 1986 Sch. 8. para. 10; 1992 Sch. 2 para. 31.
(5)	1975P s. 45(3); 1989 Sch. 6 para. 12(b).
(6)	1975P s. 44(6); 1980 s. 3(8).
60(1), (2)	1975P s. 44(9); 1986 s. 9(4)(g).
(3)	1975P s. 44ZA(8); 1986 s. 5(9).
(4), (5)	1975P s. 43(7).
(6)	1975P s. 44A(4); 1985 Sch. 1 para. 1.
(7) to (10)	1975P s. 44ZA(9) to (12); 1986 s. 5(10) to (13).
61(1), (2)	1975P s. 47(1), (2), (12); 1977 s. 22(14).
(3) to (7)	1975P s. 47(3) to (7).
(8)	1975P s. 47(8); 1977 s. 22(14).
(9), (10)	1975P s. 47(10).
(11)	1975P s. 47(11).
62(1)	1975P s. 47(9).
(2)	1975P s. 47(9A); 1985 Sch. 5 para. 30.
63(1)	1975P ss. 43(1), 44(5), 44ZA(14), 45(2), 47(2); 1986 s. 5(15), Sch. 10 para. 23.
(2)	1975P s. 44ZA(7), (8)(9)(a)(i) 1986 s. 5(8), (10)(a)(i).
(3)	1975P ss. 43(1B), 44(5A); 1989 Sch. 6 para. 9(1).
(4)	1975P s. 44(5B); 1989 Sch. 6 para. 9(1).
(5)	1975P ss. 43(1), 44(8), 44za(14)(B), 45(5), 47(2); 1986 S.5(15)(B).
64(1), (2)	1975P SS. 44(7), 44a(3)(b), 44za(14)(a), 45(4); 1986 ss. 5(15)(a), 16.
(3)	1986 s. 16(3).
(4)	1975P s. 45(4).
(5)	1986 ss. 16(1), 83(3)(a), 84(2); Social security act 1975 (c. 14) s. 165; 1975P s. 66(2); 1992 Sch. 3 para. 10.
(6)	1986 s.16(4), (5) 84(2); Social Security act 1975 (c. 1 4) s. 165; 1975P s. 66(2); 1992 Sch. 2 para. 80, Sch. 3 para. 10.
(7) to (9)	1986 s. 16(6) to (8)
65	1975P s. 44(10)
66 1986 s. 9(6)	
67(1)	1975P s. 60ZB; 1992 Sch. 2 para. 36.
(2)	1975P s. 60ZD; 1992 Sch. 2 para. 36.
(3), (4)	1975P s. 60ZE(1), (2), 1992 Sch. 2 para. 36.
68	1975P s. 60ZF; 1992 Sch. 2 para. 36; Law Com Rec. No. 2.
69(1),(2)	1973 s. 63(1)(pt.); drafting.
(3)	1973 s. 63(4)(a)(pt.); 1975P Sch. 4 para. 24.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
70(1)	1973 Sch. 16 para. 2; 1989 Sch. 6 para. 4(a); 1990 Sch. 4 para. 5(4)(a).
(2),(3)	1973 Sch. 16 para. 3.
71(1), (2)	1973 Sch. 16 para. 6(1); 1986 s. 10; S.I. 1987/1116 reg. 4(3); 1990 Sch. 4 para. 5(1).
(3) to (6)	1973 Sch. 16 para. 6(2) to (5).
(7), (8)	1973 Sch.1 6 para. 7(1); 1975P Sch. 4 para. 32; 1986 s. 10.
(9)	1973 Sch. 16 para. 7(2); 1986 s. 10.
72	1973 Sch. 16 para. 8.
73(1)	1973 Sch. 16 para. 9(1).
(2)	1973 s. 58(1), Sch. 16 para. 9(2); S.I. 1987/1116 reg. 4(4); Personal and Occupational pension schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg. 7(3).
(3)	1973 Sch. 16 para. 9(2A); 1985 Sch. 5 para. 3.
(4), (5)	1973 Sch. 16 para. 9(3), (4); Social Security Act 1973 (Commencement No. 2) Order 1973 (S.I. 1973/1433) Sch. 2.
74(1), (2)	1973 Sch.1 6 para. 10(1), (2).
(3), (4), (5)	1973 Sch. 16 para. 10(3).
(6)	1973 Sch. 16 para. 11.
(7), (8)	1973 Sch. 16 para. 12(1), (2).
75(1)	1973 Sch. 16 para. 5.
(2)	1973 Sch. 16 para. 13(1).
(3), (4)	1973 Sch. 16 para. 13(2).
(5)	1973 Sch. 16 para. 13(3).
(6), (7)	1973 Sch. 16 para. 13(4), (5).
76	1973 Sch. 16 para. 14.
77(1)	1973 Sch. 16 para. 15(1).
(2)	1973 Sch. 16 para. 15(1A); 1985 Sch. 5 para. 4.
(3)	1973 Sch. 16 para. 15(2); 1989 Sch. 6 para. 4(b).
(4)	1973 Sch. 16 para. 15(3); 1989 Sch. 6 para. 4(b); S.I. 1987/1116 reg. 4(5), (6); Personal and Occupational Pension schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg. 7(4).
(5)	1973 Sch. 16 para. 15(4)(pt.)
(6)	1973 Sch. 16 para. 15(4)(pt.); 1989 Sch. 6 para. 4(c); 1990 Sch. 4 para. 5(3).
(7)	1973 Sch. 16 para. 15(6).
78(1), (2)	1973 Sch. 16 para. 16(1), (2).
(3), (4)	1973 Sch. 16 para. 16(3); Law Com Rec No. 3.
(5)	1973 Sch. 16 para. 16(4); Official Secrets Act 1989 (c. 6) Sch. 1 para. 1(d).
(6)	1973 Sch. 16 para. 17(1); 1989 Sch. 6 para. 4(d); 1990 Sch. 4 para. 5(4)(b).
(7)	1973 Sch. 16 para. 17(2).
79(1), (2)	1973 Sch.1 6 para. 18(1).
(3), (4)	1973 Sch. 16 para. 18(2).

<i>Provision</i>	<i>Derivation</i>
80	1973 s. 58(1) Sch. 16 paras. 15(5), 19.
81	1975P s. 52C(1); 1986 Sch. 10 para. 26(1).
82(1)	1973 Sch. 16 para. 20.
(2)	1973 Sch. 16 para. 22.
83(1)	Drafting; 1975P Sch. 1A para. 1(1), (2), (4); 1985 Sch. 1 para. 3; 1990 Sch. 4 para. 5(4); S.I. 1987/1116 reg. 3(10), Sch. 4 para. 1(a).
(2)	1975P Sch. 1A para. 1(3); 1985 Sch. 1 para. 3.
(3)	S.I. 1987/1116 reg. 3(10), Sch. 4 para. 1(a).
84(1)	1975P Sch. 1A para. 2(1); 1985 Sch. 1 para. 3.
(2)	1975P Sch. 1A paras. 3(3), (4), 4(3), (4); 1985; Sch. 1 para. 3
(3)	1975P Sch. 1A para. 5(3); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 paras. 2, 3.
(4)	Drafting; 1975P s. 66(1), Sch. 1A para. 3, 4, 5; 1986 s. 84(1), Sch. 2 para.11
(5)	1975P Sch. 1A para. 8; 1985 Sch.1 para. 3; 1986 s. 84(i), 1992 Sch. 2 para. 41.
85	1975P Sch. 1A para. 6; 1985 Sch. 1 para. 3.
86(1)	1975P Sch. 1A para. 9, 19; 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 paras. 6, 14.
(2)	1975P Sch. 1A para. 10; 1985 Sch. 1 para. 3.
87(1)	1975P s. 41A(1)(pt); 1984 Sch. 6.
(2)	1975P s. 41B(1)(pt); 1986 s. 9(4)(f); 1984 Sch. 6.
(3)	1975P ss. 41A(1)(pt), 41B(1)(pt); 1984 Sch. 6; 1985 s. 6(1), (3); 1986 s. 9(4)(f); 1990 Sch. 4 para. 8(8).
(4)	1975P ss. 41A(1C), 41B(1A); 1984 Sch. 6; 1985 s. 6(2), (4); 1986 s. 9(4)(f); 1990 Sch. 4 para. 8(2), (5); Law Com Rec No. 1.
(5)	1975P ss. 41A(6), 41B(5); 1984 Sch. 6; 1985 Sch. 5 paras. 23, 24; 1986 s. 9(4)(f).
(6)	1975P ss. 41A(10); 1984 Sch. 6.
(7)	1975P s. 41C(6); 1984 Sch. 6.
88(1), (2)	1975P ss. 41A(3), 41B(3), 1984 Sch. 6; 1985 s. 6(5); 1986 s. 9(4)(f).
(3)	1975P s. 41A(4); 1984 Sch. 6; 1986 Sch. 10 para. 20.
(4)	1975P s. 41A(5); 1984 Sch. 6; 1986 Sch. 10 para. 20.
(5)	1975P s. 41A(7); 1984 Sch. 6.
89	1975P ss. 41A(2), 41B(2); 1984 Sch. 6; 1985 Sch. 5 para. 23, 24; 1986 s. 9(4)(f).
90	1975P s. 41A(8); 1984 Sch. 6.
(2)	1975P s. 41A(9); 1984 Sch.6.
92(1)	1975P s. 41C(4); 1984 Sch.6.
(2),(3),(4)	1975P s. 41C(4A), (4B), (4C); 1984 Sch. 6; 1985 Sch.5 para. 24; 1992 Sch. 2 para. 30.
(5)	1975P s. 41C(5); 1984 Sch. 6.



**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
93(1)	1975P Sch. 1A para. 11(1); 1985 Sch.1 para. 3; 1990 Sch.4 para. 5(4)(c); S.I. 1987/1116 reg. 3(10), Sch. 4 para. 7.
(2)	1975P Sch. 1A para 11(3); 1985 Sch. 1 para. 3; 1990 Sch. 4 para. 5(4)(c); S.I. 1987/116 reg. 3(10), Sch. 4 para. 7.
94(1)	1975P Sch. 1A para. 12(1); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 8.
(2)	1975P Sch. 1A para. 12(2), (3), 1985 Sch. 1 para. 3; Social Security act 1988 (c. 7), Sch. 2 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 8.
95(1)	1975P Sch. 1A paras. 13(1), (2)(pt.), 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 9.
(2)	1975P Sch. 1A para. 13(2)(pt.)16(1); 1985 Sch.1 para. 3; 1986 Sch. 10 para. 30(c); S.I. 1987/1116 reg. 5(3) Sch. 6 para. 1.
(3)	1975P Sch. 1A paras. 13(2)(pt.) 16(1); 1985 Sch. 1 para. 3; 1986 s. 9(4)(i); S.I. 1987/1116 reg. 3(10), Sch. 4 para. 9(a), (b).
(4)	1975P Sch. 1A para. 13(2)(b); 1985 Sch.1 para. 3; S.I. 1987/1116 reg. 5(3) Sch. 6 para. 2.
(5)	1975P Sch. 1A para. 13(3); 1985 Sch. 1 para.3.
(6)	1975P Sch. 1A para. 13(2A); 1985 Sch.1 par. 3; 1986 s.9(4)(i), Sch. 10 para. 30(c).
(7), (8)	1975P Sch. 1A para. 15(1)(2); 1985 Sch. 1 para. 3.
(9)	1975P Sch.1A para. 16(8); 1985 Sch.1 para. 3.
96(1)	1975P Sch. 1A para. 13(4)(pt)
(2)	1975P Sch.1A para. 13(5); 1985 Sch.1 para. 3; S.I. 1987/1116 regs. 3(10), 5(3), Sch. 4 para. 9(c), Sch. 6 para. 3; Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations (S.I. 1988/1016) Reg. 4(2).
(3)	1975P Sch.1A para. 13(4)(pt). (5), (6); 1985 Sch. 1 para. 3; 1986 s. 9(4)(i); S.I. 1987/1116 regs. 3(10), 5(3), Sch. 4 para. 9(d), Sch. 6 para. 4.
97(1)	1975P Sch. 1A para. 14(1); 1985 Sch. 1 para. 3; 1986 Sch. 10 para. 30(d).
(2)	1975P Sch. 1A para. 14(3); 1985 Sch.1 para. 3; 1986 Sch. 10 para. 30(d); S.I. 1987/1116 regs. 3(10), 5(3), Sch. 4 para. 10, Sch. 6 para. 5
(3), (4)	1975P Sch. 1A para. 14(4); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 10(b).
98(1)	1975P Sch. 1A para. 12(2A); 1985 Sch. 1 para. 3; 1986 Sch. 10 para. 30(a).
(2)	1975P Sch. 1A para. 12(2B); 1985 Sch. 1 para. 3; 1986 Sch. 10 para. 30(a)
(3)	1975P Sch. 1A para. 12(2C)(a); 1985 Sch.1 para. 3; Social Security Act 1988 (c. 7) Sch. 2 para. 3(b).
(4)	1975P Sch. 1A para. 12(2C)(b); 1985 Sch.1 para. 3; Social Security Act 1988 (c. 7) Sch.2 para. 3(b).
(5)	1975P Sch. 1A para. 15(1); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 11.
(6)	1975P Sch. 1A para. 15(2) (as it applies to personal pension schemes); 1975P Sch. 1A para. 15(3)(c) (as it applies to occupational pension schemes); 1985 Sch.1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 11.

<i>Provision</i>	<i>Derivation</i>
(7)	1975P Sch. 1A para. 15(3)(a), (b); 1985 Sch.1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 11.
(8)	Drafting
99(1)	1975P Sch.1A para. 16(2); 1985 Sch.1 para. 3; S.I. 1987/1116 regs. 3(10), 5(3), Sch. 4 para. 12(a), Sch. 6 para. 6.
(2)	1975P Sch. 1A para. 16(3); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 12(b).
(3)	1975P Sch. 1A para. 16(4); 1985 Sch. 1 para. 3; 1986 s. 9(4); S.I. 1987/1116 reg. 3(10), Sch. 4 para. 12(c).
(4)	1975P Sch. 1A para. 16(5); 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 12(d)(e).
(5), (6)	1975P Sch. 1A para. 16(6), (7), 1985 Sch. 1 para. 3.
100	1975P Sch. 1A para. 17; 1985 Sch. 1 para. 3; S.I. 1987/1116 reg. 3(10), sch. 4 para. 13.
101	1975P Sch. 1A para. 19; 1985 Sch. 1 para. 3.
102(1)	1975P s. 58A(2); 1990 s. 11(1).
(2)	1975P s. 58A(1); 1990 s. 11(1).
(3)	1975P s. 58A(3), Sch. 3A para.1; 1990 s. 11(1), Sch. 2
103(1)	1975P Sch. 3A para. 2(1); 1990 s. 11(1), Sch. 2.
(2)	1975P Sch. 3A para. 1; 1990 s. 11(1), Sch. 2.
(3)	1975P Sch. 3A para. 2(2); 1990 s. 11(1), Sch.2.
(4)	1975P Sch. 3A para. 2(3); 1990 s. 11(1), Sch.2.
104(1)	1975P Sch. 3A para. 3(1)(pt); 1990 s. 11(1), Sch.2.
(2)	1975 Sch. 3A para. 1; 1990 s. 11(1), Sch.2.
(3), (4), (5)	1975P Sch. 3A para. 3(2), (3), (4); 1990 s. 11(1), Sch. 2
(6)	1975P Sch. 3A para. 3(5)(pt); 1990 s. 11(1) Sch.2.
(7)	1975P Sch. 3A para. 3(6); 1990 s. 11(1), Sch. 2.
(8)	1975P Sch. 3A para. 3(1)(pt.), (5)(pt.); 1990 s. 11(1), Sch.2.
(9)	1975P Sch. 3A para. 3(8); 1990 s. 11(1), Sch.2.
105	1975P Sch. 3A para. 4; 1990 s.11(1), Sch.2.
106(1)	1975P Sch. 3A para. 5(1)(pt); 1990 s.11(1), Sch. 2.
(2)	1975P Sch.3A para. 5(1)(pt.) 1990 s. 11(1), Sch.2.
(3), (4)	1975P Sch. 3A para. 5(2), (3), 1990 s. 11(1), Sch. 2.
107	1975P Sch. 3A para. 6; 1990 s. 11(1), Sch.2.
108(1)	1990 s. 11(3).
(2)	1990 s. 11(4).
109(1)	1975P s. 37A(2); 1986 s. 9(7).
(2) to (6)	1975P s. 37A(3) to (7); 1986 s. 9(7); 1992 Sch. 2 para. 29.
110(1)	1975P s. 37A(8); 1986 s. 9(7).
(2)	1975P s. 37A(14); 1986 s. 9(7).
(3)	1975 s. 37A(15); 1986 s. 9(7).
(4)	1975P s. 37A(16), (17), 1986 s. 9(7).
111(1),(2)	1986 s. 12(1).
(3)	1986 s. 12(10A); Courts and Legal Services Act 1990 (c. 41) s. 82(2); Judicial Pensions and Retirement Act 1993 (c. 8) Sch. 8 para. 18(1).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
112	1975P s. 57A; 1990 Sch. 4 para. 3.
113	1975P s. 56A(1) to (4); 1985 Sch. 2; S.I. 1987/1116 reg. 3(8) Sch. 3 para. 1.
114(1) to (4)	1975P s. 56E(1) to (4); 1985 Sch. 2.
115	1975P s. 56L(1) to (8); 1985 Sch. 2; S.I. 1987/1116 reg. 3(8) Sch. 3 para. 2.
116	1975P s. 56P; 1986 s. 11.
117	1986 s. 13.
118(1)	1975P s. 53(2).
(2)	1975P s. 53(4).
(3)	1975P s. 53(5).
(4)	1975P s. 53(6).
(5)	1975P s. 53(7).
119(1) to (5)	1975P s. 57C(1) to (5); 1990 Sch. 4 para. 1
(6)	1975P s. 57C(7)(pt); 1990 Sch. 4 para. 1.
(7)	1975P s. 57C(pt.); 1990 Sch. 4 para. 1.
(8)	1975P s. 57C(8)(pt.); 1990 Sch. 4 para. 1.
(9)	1975P s. 57C(9); 1990 Sch. 4 para.1.
120(1)	1975P s. 57C(6); 1990 Sch. 4 par. 1.
(2), (3)	1975P s. 57C(8)(pt); 1990 Sch. 4 para. 1.
121(1)	1975P s. 57D(4); 1990 Sch. 4 para. 1.
(2)	1975P s. 57D(5); 1990 Sch. 4 para. 1.
(3)	1975P s. 57D(1); 1990 Sch. 4 para. 1.
(4)	1975P s. 57D(2)(pt); 1990 Sch. 4 para. 1.
(5)	1975P s. 57D(2)(b)(pt.); 1990 Sch. 4. para. 1.
(6)	1975P s. 57D(3); 1990 Sch. 4 para. 1.
122(1)	1975P s. 57D(6); 1990 Sch. 4 para. 1.
(6)	1975P s. 57D(3); 1990 Sch. 4 para. 1.
122(1)	1975P s. 57D(6); 1990 Sch. 4 para.1.
(2), (3)	1975P s. 57D(7); 1990 Sch. 4 para. 1.
123	1978 ss. 127, 141(2A), 153; Insolvency Act 1985 (c. 65) Sch. 8 para. 31(5); Bankruptcy (Scotland) Act 1985 (c. 66) Sch. 7 para. 14(4); Insolvency Act 1986 (c. 45) Sch. 14; 1986 Sch. 10 para. 31(3); employment Act 1989 (c. 38) Sch. 6 para. 23.
124	1978 s. 123(1)(pt.). (2) to (5); Insolvency act 1985 (c. 65) Sch. 8 para. 31; 1986 Sch. 10 paras. 31(1), (2), 76; 1992 Sch. 2 para. 49.
125(1)	1978 s. 123(6)(pt.).
(2)	1978 s. 123(6)(pt.); Insolvency Act 1985 (c. 65) Sch. 8 para. 31(3)(b); Insolvency Act 1986 (c. 45) Sch. 14.
(3), (4)	1978 s. 123(7), (8).
(5)	1978 s. 123(9); employment act 1989 (c. 38) s. 18(3).
126(1), (2)	1978 s. 124(2); 1986 Sch. 10 para. 31(1).
(3)	1978 s. 124(3)(pt.).

<i>Provision</i>	<i>Derivation</i>
127(1) (2), (3)	1978 s. 125(3); 1986 Sch. 10 para.31(1). 1978 s.125(3A), (3B), employment act 1989 (c.38) s. 19(2).
128	1975P s.58; Bankruptcy (Scotland) Act 1985 (c.66) Sch. 7 para. 13.
129(1)  (2)  (3)  (4)	1975P ss.37A(9), 41C(1), 56A(5), 56E(5), 57D(8), Sch. 1A paras. 7(1), 18(1), Sch. 3A para. 8(pt.); 1990 Sch. 2; 1986 s.9(7); 1990 s.11(6), Sch. 4 para. 1. 1975P s.41C(2); Sch. 1A para. 7(2), 18(2), Sch. 3A para. 8(pt.); 1990 Sch. 2; S.I. 1987/1116 reg. 3(10), Sch. 4 para. 5. 1975P s.41C(3), Sch. 1A para. 7(3); 1990 Sch. 4 para. 9(1), (2), 1975P Sch. 1A para. 7(4); 1990 Sch. 4 para. 9(3).
130	1975P ss.32(6), 35(7), Sch. 1A para. 23.
131	1973 s. 63(3); 1975P Sch. 1A para. 23.
132	1973 s.63(4)(a); 1975P s.54(1); 1986 s.12(2).
133(1), (2) (3), (4)	1973 s.63(4)(b); 1975P s.54(2); 1986 s.12(3), 1975P ss.27A(10), 41D(pt.) 56A(6), 56E(6), Sch. 1A para. 21 (pt.); 1984 Sch. 6.
134(1)  (2)  (3)  (4)  (5)	1973 s. 63(4)(pt.) (5), 1975P ss.37A(11), 41E(1), 55(1), 56A(7), 56E(7), Sch. 1A para. 22(1); 1986 s.12(4). 1975P s.41E(1); 1986 Sch. 2 para. 6(3)(c). 1973 s. 63(6)(pt); 1975P s.55(3); 1986 s.12(6). 1973 s.63(11)(pt.); 1975P s.55(5)(pt.). 1973 s.63(12)(pt.)
135(1)          (2)	1973 s. 63(5); 1975P ss.37A(12), 41E(2), 55(2), 56A(8), 56E(8), Sch. 1A para 22(2); 1986 s. 12(5); S.I. 1987/1116 reg. 3(8), (10), Sch. 3 para. 1(e), Sch. 4 para. 16(b), Personal and Occupational Pension schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988 (S.I. 1988/474) reg. 8(c). Drafting
136(1)  (2)  (3)	1973 s.64(1)(a), (b), (1A); 1986 Sch. 10 para. 3; S.I. 1987/1116 reg. 2, Sch. 1 para. 1. 1973 ss. 58(1), 64(3); 1975P s. 56(5), Sch. 4 para. 25; 1978 c. 30 s. 17(2); 1986 s.12(11), Sch. 10 para. 3; S.I. 1987/1116 regs. 2, 4(2), Sch. 1 para. 2. 1973 s. 64(9)(pt.); S.I. 1987/1116 reg. 2.
137	1973 s.64(5); S.I. 1987/1116 reg. 2.
138(1) to (3) (4), (5) (6) (7)	1973 s. 64(6); S.I. 1987/1116 reg. 2. 1973 s. 64(7); S.I. 1987/1116 reg. 2, Sch. 1 para. 3. 1973 s. 64(8); 1975P s. 56(5), Sch. 4 par. 25; 1978 c. 30 s. 17(2). 1973 s. 64(10A); 1989 Sch. 6 para. 3.
139(1)  (2)  (3)	1975P s. 49(4). 1973 s.63(7); 1975P s.56(1); 1986 s. 12(7). 1973 s. 63(8); 1975P s.56(2); 1986 s. 12(8).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
140(1)	1973 s. 64(10)(a), (b)
(2)	1973 s. 63(10); 1975P s. 56(4); 1986 s. 12(10).
(3), (4)	1973 ss. 63(10), 64(10)(pt); Social Security act 1973 (Commencement No. 2) Order 1973 (S.I. 1973/1433); 1975P s.56(4); S.I. 1975/1689; 1986 s. 12(10); Social security Act 1986 (Commencement No. 6) Order 1987 (S.I. 1987/543); Pension Schemes (Voluntary Contributions Requirements) Regulations 1987 (S.I. 1987/1108) reg. 2(2); S.I. 1987/1933.
(5), (6)	1973 ss. 63(9), 64(10); 1975P s. 56(3); 1986 s. 12(9).
141(1)	1973 ss. 63(4), 64(2), 65(1)(pt.). 1975P s. 55(1); 1986 s. 12(4).
(2)	1973 S. 65(1)(pt.) Northern Ireland Constitution Act 1973 (c. 36) Sch. 5 para. 8(1).
(3), (4)	1973 s. 65(pt.).
142(1)	1973 s. 64(1)(c); S.I. 1987/1116 reg. 2.
(2)	1973 s. 64(4); 1975P Sch. 4 para. 25.
(3)	1973 s. 64(9)(b).
(4)	1973 s. 64(5) to (8), (10)(pt.), (10A).
(5), (6)	1975P s. 49(6).
143(1)	1973 c. 38 ss. 64(2), 65(1)(pt.).
(2)	1973 c. 38 s. 65(2)(c).
(3)	1973 c. 38 s. 65(1)(pt.)(2)(pt.)
144(1)	1975P s. 58B(1)(a); 1990 Sch. 4 para. 2.
(2)	1975P s. 58B(1)(b), (2) (definition of “default time”); 1990 Sch. 4 para. 2.
(3)	1975P s. 58B(2)(pt.); 1990 Sch. 4 para. 2.
(4)	1975P s. 58B(2)(pt.); 1990 Sch. 4 para. 2.
(5)	1975P s. 58B(1)(pt.)(3)(a); 1990 Sch. 4 para. 2.
(6), (7)	1975P s. 58B(4), (5), 1990 Sch. 4 para. 2.
(8)	1975P s. 58B(7); 1990 Sch. 4 para. 2.
145(1) to (5)	1975P s. 59B(1) to (5); 1990 Sch. 3.
(6)	1975P s. 59B(6)(pt.); 1990 Sch. 3.
(7)	1975P s. 59B(7) 1990 Sch. 3.
146(1), (2)	1975P s. 59C(1( to (5); 1990 Sch. 3.
(6)	1975P s. 59B(6)(pt.); 1990 Sch. 3.
(7)	1975P s. 59B(7); 1990 Sch. 3.
146(1), (2)	1975P s. 59C(1), (2); 1990 Sch. 3.
(3)	1975P s. 59C(2A); 1990 Sch. 3; Judicial Pensions and Retirement Act 1993 (c. 8) Sch. 8 para. 12.
(4)	1975P s. 59C(3)
(5)	1975P s. 59C(4); 1990 Sch. 3; Social security act 1990 (Commencement No. 1)Order 1990 (S.I. 1990/1446).
(6) to (8)	1975P s. 59C(5) to (7); 1990 Sch. 3; Social Security act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1446).
147	1975P s. 59D; 1990 Sch. 3.
148	1975P s. 59E; 1990 Sch. 3.
149(1)	1975P s. 59F(1); 1990 Sch. 3.
(2)	1975P s. 59F(2)(pt.); 1990 Sch. 3.
(3), (4)	1975P s. 59F(3), (4); 1990 Sch. 3.
150	1975P s. 59G; 1990 Sch. 3.
151	1975P s. 59H; 1990 Sch. 3.

<i>Provision</i>	<i>Derivation</i>
152(1)	1975P s. 59J(1)(pt.); 1990 Sch. 3.
(2)	1975P s. 59(2); 1990 Sch. 3.
153(1)	1975P s. 41C(7), (8), Sch. 1A para. 20, Sch. 3A para. 7; 1990 Sch. 2 para. 7(1).
(2)	1973 Sch. 16 para. 23, 24, 26; 1975 c. 60 Sch. 4 para. 32.
(3)	1975P s. 53(3)(a).
(4)	1975P s. 53(7).
(5)	1975P ss. 57D(9), 58B(6); 1990 Sch. 4 para. 1, 2.
(6)	1975P s. 57D(10); 1990 Sch. 4 para. 1.
(7)	1990 c. 27 s. 14(2).
(8)	1978 s. 149(1)(a), (b).
154	1986 s. 17(1).
155	1986 s. 14.
156	1975P s. 51; 1986 Sch. 2 para. 6(1)(j).
157(1)	1978 c. 44 s. 126(1); 1986 Sch. 10 para. 31.
(2)	1978 c. 44 s. 126(2).
(3), (4)	1978 c. 44 s. 126(3), (4); Criminal Justice Act 1982 (c.48) ss. 37, 38, 46.
(5)	Drafting
158(1)	1973 s. 89(1), 99(1); Social Security (Consequential Provisions) Act 1975 (c. 18) Sch. 2 para. 58; 1975P Sch. 4 para. 30; 1986 s. 59(1); 1989 s. 20(a).
(2)	1973 s. 89(2).
(3)	1973 s. 89(2A); 1985 Sch. 5 para. 2(a).
(4)	1986 s. 59(2); 1989 c. 24 s. 20(b).
(5), (6)	1973 s. 89(3); 1975P Sch. 4 para. 30; 1985 Sch. 5 para. 2(b); 1986 s. 59(3); 1992 Sch. 2 para. 83;
(7)	1975p S. 59k(6); 1990 S. 13(1).
(8)	1975p S. 57; S.I. 1987/1116 REG. 3(9).
159(1)	1975p S. 48(1); 1986 Sch. 2 PARA. 8.
(2)	1975p S. 48(1a); 1985 Sch. 5 PARA. 31.
(3)	1975p S. 48(2).
(4)	1986 S. 2(7)
(5)	1975P s. 48(3); 1986 s. 2(8), Sch. 2 para. 8.
(6)	1975P s. 48(4); Solicitors (Scotland) Act 1980 (c. 46) Sch. 6 para. 2; 1986 s. 2(9).
160	1986 s. 15.
161	1978 c. 44 s. 140(1).
162(1)	1973 s. 71(1)(pt.); 1986 Sch. 10 para. 7; Law Com Rec No. 4.
(2), (3)	1973 s. 71(2), (3).
(4)	1973 s. 72(4)(a); Interpretation act 1978 (c. 30) s. 17(2); Law Com Rec No. 4.
163(1)	1973 s. 69(1)(pt); 1986 Sch. 10 para. 6.
(2)	1973 s. 69(1)(pt.), (2); 1975P Sch. 4 para. 28; 1986 Sch. 10 para. 6.
(3)	1973 ss. 69(1), (6)(a).
(4), (5)	1973 s. 69(3).

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
(6)	1973 s. 69(5); 1986 Sch. 10 para. 6.
(7), (8)	1973 s. 69(6)(b);
(9)	1973 s. 69 (7)(pt.)
164(1)	1973 s. 63(13); 1975 s. 127(1); 1975P s. 66(2); 1992 Sch. 3 para. 10.
(2)	1986 s. 79(1)
(3)	1975 s. 128(1); 1975P s. 66(2); 1986 s. 79(2); 1992 Sch. 3 para. 10
(4)	1975 s. 127(2)(pt.); 1975P s. 66(2); 1992 Sch. 3 para. 10.
(5)	1975 s. 128(2)(pt.); 1975P s. 66(2); 1992 Sch. 2 para. 40(2).
(6)	1978 s. 138(5).
(7)	1975 s. 128(3); 1975P s. 66(2); 1986 s. 79(6).
165(1), (2)	1975 ss. 129(1), 131, 132(1); 1975P s. 66(2); 1986 s. 80(1).
(3), (4)	1975 s. 129(2); 1975P s. 66(2); 1986 s. 80(2); Law Com Rec No. 5.
(5)	1975 s. 132(3).
(6)	1973 Sch. 16 para. 21.
(7)	1978 ss. 137, 141(2A), 144(2), (4); Insolvency of Employer (Excluded Classes) Regulations 1983 (S.I. 1983/624) regs. 2 to 4,
(8)	1975 s. 132(2); 1975P s. 66(2); 1978 s. 144(5); 1986 s. 80(3).
166	1988 ss. 17A, 65(2)(a); 1989 Sch. 6 para. 17; 1992 Sch. 2 para. 81.
167	1975P s. 66(2); 1992 Sch. 2 para. 40, Sch. 3 para. 10.
168	1986 s. 54(1).
169	1986 s. 57.
170(1)	1975P ss. 52D(5), 60(1); 1985 Sch. 1 para. 2, Sch. 5 para. 34; 1986 ss. 9(4)(h), 52(2), Sch. 5 Pt. II(a); 1992 Sch. 2 paras. 35(a), 82.
(2)	1975P s. 52D(6); 1985 Sch. 1 para. 2.
(3), (4)	1975P s. 60(2), (3); Health and Social Services and Social Security Adjudication's act 1983 (c. 41) Sch. 8 para. 1(3)(a); 1992 Sch. 2 para. 35(b).
(5), (6)	1975P s. 55(4), (5).
171	1975 c. 60 s.60ZC; 1992 Sch. 2 para. 36.
172(1)	1973 s. 67(1); 1975P Sch. 4 para. 27; 1986 Sch. 10 para. 5.
(2)	1973 s. 67(2); 1986 Sch. 5 par. 1.
(3)	1973 s. 67(3).
(4), (5)	1973 s. 67(4); 1986 Sch. 4 para. 27.
173(1)	1973 s. 86(1); 1975P s. 60(4), Sch. 4 para. 29.
(2)	1973 s. 86(3); 1975P Sch. 4 para. 29.
(3), (4)	1973 s. 86(4), (5).
(5)	1973 s. 86(6).
(6), (7)	1973 s. 86(8).
(8)	1973 s. 86(2).
174	1975P s. 57B; 1990 Sch. 4 para. 11.
175	1975P s. 60ZA; 1990 Sch. 4 para. 12.



<i>Provision</i>	<i>Derivation</i>
176	1973 s. 72; 1986 Sch. 10 para. 7
177(1)	1973 s. 98(1)(a); 1975 s. 135(3)1975P s. 66(2); 1986 s. 85(1); 1990 s. 18(1).
(2)	1986 s. 85(3)(a), (b); 1978 s. 123(1)(pt.) employment Act 1990 (c.38) Sch. 2 para. 1(4); 1993 s. 1(3).
(3)	1975 s. 135(5)(pt.); 1975P s. 66(2); 1978 s. 156(2)(b); employment Act 1990 (c. 38) Sch. 2 para. 1(5); 1993 s. 1(3).
(4)	1975 s. 135(5)(pt.); 1975P s. 66(2); 1993 s. 1(3).
(5), (6)	1985 s. 28(2); 1986 s. 85(5), (6).
(7)	1975P Sch. 2 para. 6(3); 1978 s. 125(4); 1980 s. 3(12)(b); 1986 s. 85(8)(pt); employment Act 1990 (c. 38) Sch. 2 para. 1(4); 1993 s. 1(3).
178	1973 s. 52(8); 1985 s. 5; 1990 Sch. 6 para. 31(d); Statutory Sick Pay Act 1991 (c. 3) s. 3(1); 1992 Sch. 2 para. 67.
179(1), (2)	1973 ss. 58(1), (2), 99(1); 1975P ss. 43(2A), 66(1); 1986 Sch. 10 para. 2; 1989 Sch. 6 para. 2(1).
(3)	1973 s. 58(2A); 1975P s. 43(2B); 1989 Sch. 6 paras. 2(1), 9.
(4)	1973 s. 58(2B); 1989 Sch. 6 para. 2(1).
180(1)	1973 c. 60 Sch. 16 para. 4(1) to (3); 1975P s. 66(1), Sch. 1A para. 1(4), 11(2), 1986 Sch. 10 para. 9; Law Com Rec No. 6.
(2)	1973 c. 60 Sch. 16 para. 4(4) 1975P s. 66(1).
181(1)	Northern Ireland Constitution Act 1973 (c.36) Sch. 5 para. 8(1); 1973 ss. 58(1), 59(1), 99(1), (3); 1975P ss.30(1B), 31(8), 41A(11), 41B(6), 52C(7), 56A(9), 66(1), (2), Sch. 1A paras. 1(4), 11(2), Sch. 4 para. 31; 1985 Sch. 2; 1986 ss. 3(4); 84(1), Sch. 2 para. 11, Sch. 10 paras. 8, 28; 1992 Sch. 2 paras. 25, 76; Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) Sch. 2 para. 5; S.I. 1987/1116 reg. 4(6); Personal and Occupational Pension schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg. 7(4).
(2)	1973 s. 51(5); 1975P ss. 59K(8), 66(3); 1990 s. 13(1).
(3), (4)	1973 s. 51(10); 1975P s. 66(4).
(5)	1986 s. 84(4).
(6)	1973 s. 99(17); 1975 s. 168(4).
(7)	1973 s. 99(5).
182(1)	1973 s. 96(1); 1975P ss. 59F(2)(pt). 59J(1)(pt.) 61B(1); 1978 c. 44 s. 154(1); 1986 s. 83(1); 1990 Sch. 3; 1992 Sch. 2 paras. 37, 67, 84.
(2)	1973 s. 96(2); 1975P s. 61B(2); 1986 s. 83(1); 1992 Sch. 2 paras 37, 67, 84; Social Security administration Act 1992 (c.5) s. 189(4).
(3)	1973 s. 96(3); 1975P s. 61B(3); 1978 c. 44 s. 154(3); 1986 s. 83(1); 1989 Sch. 8 para. 10; 1992 Sch. 2 para. 37, 67, 84; Social Security Administration act 1992 (c. 5) s. 189(5).
(4)	1973 s. 96(4).
(5)	1973 s. 96(6); 1975P s.61B(5); 1986 s. 83(6); 1992 Sch. 2 para. 37, 67.
183(1)	1975P s. 61B(4); 1986 s. 83(1); Social Security Administration Act 1992 (c. 5) s. 189(6); 1992 Sch. 2 para. 67, 84.

**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**

<i>Provision</i>	<i>Derivation</i>
(2)	National Insurance Act 1974 (c. 14) s. 6(4); 1975P s. 62(4);
(3)	1975P ss. 44ZA(13), 58B(3)(b), Sch. 1A para. 14(2), Sch. 3A para. 3(7); 1985 Sch. 1 para. 3; 1986 s. 5(14), Sch. 1 para. 7(5), Sch. 10 para. 30(d); 1990 s. 11(1), Sch. 2, Sch. 4 para. 2.
184	1975P s. 61A(1) to (3); 1992 Sch. 2 para. 37.
185(1), (2)	1973 s. 68(1); 1975P s. 61(2); Social Security act 1979 (c.18) Sch. 3 para. 3; 1982 s. 40, Sch. 4 para. 21; 1986 Sch. 10 paras. 82, 94, 1989 Sch. 8, par. 12; Law Com Rec No. 7.
(3), (4)	1973 s. 68(2); 1975P s. 61(3);
(5)	1973 s. 68(3); 1975P s. 61(4).
(6)	1986 s. 61.
(7)	1973 s. 71(1)(pt.); Law Com Rec No. 4.
(8)	1973 s. 67(5).
(9)	1975P Sch. 2 para. 8(2).
186(1)	1973 s. 97(3); Social security (Consequential provisions) Act 1975 (c. 18) Sch. 2 para. 61; 1975 s. 167(3); 1975P s. 62(2); 1977 S. 24(5), 1978 S. 154(2); 1980 S. 3(3)(N); 1986 S. 83(4); 1992 Sch. 2 PARA. 38.
(2)	1973 s. 62(3); 1975P s. 62(2); 1992 Sch. 2 PARA. 38.
(3)	1975 S. 167(1); 1975p S. 66(2); 1978 S. 149(4);
(4)	1975 S. 167(2); 1975p SS. 61a(4); 66(2); 1992 Sch. 2 PARA. 37.
(5)	1973 S. 97(4); social SECURITY (consequential Provisions) Act 1975 (c. 18); Sch. 2 para. 61; 1975P ss. 61(5), 61A(4); 1992 Sch. 2 para. 37.
187	1990 c. 27 s. 22(2), (3).
188, 189, 190,	
191	Drafting
192	1973 s. 95; 1975P s. 68(4); 1986 s. 87(1)(a); 1990 c. 27 Sch. 4 para. 13.
193	Drafting
Sch. 1	
para.1	Drafting
para.2	1973 Sch. 17 para. 2.
para. 3	1973 Sch. 17 para. 3.
para. 4	1973 Sch. 17 para. 4.
para. 5.	1973 Sch. 17 para. 5
para. 6	1973 Sch. 17 para. 6
para. 7	1973 Sch. 17 para 7
para. 8	1973 Sch. 17 para. 8
para. 9	1973 Sch. 17 para. 9
para. 10(1), (2)	1973 s. 66(7), 1975p sch. 4 PARA. 26; 1986 sch. 10 PARA. 4.
(3)	1973 S. 66(10)(b); 1986 Sch. 10 para. 4.
(4)	1973 s. 66(8).
para. 11	1973 Sch. 17 para. 10(2).
para. 12	1973 Sch. 17 para. 10(1)
para. 13	1973 Sch. 17 para. 11.
para. 14	1973 Sch. 17 para. 12.
para. 15	1973 Sch. 17 para. 13.
para. 16	1973 Sch. 17 para. 14; 1975P Sch. 4 para. 33.
para. 17	1973 Sch. 17 para. 15.
para. 18	1973 Sch. 17 para. 16.

<i>Provision</i>	<i>Derivation</i>
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para. 1(1)	1975P Sch. 2 para. 1(1)(d)
(2) to (5)	1975P Sch. 2 para. 1(pt.)
para. 2	1975P Sch. 2 para. 2.



**PENSION SCHEMES ACT 1993 (c. 48)**

**Annex 3**