



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Modification powers

149 Power to modify certain provisions of this Act.

- (1) The Department may by regulations direct that Chapters II, III and IV of Part IV and Chapter I of Part V (except section 104) shall have effect, in such cases as it may specify in the regulations, subject to such modifications as it 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 Department thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up;
 - (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Department 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.

^{F1}(3)

^{F1}(4)

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- (5) The Department may make regulations modifying Chapter I of Part VII, section 125 (so far as it applies to that Chapter) or section 140, 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;
 - (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme; or
 - (d) in the case of regulations modifying section 140, to any case where the assets and liabilities of the scheme are transferred to another occupational pension scheme.
- (6) Regulations may also provide that sections 115 to 118 and section 125 (so far as it applies to those sections) shall not apply in relation to an occupational pension scheme of a prescribed description.
- (7) Regulations may modify the provisions of section 140 in any manner which the Department thinks appropriate with a view to securing the orderly implementation of those provisions and to obtaining general compliance with them.
- (8) The Department may by order provide that any enactment in Chapter II of Part VII which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed in the order.

In this subsection “employments” has the same meaning as in that Chapter.

Textual Amendments

F1 S. 149(3)(4) repealed (1.1.1996) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 31(b), **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1995/477, art. 2(b), **Sch. Pt. II**

150 Application of enactments as respects personal pension schemes.

- (1) Regulations may provide that any provision of this Act which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.
- (2) This subsection applies to section 62, section 107 so far as it relates to occupational pension schemes (and Part VIII and section 149 so far as they have effect for the purposes of section 107 as it so relates), sections 113, 119 to 123, 151, 153, 156 and 157.

Information about schemes

151 Requirement to give information to the Department or the Board for the purposes of certain provisions.

Regulations may require the furnishing by prescribed persons to the Department [^{F2}or the Board] of such information as it [^{F3}requires] for the purposes of [^{F4}Part III], section 107 (and Part VIII and section 149 so far as they have effect for the purposes

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of section 107), section 113 and section 155 (so far as it relates to protected rights payments).

Textual Amendments

- F2** Words in s. 151 omitted (6.4.1996 for certain purposes otherwise *prosp.*) by virtue of S.I. 1995/3213 (N.I. 22), arts. 1(2), 147, **Sch. 3 para. 55(a)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV** and are repealed (*prosp.*) by S.I. 1995/3213 (N.I. 22), arts. 1(2), 168, **Sch. 5 Pt. III**
- F3** Words in s. 151 substituted (6.4.1996 for certain purposes only otherwise *prosp.*) by S.I. 1995/3213 (N.I. 22), arts. 1(2), 147, **Sch. 3 para. 55(b)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**
- F4** Words in s. 151 substituted (6.4.1996 for certain purposes only otherwise *prosp.*) by S.I. 1995/3213 (N.I. 22), arts. 1(2), 147, **Sch. 3 para. 55(c)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**

152 Information as to guaranteed minimum pensions.

The Department may give—

- (a) the trustees or managers of an occupational pension scheme which is not a money purchase contracted-out scheme; and
- (b) such other persons as may be prescribed,

information as to the amount of the guaranteed minimum pension to which it appears to the Department that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

153 Power of Department to obtain information in connection with applications under s. 120.

- (1) Where an application is made to the Department under section 120 in respect of contributions to an occupational pension scheme or personal pension scheme falling to be made, by an employer the Department may require—
 - (a) the employer to provide it with such information as the Department 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 Department any such document in that person's custody or under his control which is of such a description as the Department may require.
- (2) Any such requirement shall be made by notice 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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154 Disclosure of information between government departments, etc.

- (1) No obligation as to secrecy imposed by statute or otherwise on persons 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 Department,
 - (b) to the Secretary of State, 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 153 and 157) or of any corresponding legislation in Great Britain.
- (2) No such obligation shall prevent information from being disclosed to any member of the Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.
- (3) No such obligation shall prevent such information as is mentioned in subsection (2) from being disclosed to any person whose duty it is to give advice to the Board, in so far as the information—
 - (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 a trade, profession or vocation income from which is chargeable to tax under 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) Subsections (1) to (3) extend only to disclosure by or under the authority of the Inland Revenue.
- (6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1), (2) or (3) 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 153 and 157); or
 - (c) for the purposes of sections 15 to 60 of the ^{M1}Social Security Administration (Northern Ireland) Act 1992 or any corresponding provisions of legislation in Great Britain; or
 - (d) in the case of such information as is mentioned in subsection (2), where the further disclosure—
 - (i) is made to the trustees or managers of an occupational pension scheme,
 - (ii) relates to a member of the scheme, and
 - (iii) is made with his consent.
- (7) The Department, the Inland Revenue and the Board may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—

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- (a) persons employed in the Department,
- (b) persons employed in relation to the Inland Revenue, or
- (c) the staff of the Board,

shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.

- (8) The Board may inform any person claiming to be entitled to a pension under an occupational pension scheme or a personal pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of this section.

Marginal Citations

M1 1992 c. 8.

[^{F5}154A Other disclosures by the Department.

- (1) The Department may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on the Department or on persons employed in it, disclose any information received by it in connection with its functions under this Act or the Pensions (Northern Ireland) Order 1995 to any person specified in the first column of the following Table if it 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.

TABLE

Persons	Functions
The Treasury.	Functions under the Financial Services Act 1986.
The Bank of England.	Functions under the Banking Act 1987 or any other functions.
The Regulatory Authority.	Functions under this Act or the Pensions (Northern Ireland) Order 1995 or any enactment in force in Great Britain corresponding to either of them.
The Pensions Compensation Board.	Functions under the Pensions (Northern Ireland) Order 1995 or any corresponding enactment in force in Great Britain.
The Friendly Societies Commission.	Functions under the enactments relating to friendly societies.
The Building Societies Commission.	Functions under the Building Societies Act 1986.
An inspector appointed by the Secretary of State.	Functions under section 94 or 177 of the Financial Services Act 1986.

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A person authorised to exercise powers under section 106 of the Financial Services Act 1986.	Functions under that section.
A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986).	Functions under the Financial Services Act 1986.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under the Financial Services Act 1986.

- (2) The Department may by order—
- (a) amend the Table in subsection (1) by—
 - (i) adding any person exercising regulatory functions and specifying functions in relation to that person,
 - (ii) removing any person for the time being specified in the Table, or
 - (iii) altering the functions for the time being specified in the Table in relation to any person, or
 - (b) restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any person for the time being specified in the Table.]

Textual Amendments

F5 S. 154A inserted (6.4.1996) by S.I. 1995/3213 (N.I. 22), art. 165, **Sch. 4 para. 9**; S.R. 1996/91, art. 2(c), **Sch. Pt. III**

Avoidance of certain transactions and provisions

155 Inalienability of guaranteed minimum pension and protected rights payments.

- (1) Where—
- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; and
 - (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;
- then—
- (i) every assignment of or charge on that pension or those payments, and
 - (ii) every agreement to assign or charge that pension or those payments,
- shall be void.
- (2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or

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agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 15(4)(b).

- (3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.
- (4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.
- (5) On the bankruptcy of a person who—
 - (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
 - (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),nothing shall pass to any trustee or other person acting on behalf of his creditors the assignment of which is or would be made void by either of those subsections.

Modifications etc. (not altering text)

C1 S. 155(4) excluded (1.8.1996) by S.I. 1995/3213 (N.I. 22), art. 162(5)(a); S.R. 1996/284, art. 3(b)

VALID FROM 01/12/1999

[^{F6}155A No forfeiture on bankruptcy of rights under personal pension schemes.

- (1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.
- (2) For the purposes of this section—
 - (a) a person shall be treated as having a right under a personal pension scheme where—
 - (i) he is entitled to a credit under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (sharing of rights on divorce etc.),
 - (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part V of that Order), and
 - (iii) the person so responsible has not discharged his liability in respect of the credit; and
 - (b) forfeiture shall be taken to include any manner of deprivation or suspension.]

Textual Amendments

F6 S. 155A inserted (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 14(1) (with transitional provisions in art. 75(1))

156 Terms of contracts of service or schemes restricting choice to be void.

- (1) Subject to such exceptions as may be prescribed—

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- (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 occupational pension scheme, or
 - (iii) of one or other of a number of particular personal or occupational pension schemes,
 shall be void; and
 - (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—
 - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
 - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,
 shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.
- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
- (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner’s pay in lieu of making contributions to a personal or occupational pension scheme.

157 Provisions excluding Chapter II of Part VII to be void.

Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

158 Removal of restrictions on friendly societies’ pension business.

- (1) The Department may make such regulations as it thinks appropriate for enabling a registered 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 registered societies to conduct such business as is mentioned in subsection (1) 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 Department considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—
 - (a) “the relevant legislation” means the ^{M2}Friendly Societies Act 1974,
 - (b) “registered society” has the same meaning as in that Act, and

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- (c) “group insurance business” has the same meaning as in section 65A(2) of that Act.

Marginal Citations

M2 1974 c. 46.

159 Exemption of certain schemes from rule against perpetuities.

- (1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.
- (2) This section applies to—
- (a) a public service pension scheme;
 - (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;
 - (c) a personal pension scheme which is an appropriate scheme; and
 - (d) an occupational or personal pension scheme which satisfies prescribed requirements.
- (3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the ^{M3}Perpetuities Act (Northern Ireland) 1966 (“wait and see”)) already require to be treated as void before this section applies to the scheme.
- (4) Regulations under subsection (2)(d) may require a scheme—
- (a) to contain provisions in any prescribed form, or to any prescribed effect; or
 - (b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.
- (5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the [^{F7}Department][^{F8}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.
- (9) Regulations may provide for a scheme, whose fund was registered under the ^{M4}Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928

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immediately before the repeal of that Act took effect, to retain the benefit of that Act, subject to prescribed conditions and either indefinitely or for a prescribed period.

Textual Amendments

- F7** Word in s. 159 substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 147](#), [Sch. 3 paras. 13, 14\(a\)](#), Table; [S.R. 1996/91](#), [art. 2\(d\)](#), [Sch. Pt. IV](#); [S.R. 1997/192](#), [art. 2\(b\)](#)
- F8** Word in s. 159(6) substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 147](#), [Sch. 3 paras. 13, 14\(b\)](#), Table; [S.R. 1996/91](#), [art. 2\(d\)](#), [Sch. Pt. IV](#); [S.R. 1997/192](#) [art. 2\(b\)](#)

Marginal Citations

- M3** [1966 c. 2 \(N.I.\)](#).
- M4** [1928 c. 6 \(N.I.\)](#).

Special classes of earner

160 Crown employment.

- (1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—
- (a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;
 - (b) the remaining provisions of this Act, except for—
 - (i) sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171;
 - (ii) Chapter II of Part VII and sections 153 and 157;
 - (iii) section 162 and the provisions mentioned in subsection (2).
- (2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 3, 5, 22 to 30, 34, 39 to 41 (so far as they relate to personal pension schemes), section 44 (so far as it relates to minimum contributions), section 46 (so far as it relates to personal pension schemes), section 50, sections 51 to 60 (so far as they relate to personal pension protected rights premiums), section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162.
- (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.
- (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 150 and 162) as an employed earner in respect of his membership of those forces.
- (5) The Secretary of State may make regulations modifying sections 37, 38, 42(1), 43(2) and (5) and 44 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.

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- (6) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State, being establishments and organisations in which persons serve under the control of the Defence Council.

161 Application of certain provisions to cases with foreign element.

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Department thinks proper, in their application to any person who is, or has been, or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft;
 - (b) outside Northern Ireland 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) sections 3, 5, 22 to 30, 34, 39 to 41 (so far as they relate to personal pension schemes), section 44 (so far as it relates to minimum contributions), section 46 (so far as it relates to personal pension schemes), section 50, sections 51 to 60 (so far as they relate to personal pension protected rights premiums), section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162; and
 - (b) sections 37 and 38, subsections (1), (6) and (7) of section 42 (and subsection (8) of that section so far as it has effect for the purposes of those subsections) and sections 43(2) and (5) and 44.
- (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 Northern Ireland;
 - (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 Northern Ireland, by a British consular official or such other person as may be determined in accordance with regulations.
- (4) Subsection (3)(b) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of subsection (3) do not apply as respects the application of those provisions to such persons as are mentioned in subsection (1) (b) or (c).
- (5) Without prejudice to the generality of section 149(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.
- (6) Chapter II of Part VII and section 153 do not apply—

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- (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
- (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel;

and sections 120 and 121 do not apply to employment as a merchant seaman, but section 137 of the ^{M5}Employment Protection (Consolidation) Act 1978 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 153 as it does to the legislation mentioned in section 137(1)(b) of that Act.

(7) In this section—

“continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the ^{M6}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;

“employment as a merchant seaman” has the meaning given in Article 76(8) of the ^{M7}Industrial Relations (Northern Ireland) Order 1976.

Marginal Citations

M5 1978 c. 44.

M6 1982 c. 23.

M7 S.I. 1976/1043 (N.I. 16).

Reciprocity with other countries

162 Reciprocity with other countries.

(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Northern Ireland, the government of the United Kingdom has made to the other government in question,

the Secretary of State may by order make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.

(2) An order made by virtue of subsection (1) may, instead of or in addition to making specific modifications or adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications of this Act which may be made by virtue of subsection (1) include provision—

- (a) for securing that acts, omissions and events having any 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);

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- (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
 - (c) for making any necessary financial adjustments.
- (4) An order made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 160 may, in particular, provide for the Department 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 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 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 153, 154(1) to (5), 157, 158, 159, 167, 168 and 171.

Application of provisions relating to social security administration

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

- (1) The ^{M8}Social Security Administration (Northern Ireland) 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 160(1)(b) of this Act (in this section referred to as “the relevant provisions”).
- (2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration (Northern Ireland) Act 1992—
- section 110 (legal proceedings)
 - section 118 (regulations as to notification of deaths)
 - section 153 (co-ordination with Great Britain)
 - section 156 (payment of travelling expenses by the Department).
- (3) Section 56 of that Act (regulations as to determination of questions and matters arising out of, or pending, reviews and appeals) shall apply to the relevant provisions as it applies to the ^{M9}Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (4) The references in section 57(2)(a) of the ^{M10}Social Security Administration (Northern Ireland) Act 1992 (procedure regulations) and in section 59(1)(a) of that Act (regulations as to matters arising pending determinations) to Parts II to IV of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and to Part I of that Act shall be taken respectively to include a reference to section 42 and a reference to sections 37 and 38 of this Act.
- (5) Section 120 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

Marginal Citations

M8 1992 c. 8.

M9 1992 c. 7.

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M10 1992 c. 8.

General provisions as to offences

[^{F9}164 Breach of regulations.

- (1) Regulations under any provision of this Act (other than Chapter II of Part VII) may make such provision as is referred to in subsection (2) or (4) for the contravention of any provision contained in regulations made or having effect as if made under any provision of this Act.
- (2) The regulations may provide for the contravention to be an offence under this Act and for the recovery on summary conviction of a fine not exceeding level 5 on the standard scale.
- (3) An offence under any provision of the regulations may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under such a provision by reference to any period of time following the preceding conviction of the offence.
- (4) The regulations may provide for a person who has contravened the provision to pay to the Regulatory Authority, within a prescribed period, a penalty not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in Article 10(2)(a) of the Pensions (Northern Ireland) Order 1995.
- (5) Regulations made by virtue of subsection (4) do not affect the amount of any penalty recoverable under that subsection by reason of an act or omission occurring before the regulations are made.
- (6) Where—
 - (a) apart from this subsection, a penalty under subsection (4) is recoverable from a body corporate by reason of any act or omission of the body 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) are—
 - (a) any director, manager, secretary, or other similar officer of the body corporate, or a person purporting to act in any such capacity, and
 - (b) where the affairs of the body corporate are managed by its members, any member in connection with his functions of management.
- (8) Where the Regulatory Authority require any person to pay a penalty by virtue of subsection (6), they may not also require the body corporate in question to pay a penalty in respect of the same act or omission.

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- (9) A penalty under subsection (4) is recoverable by the Authority and any such penalty recovered by the Authority must be paid to the Department.
- (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 (a), be liable to pay such a penalty or, in a case within paragraph (b), be convicted of such an offence.]

Textual Amendments

F9 Ss. 164, 164A substituted (6.4.1996 for certain purposes, 23.7.1996 for other certain purposes otherwise 6.4.1997) for s. 164 by S.I. 1995/3213 (N.I. 22), art. 151(1); S.R. 1996/91, art. 2(d), Sch. Pt. IV; S.R. 1996/307, art. 2(a), Sch. Pt. I; S.R. 1997/192, art. 2(b)

[^{F10}164A Offence in connection with the Registrar.

- (1) Any person who knowingly or recklessly provides the Registrar with information which is false or misleading in a material particular is guilty of an offence if the information—
- (a) is provided in purported compliance with a requirement under section 2, or
 - (b) is provided otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Registrar for the purpose of discharging his functions under this Act.
- (2) Any person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to imprisonment or a fine, or both.]

Textual Amendments

F10 Ss. 164, 164A substituted (6.4.1996 for certain purposes, 23.7.1996 for other certain purposes otherwise 6.4.1997) for s. 164 by S.I. 1995/3213 (N.I. 22), art. 151(1); S.R. 1996/91, art. 2(d), Sch. Pt. IV; S.R. 1996/307, art. 2(a), Sch. Pt. I; S.R. 1997/192, art. 2(b)

General provisions as to determinations and appeals

165 Determination of questions by Department.

- (1) The questions to which section 15(1) of the ^{M11}Social Security Administration (Northern Ireland) Act 1992 (questions for determination by the Department) applies include—
- (a) any question as to the amount of a person's guaranteed minimum for the purposes of section 9 or 13;
 - (b) any question—

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- (i) whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium; or
 - (ii) otherwise arising in connection with any state scheme premium;
 - (c) any question whether for the purposes of this Act a cash sum paid or an alternative arrangement made under the ^{M12}Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or an earner's widow or widower was entitled under a contracted-out scheme; and
 - (d) any question arising in connection with minimum contributions or payments under Article 9 of the ^{M13}Social Security (Northern Ireland) Order 1986, other than a question such as is mentioned in paragraph (b)(ii) or (d) which is required by virtue of this Act to be determined by the Board.
- (2) The Department may make any determination required by subsection (1)(c) on such basis as it considers appropriate.
- (3) Any question arising under this Act as to whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Department to the Board and determined by them.
- (4) Neither section 15(1) nor section 18(1) of the ^{M14}Social Security Administration (Northern Ireland) Act 1992 (questions for determination by adjudication officers) shall apply to any such question as is mentioned in subsection (3).
- ^{F11}(5)
- ^{F11}(6)
- ^{F12}(7) Sections 16 and 17 of the Social Security Administration (Northern Ireland) Act 1992 (appeals and reviews) shall have effect as if the questions mentioned in subsection (1) of section 15 of that Act included—
- (a) any question arising in connection with the issue, cancellation or variation of contracting-out certificates or appropriate scheme certificates, not being a question mentioned in subsection (1)(e) above, and
 - (b) any other question arising under this Act which falls to be determined by the Department, not being a question mentioned in that subsection.
- (8) Regulations may make provision with respect to the procedure to be adopted on any application for a review made under section 17 of that Act by virtue of subsection (7) above and generally with respect to such applications and reviews, but may not prevent such a review being entered upon without an application being made.]

Textual Amendments

- F11** S. 165(5)(6) repealed (1.1.1996) by S.I. 1995/3213 (NI 22), arts. 119, 168, Sch. 1 para. 34, Sch. 5 Pt. I; S.R. 1995/477, art. 2(b), **Sch. Pt. II**
- F12** S. 165(7)(8) added (6.4.1996 for certain purposes otherwise *prosp.*) by S.I. 1995/3213 (N.I. 22), arts. 1(2), 147, **Sch. 3 para. 60(c)**; S.R. 1996/91, art. 2(d), **Sch. Pt IV**

Modifications etc. (not altering text)

- C2** S. 165(1) modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

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Marginal Citations

- M11 1992 c. 8.
- M12 1975 c. 75.
- M13 S.I. 1986/1888 (N.I. 18).
- M14 1992 c. 8.

166 Questions arising in proceedings.

- (1) Where in any proceedings—
- (a) for an offence under this Act; or
 - (b) involving any question as to the payment of a state scheme premium;
- any such question arises as is mentioned in section 165(1)(a), (b)(i) or (c), the decision of the Department shall be conclusive for the purpose of the proceedings.
- (2) If—
- (a) a decision of any such question is necessary for the determination of the proceedings; and
 - (b) the decision of the Department has not been obtained or a question has been raised with a view to a review of the decision obtained,
- the question shall be referred to the Department for determination or review in accordance (subject to any necessary modifications) with sections 15 to 17 of the ^{M15}Social Security Administration (Northern Ireland) Act 1992.
- (3) Subsection (1) does not apply if—
- (a) an appeal under section 16 of that Act is pending; or
 - (b) the time for appealing has not expired; or
 - (c) a question has been raised with a view to a review of the Department's decision under section 17 of that Act,
- and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

Modifications etc. (not altering text)

- C3 S. 166(1) modified (28.3.1997) by S.R. 1997/192, art. 4(2) (with art. 9)

Marginal Citations

- M15 1992 c. 8.

VALID FROM 05/07/1999

^{F13}166A Reports by Inland Revenue.

- (1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 165(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998.

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- (2) Any report under this section—
- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
 - (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998^{F14}.
- (3) A copy of every report under this section shall be laid before each House of Parliament unless the report is included in, or annexed to, a report of which a copy is so laid.]

Textual Amendments

- F13** S. 166A inserted (5.7.1999) by S.I. 1999/671, art. 17, **Sch. 6 para. 14**; S.R. 1999/271, art. 2(b), **Sch. Pt. II**
- F14** 1998 c. 14.

167 Review of the Board's determinations.

- (1) Subject to the provisions of this section and section 168, where the Board have—
- (a) determined to issue, cancel or vary a contracting-out certificate or an appropriate scheme certificate; or
 - (b) determined to make, or not to make, any order which they have power to make under section 132, 135 or 138; or
 - (c) determined any other question which it is within their functions to determine, their determination shall be final.
- (2) The Board may on the application of a person appearing to them to be interested—
- (a) at any time review any such determination of theirs as is mentioned in subsection (1), or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact or was erroneous in point of law;
 - (b) at any time within a period of six months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.
- (3) The Board's powers on a review under this section shall include power—
- (a) to vary or revoke any determination or order previously made;
 - (b) to substitute a different determination or order; and
 - (c) generally to deal with the matters arising on the review as if they had arisen on the original determination.

168 References and appeals from the Board.

- (1) Any question of law arising in connection with—
- (a) any matter arising under this Act for determination by the Board;
 - (b) any other matter which under section 165(3) falls to be determined by them;

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- (c) any matter arising on an application to the Board for a review of a determination by them, or on a review by them entered upon without an application,
may, if the Board think fit, be referred for decision to the Court of Appeal.
- (2) If the Board determine in accordance with subsection (1) to refer any question of law to the Court, they shall give notice in writing of their intention to do so—
 - (a) in a case where the question arises on an application made to the Board, to the applicant; and
 - (b) in any case to such persons as appear to them to be concerned with the question.
- (3) Any person who is aggrieved—
 - (a) by a determination of the Board given on a review under section 167, or
 - (b) by the refusal of the Board to review a determination,where the determination involves a question of law and that question is not referred by the Board to the Court of Appeal under subsection (1), may on that question appeal from the determination to the Court.
- (4) The Board shall be entitled to appear and be heard on any reference or appeal under this section.
- (5) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final.
- (6) On any such reference or appeal the court may order the Board to pay the costs of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.

Financial provisions

169 Grants by the Board to advisory bodies, etc.

- (1) The Board may make grants on such terms and conditions as they think fit to any person providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.
- (2) The Department may pay the Board such sums as the Department may think fit towards any expenditure of theirs in making grants under this section.

170 Levies towards meeting certain costs and grants.

- (1) For the purpose of meeting some or all of the expenditure under sections 2 and 169 and Part X, regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.
- (2) Any levy imposed under this section shall be payable to the Department by or on behalf of—
 - (a) the administrators of such public service pension schemes as may be prescribed;
 - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed; or

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(c) such other persons as may be prescribed,
at such rates and at such times as may be prescribed.

- (3) The amount payable by any person on account of the levy shall be a debt due from him to the Department and shall be recoverable accordingly.
- (4) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section.

171 Fees for official services to schemes.

Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Department or by the Board on its behalf, the Department may require the payment of fees for the provision of those services.

172 General financial arrangements.

- (1) There shall be paid out of the National Insurance Fund—
- (a) minimum contributions paid by the Department under section 39;
 - (b) payments by it under section 120.
- (2) Subject to subsection (3), there shall be paid out of the National Insurance Fund into the Consolidated Fund—
- (a) sums equal to the amount of any expenses incurred by the Department (or by persons acting on its behalf) in exercising its functions under Chapter II of Part VII and section 153;
 - (b) such sums as the Department may estimate to be the amount of the administrative expenses of the Department or any government department in carrying into effect the remaining provisions of this Act, other than—
 - (i) Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171;
 - (ii) sections 3, 5, 22 to 30, 34 and 46 (so far as they relate to personal pension schemes), section 44 (so far as it relates to minimum contributions), section 46 (so far as it relates to personal pension schemes), section 50, sections 51 to 60 (so far as they relate to personal pension protected rights premiums), section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162.
- (3) The sums payable under subsection (2)(b)—
- (a) shall be estimated in accordance with any directions given by the Department of Finance and Personnel and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as that Department 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 Department of Finance and Personnel may direct.

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- (4) Subject to subsection (5), there shall be paid into the Consolidated Fund any sum recovered by the Department under the provisions within subsection (2)(b)(ii).
- (5) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (6) There shall be paid into the Consolidated Fund of the United Kingdom all fees paid to the Registrar.
- (7) There shall also be paid into the National Insurance Fund—
 - (a) sums recovered under section 39(5) or (6);
 - (b) any personal pension protected rights premium;
 - (c) any sum recovered by the Department in exercising any right or pursuing any remedy which is the Department's by virtue of section 123; and
 - (d) any sums received by it by way of such payments as are mentioned in paragraph 5(4) of Schedule 1.

Status:

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