

SCHEDULES

SCHEDULE 5

AMENDMENTS RELATING TO PART III

The Pension Schemes Act 1993 (c. 48)

- 18The Pension Schemes Act 1993 is amended as follows.
- 19Sections 2 to 5 (constitution, membership etc.
- of the Board) are repealed.
- 20For section 6(8) (Board may be appointed as Registrar), there is substituted—
- “(8) Nothing in this Act or the Pensions Act 1995 shall be taken to imply that the
- Regulatory Authority may not be appointed as the Registrar.”
- 21In the provisions listed in the first column of the table—
- (a) in each place where the word appears, for “Board” there is substituted
- “Secretary of State”, and
- (b) the additional amendments listed in the second column of the table in
- relation to those provisions shall have effect.

TABLE

Provision	Additional amendments
Section 8 (meaning of terms).	—
Section 9 (requirements for certification).	In subsection (4), for “they think” there is substituted “he thinks”.
Section 11 (employer’s right to elect as to contracting-out).	In subsection (4), for “consider” and “they” there is substituted, respectively, “considers” and “he”. In subsection (5)(d), for “they are” there is substituted “he is”.
Section 30 (protected rights).	—
Section 34 (cancellation etc. of certificates).	In subsection (2)(a), for “they have” there is substituted “he has”. In subsections (4) and (5), for “they consider” (in both places) and “they” (in both places) there is substituted, respectively, “he considers” and “he”.

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	<i>Provision</i>	<i>Additional amendments</i>
	Section 50 (schemes ceasing to be certified).	<p>In subsection (2), for “have” (in both places) and “their” there is substituted, respectively, “has” and “his”.</p> <p>In subsection (3), for “they subsequently approve” there is substituted “he subsequently approves”.</p> <p>In subsection (4), for the first “have” there is substituted “has”.</p>
	Section 57 (contribution equivalent premiums).	In subsection (4) for “consider” and “they” there is substituted, respectively, “considers” and “he”.
	Section 163 (rule against perpetuities).	In subsection (6), for “consider” there is substituted “considers”.
22	In section 7—	
	(a)	in subsections (1) and (6), for “Board” there is substituted “Secretary of State”, and
	(b)	in subsection (4), “by the Board” is omitted.
23	In section 8 (definition of terms)—	
	(a)	in subsection (2), for the words following the definition of “minimum payment” there is substituted—
		“and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage for the purposes of section 42A(2)”, and
	(b)	subsection (5) is omitted
24	In section 9 (requirements for certification), in subsection (3) “22 and” is omitted.	
25	In section 10 (protected rights), in subsection (2)(a), after “minimum payments” there is inserted “and payments under section 42A(3)”.	
26	In section 13 (minimum pensions for earners), in subsection (2)(a), the words from “and does” to the end are omitted.	
27	In section 14 (earner’s guaranteed minimum)—	
	(a)	subsection (3) is omitted,
	(b)	in subsection (8) after “1978-79” there is inserted “or later than the tax year ending immediately before the principal appointed day”.
28	In section 16 (revaluation of earnings factors)—	
	(a)	in subsection (3), for the words following “at least” there is substituted “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”, and
	(b)	for the definition of “final relevant year” in subsection (5) there is substituted—

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““final relevant year” means the last tax year in the earner’s working life”.

29 In section 17 (minimum pensions for widows and widowers), at the end of subsection (7) there is added “or widows”.

30 Section 22 (financing of benefits) is repealed.

31 In section 23 (securing of benefits)—

(a) subsections (1) and (5) are omitted,

(b) in subsection (4), for “(1) to (3)” there is substituted “(2) and (3)”; and subsections (2) and (3) of that section do not apply where the winding up is begun on or after the principal appointed day.

32 Section 24 (sufficiency of resources) is repealed.

33 In section 25 (conditions as to investments, etc.)—

(a) subsections (1) and (3) are repealed, and

(b) for subsection (2) there is substituted—

“(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 Secretary of State 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 Secretary of State”.

34 In section 28 (ways of giving effect to protected rights)—

(a) in subsection (4)(d), for “a manner satisfactory to the Board” there is substituted “the prescribed manner”, and

(b) subsection (7) is omitted.

35 In section 29 (the pension and annuity requirements), in subsection (1)(b)(ii), for “a manner satisfactory to the Board” there is substituted “the prescribed manner”.

36 In section 31 (investment and resources of schemes)—

(a) subsection (1) is omitted,

(b) in subsection (3)(a), after “minimum payments” there is inserted “and payments under section 42A(3)”, and

(c) at the end of that section there is added—

“(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”.

37 In section 34 (cancellation, etc. of certificates)—

(a) in subsection (1), for paragraph (a) there is substituted—

“(a) in the case of a contracting-out certificate—

(i) on any change of circumstances affecting the treatment of an employment as contracted-out employment, or

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(ii) where the scheme is a salary related contracted-out scheme and the certificate was issued on or after the principal appointed day, if any employer of persons in the description or category of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide the Secretary of State, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied”,

(b) subsection (6) is omitted, and

(c) for subsection (7) there is substituted—

“(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 Secretary of State may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate”.

38 Sections 35 (surrender, etc.

issue of further certificates) and 36 (surrender etc. cancellation of further certificates) are repealed.

39 For section 37 (alteration of rules of contracted-out schemes) there is substituted—

“37 Alteration of rules of contracted-out schemes.

(1) Except in prescribed circumstances, the rules of a contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

(2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

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

(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed.”

40 In section 38 (alteration of rules of appropriate schemes)—

(a) in subsection (1), the words from “unless” to the end are omitted,

(b) in subsection (3), the words from “if” to the end are omitted,

(c) in subsection (4), for the words from the beginning to “direct” there is substituted “Regulations made by virtue of subsection (2) may”, and

(d) subsection (7) is omitted.

41 In section 42 (review of reduced rates of contributions), in subsection (3), for “41(1)(a)” there is substituted “41(1A)(a)”.

42 In section 43 (payment of minimum contributions), in subsection (1), after “circumstances” there is inserted “or in respect of such periods”.

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- 43 In section 45 (minimum contributions towards personal pension schemes),
subsection (3)(d) is omitted.
- 44 In section 46(1) (effect of entitlement to guaranteed minimum pensions on payment
of social security benefits), for sub-paragraph (i) there is substituted—
“(i) to that part of its additional pension which is attributable
to earnings factors for any tax years ending before the
principal appointed day”.
- 45 In section 50 (powers to approve arrangements for scheme ceasing to be certified)—
(a) in subsection (1)(a)—
(i) at the end of sub-paragraph (i) there is inserted “or accrued rights to
pensions under the scheme attributable to their service on or after
the principal appointed day”, and
(ii) in sub-paragraph (ii), for “guaranteed minimum pensions under the
scheme” there is substituted “such pensions”,
(b) after subsection (1) there is inserted—
“(1A) The power of the Secretary of State 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”, and
(c) subsection (7) is omitted.
- 46 In section 51 (calculation of GMPs preserved under approved arrangements), in
subsection (1)(a), for “are subject to approved arrangements” there is substituted
“satisfy prescribed conditions”.
- 47 In section 52 (supervision of schemes which have ceased to be certified)—
(a) in subsection (2), for paragraphs (a) and (b) there is substituted—
“(a) the scheme has ceased to be a contracted-out scheme, 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) any persons who have protected rights under the scheme or
are entitled to any benefit giving effect to protected rights
under it”,
(b) in subsection (3), for paragraphs (a) and (b) there is substituted—
“(a) the scheme has ceased to be an appropriate scheme, and

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- (b) any persons remain who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it”, and
 - (c) subsections (4) to (6) are omitted.
- 48 In section 53 (supervision: former contracted-out schemes)—
 - (a) for subsection (1) there is substituted—
 - “(1) The Secretary of State may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the Secretary of State may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.
 - (1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.
 - (1B) A direction under subsection (1) shall be enforceable—
 - (a) in England and Wales, in a county court as if it were an order of that court, and
 - (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order”,
 - (b) subsection (2) is omitted,
 - (c) for subsection (3) there is substituted—
 - “(3) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(2A)(a) or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the Secretary of State may allow”,
 - and
 - (d) subsections (4) and (5) are omitted.
 - 49 In section 54 (supervision: former appropriate personal pension schemes)—
 - (a) for subsections (1) and (2) there is substituted—
 - “(1) The Secretary of State may direct the trustees or managers of the scheme to take or refrain from taking such steps as the Secretary of State may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.
 - (1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.
 - (1B) A direction under subsection (1) shall be enforceable—
 - (a) in England and Wales, in a county court as if it were an order of that court, and

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- (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.
- (2) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(3)(b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the Secretary of State may allow”, and
- (b) subsection (3) is omitted.
- 50 In section 55 (state scheme premiums), subsections (1) and (3) to (6) are omitted.
- 51 In section 56 (provisions supplementary to section 55)—
 - (a) subsection (1), in subsection (2) the words following “the prescribed period” and subsection (3) are omitted, and
 - (b) for subsections (5) and (6) there is substituted—
 - “(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”.
- 52 In section 58 (amount of premiums under section 55), subsections (1) to (3), (5) and (6) are omitted.
- 53 Section 59 (alternative basis for revaluation) is repealed.
- 54 In section 60 (effect of payment of premiums on rights)—
 - (a) subsections (1) to (3) are omitted,
 - (b) in subsection (4)—
 - (i) for “55(2)(i)” there is substituted “55(2A)(a) and (b), (d) and (e)”, and
 - (ii) at the end there is added “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”, and
 - (c) in subsection (5), for “55(2)(ii)” there is substituted “55(2A)(c)”, and after “widow” there is added “or widower”, and
 - (d) subsections (6) to (10) are omitted.
- 55 In section 61 (deduction of contributions equivalent premium from refund of scheme contributions)—
 - (a) in subsection (1), for paragraph (a) there is substituted—
 - “(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and”,
 - (b) in subsection (8)—

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- (i) for paragraph (a) there is substituted—
 - “(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment”, and
 - (ii) for “termination” there is substituted “cessation”, and
 - (c) in subsection (9), for “termination” (in both places) there is substituted “cessation”.
- 56 In section 62 (no recovery of premiums from earners)—
 - (a) in subsection (1), for “state scheme” there is substituted “contributions equivalent”, and
 - (b) subsection (2) is omitted.
- 57 In section 63 (further provisions concerning calculations relating to premiums)—
 - (a) in subsection (1)—
 - (i) paragraph (a) is omitted,
 - (ii) in paragraph (b), for “that section” there is substituted “section 58”, and
 - (iii) paragraph (c) is omitted,
 - (b) subsection (2) is omitted,
 - (c) in subsection (3)—
 - (i) paragraph (a) is omitted,
 - (ii) in paragraph (b), for “subsection (4) of that section” there is substituted “section 58(4)”, and
 - (iii) the words following sub-paragraph (ii) are omitted, and
 - (d) subsection (4) is omitted.
- 58 Section 64 (actuarial tables) is repealed.
- 59 Section 65 (former and future earners) is repealed.
- 60 Section 66 (widowers) is repealed.
- 61 In sections 67 and 68 (non-payment of state scheme premiums), for “state scheme premium” (in each place) there is substituted “contributions equivalent premium”.
- 62 In section 84(5), paragraph (b) and the preceding “or” are omitted.
- 63 In section 96 (right to cash equivalent: exercise of options)—
 - (a) in subsection (2)(a), after “guaranteed minimum pensions” there is inserted “his accrued rights so far as attributable to service in contracted-out employment on or after the principal appointed day”, and
 - (b) in subsection (3)(a), for “guaranteed minimum pensions” there is substituted “pensions, being guaranteed minimum pensions or pensions so far as attributable to service in contracted-out employment on or after the principal appointed day”.
- 64 Sections 133 to 135 (advice and determinations as to conformity of schemes with requirements) are repealed.
- 65 In section 155 (requirement to give information to the Secretary of State or the Board)—
 - (a) “or the Board” is omitted,
 - (b) for “or they require” there is substituted “requires”, and

- (c) for the words from “sections 7” to “premiums” there is substituted “Part III”.
- 66 In section 158 (disclosure of information between government departments)—
- (a) subsections (2) and (3) are omitted,
 - (b) in subsection (6), “(2) or (3)”, paragraph (d) and the “or” immediately preceding it are omitted,
 - (c) in subsection (7)—
 - (i) for “the Inland Revenue and the Board”, there is substituted “and the Inland Revenue”,
 - (ii) after paragraph (a), there is inserted “or”, and
 - (iii) paragraph (c) and the “or” immediately preceding it are omitted, and
 - (d) subsection (8) is omitted.
- 67 In section 164(1)(b)(i) (Crown employment), “2 to 5”, “172, 173” and “and Schedule 1” are omitted.
- 68 In section 165 (application of certain provisions to case with foreign element), in subsection (2)(a), for the words from “sections 7” to “premiums” there is substituted “Part III”.
- 69 In section 166(5) (reciprocity with other countries), “sections 2 to 5”, “172, 173” and “and Schedule 1” are omitted.
- 70 In section 170 (determinations by the Secretary of State)—
- (a) in subsection (1)—
 - (i) in paragraph (b) for “state scheme premium” (in both places) there is substituted “contributions equivalent premium”,
 - (ii) the “and” at the end of paragraph (c) is omitted, and
 - (iii) for the words following paragraph (d) there is substituted “and
 - (e) any question whether an employment is, or is to be treated, for the purposes of the Pension Schemes Act 1993 as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is, or is to be treated, for the purposes of that Act as such employment”,
 - (b) subsections (3) and (4) are omitted, and
 - (c) at the end of that section there is added—
 - “(7) Sections 18 and 19 of the Social Security Administration Act 1992 (appeals and reviews) shall have effect as if the questions mentioned in subsection (1) of section 17 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 Secretary of State, not being a question mentioned in that subsection.

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- (8) Regulations may make provision with respect to the procedure to be adopted on any application for a review made under section 19 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”.
- 71 In section 171 (questions arising in proceedings), in subsection (1)(b), for “state scheme premium” there is substituted “contributions equivalent premium”.
- 72 Sections 172 and 173 (reviews and appeals) are repealed.
- 73 In section 174 (grants), for “Board” (in both places) there is substituted “Regulatory Authority”.
- 74 In section 176 (fees), for “either by the Secretary of State or by the Board on his behalf” there is substituted “by the Secretary of State”.
- 75 In section 177 (general financial arrangements)—
- (a) in subsection (3)(b)—
- (i) in sub-paragraph (i), “sections 2 to 5”, “172, 173” and “and Schedule 1” are omitted, and
- (ii) in sub-paragraph (ii), the words from “sections 55” to “premiums)” are omitted, and
- (b) subsection (7)(b) is omitted.
- 76 In section 178(b) (meaning of “trustee” and “manager”), “sections 2 to 5”, “172, 173” and “and Schedule 1” are omitted.
- 77 In section 181 (general interpretation)—
- (a) in subsection (1)—
- (i) the definitions of “accrued rights premium”, “the Board”, “contracted-out protected rights premium”, “limited revaluation premium”, “pensioner’s rights premium”, “personal pension protected rights premium”, “state scheme premium” and “transfer premium” are omitted, and
- (ii) in the definition of “contributions equivalent premium”, for “section 55(6)(e)” there is substituted “section 55(2)”,
- (b) in subsection (3), for “sections 2 to” there is substituted “section”, and “172, 173” and “and Schedule 1” are omitted, and
- (c) in subsection (7), “and Schedule 1” is omitted.
- 78 In section 182(1) (orders and regulations), “the Board or” is omitted.
- 79 In section 183 (sub-delegation), in subsection (1), “sections 2 to 5”, “172, 173” and “or Schedule 1”, and subsection (2) are omitted.
- 80 In section 185 (consultation about regulations)—
- (a) in subsection (1), for the words from the beginning to “make” there is substituted “Subject to subsection (2), before the Secretary of State makes”, and for the words from “refer the proposals” to the end there is substituted “consult such persons as he may consider appropriate”,
- (b) in subsection (2), at the end of paragraph (c) there is added—
- “(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,”
 - (c) subsections (3) and (4) are omitted,
 - (d) in subsection (5), for “subsections (1) to (4)” there is substituted “subsection (1)”,
 - (e) subsection (6) is omitted, and
 - (f) in subsection (8), for “172(4)” there is substituted “170(8)”.
- 81 In section 186(5) (Parliamentary control of regulations and orders), “or section 185(4)” is omitted.
- 82 In section 192(2) (extent), for “sections 1 to 5” there is substituted “section 1” and “section 172(4) and (5)” is omitted.
- 83 Schedule 1 (the Occupational Pensions Board) is repealed.
- 84 In Schedule 2 (certification regulations)—
- (a) in paragraph 2(1), for “the Board” there is substituted “the Secretary of State”,
 - (b) in paragraph 4(3), for the words from “does not cease” to the end there is substituted “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”,
 - (c) in paragraph 5(1)—
 - (i) “or the Board” and “or, as the case may be, the Board” are omitted, and
 - (ii) for “65” there is substituted “63”,
 - (d) in paragraph 5(2), “to 65” is omitted, and
 - (e) in paragraph 9, for sub-paragraphs (3) to (5) there is substituted—

“(2A) Sub-paragraphs (3) and (4) shall be omitted”.
- 85 In Schedule 4 (priority in bankruptcy), in paragraph 3(1), for “state scheme premium” there is substituted “contributions equivalent premium”.
- 86 In Schedule 6 (transitional provisions and savings), paragraph 11 is omitted.