



Child Support, Pensions and Social Security Act 2000

2000 CHAPTER 19

PART II

PENSIONS

CHAPTER I

STATE PENSIONS

State second pension

30 Earnings from which pension derived.

- (1) In section 22 of the ^{M1}Social Security Contributions and Benefits Act 1992 (earnings from which earnings factors are derived), after subsection (2) there shall be inserted—

“(2A) For the purposes specified in subsection (2)(b) above, in the case of the first appointed year or any subsequent tax year a person’s earnings factor shall be treated as derived only from those of his earnings on which primary Class 1 contributions have been paid or treated as paid.”

- (2) In section 44 of that Act (Category A retirement pension), in subsection (6)—

(a) before paragraph (a) there shall be inserted—

“(za) where the relevant year is the first appointed year or any subsequent year, to the aggregate of his earnings factors derived from those of his earnings upon which primary Class 1 contributions have been paid or treated as paid in respect of that year;”;

and

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(b) in paragraph (a), after “subsequent tax year” there shall be inserted “before the first appointed year”.

(3) After that section there shall be inserted—

“44A Deemed earnings factors.

(1) For the purposes of section 44(6)(za) above, if any of the conditions in subsection (2) below is satisfied for a relevant year, a pensioner is deemed to have an earnings factor for that year which—

- (a) is derived from earnings on which primary Class 1 contributions were paid; and
- (b) is equal to the amount which, when added to any other earnings factors taken into account under that provision, produces an aggregate of earnings factors equal to the low earnings threshold.

(2) The conditions referred to in subsection (1) above are that—

- (a) the pensioner would, apart from this section, have an earnings factor for the year—
 - (i) equal to or greater than the qualifying earnings factor for the year; but
 - (ii) less than the low earnings threshold for the year;
- (b) invalid care allowance—
 - (i) was payable to the pensioner throughout the year; or
 - (ii) would have been so payable but for the fact that under regulations the amount payable to him was reduced to nil because of his receipt of other benefits;
- (c) for the purposes of paragraph 5(7)(b) of Schedule 3, the pensioner is taken to be precluded from regular employment by responsibilities at home throughout the year by virtue of—
 - (i) the fact that child benefit was payable to him in respect of a child under the age of six; or
 - (ii) his satisfying such other condition as may be prescribed;
- (d) the pensioner is a person satisfying the requirement in subsection (3) below to whom long-term incapacity benefit was payable throughout the year, or would have been so payable but for the fact that—
 - (i) he did not satisfy the contribution conditions in paragraph 2 of Schedule 3; or
 - (ii) under regulations the amount payable to him was reduced to nil because of his receipt of other benefits or of payments from an occupational pension scheme or personal pension scheme.

(3) The requirement referred to in subsection (2)(d) above is that—

- (a) for one or more relevant years the pensioner has paid, or (apart from this section) is treated as having paid, primary Class 1 contributions on earnings equal to or greater than the qualifying earnings factor; and
- (b) the years for which he has such a factor constitute at least one tenth of his working life.

(4) For the purposes of subsection (3)(b) above—

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- (a) a pensioner’s working life shall not include—
 - (i) any tax year before 1978-79; or
 - (ii) any year in which he is deemed under subsection (1) above to have an earnings factor by virtue of fulfilling the condition in subsection (2)(b) or (c) above; and
 - (b) the figure calculated by dividing his working life by ten shall be rounded to the nearest whole year (and any half year shall be rounded down).
- (5) The low earnings threshold for the first appointed year and subsequent tax years shall be £9,500 (but subject to section 148A of the Administration Act).
- (6) In subsection (2)(d)(ii) above, “occupational pension scheme” and “personal pension scheme” have the meanings given by subsection (6) of section 30DD above for the purposes of subsection (5) of that section.”
- (4) For the purposes of subsection (1) of section 44A of the ^{M2}Social Security Contributions and Benefits Act 1992, a pensioner is deemed to have an earnings factor in relation to any relevant year as specified in that subsection if—
- (a) severe disablement allowance was payable to him throughout the year; and
 - (b) he satisfies the requirement in subsection (3) of that section.

Commencement Information

II S. 30 wholly in force at 6.4.2002; s. 30 not in force at Royal Assent see s. 86(2); s. 30 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 30 in force for certain further purposes at 25.1.2001 and for all remaining purposes at 6.4.2002 by S.I. 2001/153, art. 2(a)

Marginal Citations

M1 1992 c. 4.

M2 1992 c. 4.

31 Calculation.

- (1) In section 45 of the ^{M3}Social Security Contributions and Benefits Act 1992 (calculation of additional pension in a Category A retirement pension), in subsection (2)—
- (a) after “shall be” there shall be inserted “the sum of the following”;
 - (b) in paragraph (b), after “after 1987-88” there shall be inserted “but before the first appointed year”; and
 - (c) after that paragraph there shall be inserted “; and
 - (c) in relation to any tax years falling within subsection (3A) below, the weekly equivalent of the amount calculated in accordance with Schedule 4A to this Act.”
- (2) In that section the following subsection shall be inserted after subsection (3)—
- “(3A) The following tax years fall within this subsection—
- (a) the first appointed year;
 - (b) subsequent tax years.”

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- (3) After Schedule 4 to that Act there shall be inserted the Schedule set out in Schedule 4 to this Act.

Commencement Information

I2 S. 31 wholly in force at 6.4.2002; s. 31 not in force at Royal Assent see s. 86(2); s. 31 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 31 in force for certain further purposes at 25.1.2001 and for all remaining purposes at 6.4.2002 by S.I. 2001/153, art. 2(a)

Marginal Citations

M3 1992 c. 4.

32 Calculation of Category B retirement pension.

- (1) In section 46 of the ^{M4}Social Security Contributions and Benefits Act 1992 (modifications of section 45 for calculating the additional pension in certain benefits), after subsection (2) there shall be inserted—

“(3) For the purpose of determining the additional pension falling to be calculated under section 45 above by virtue of section 48BB below in a case where the deceased spouse died under pensionable age, the following definition shall be substituted for the definition of “N” in section 45(4)(b) above—

“ “N” =

- (a) the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse dies, or
- (b) the number of tax years in the period—
- (i) beginning with the tax year in which the deceased spouse (“S”) attained the age of 16 or, if later, 1978-79, and
- (ii) ending immediately before the tax year in which S would have attained pensionable age if S had not died earlier,
- whichever is the smaller number. ””

- (2) In section 48BB of that Act (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsection (5) for “section 46(2)” there shall be substituted “section 46(3)”.

- (3) In paragraph 5 of Schedule 8 to the ^{M5}Welfare Reform and Pensions Act 1999 (welfare benefits: minor and consequential amendments), sub-paragraph (b), and the word “and” immediately preceding it, shall be omitted.

Commencement Information

I3 S. 32 wholly in force at 9.4.2001; s. 32 not in force at Royal Assent see s. 86(2)(3)(a); s. 32 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 32 in force for all remaining purposes at 9.4.2001 by S.I. 2001/153, art. 2(b)

Marginal Citations

M4 1992 c. 4.

M5 1999 c. 30.

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33 Revaluation.

- (1) After section 148 of the ^{M6}Social Security Administration Act 1992 there shall be inserted—

“148A Revaluation of low earnings threshold.

- (1) The Secretary of State shall in the tax year preceding the first appointed year and in each subsequent tax year review the general level of earnings obtaining in Great Britain and any changes in that level which have taken place during the review period.
- (2) In this section, “the review period” means—
 - (a) in the case of the first review under this section, the period beginning with 1st October 1998 and ending on 30th September in the tax year preceding the first appointed year; and
 - (b) in the case of each subsequent review under this section, the period since—
 - (i) the end of the last period taken into account in a review under this section; or
 - (ii) such other date (whether earlier or later) as the Secretary of State may determine.
- (3) If on such a review it appears to the Secretary of State that the general level of earnings has increased during the review period, he shall make an order under this section.
- (4) An order under this section shall be an order directing that, for the purposes of the Contributions and Benefits Act—
 - (a) there shall be a new low earnings threshold for the tax years after the tax year in which the review takes place; and
 - (b) the amount of that threshold shall be the amount specified in subsection (5) below—
 - (i) increased by the percentage by which the general level of earnings increased during the review period; and
 - (ii) rounded to the nearest £100 (taking any amount of £50 as nearest to the next whole £100).
- (5) The amount referred to in subsection (4)(b) above is—
 - (a) in the case of the first review under this section, £9,500; and
 - (b) in the case of each subsequent review, the low earnings threshold for the year in which the review takes place.
- (6) This section does not require the Secretary of State to direct any increase where it appears to him that the increase would be inconsiderable.
- (7) If on any review under subsection (1) above the Secretary of State determines that he is not required to make an order under this section, he shall instead lay before each House of Parliament a report explaining his reasons for arriving at that determination.
- (8) For the purposes of any review under subsection (1) above the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.”

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- (2) Section 148 of the ^{M7}Social Security Administration Act 1992 (revaluation of earnings factors) shall have effect as if—
- (a) the amounts for the first appointed year and any subsequent tax year that are to be reviewed under that section,
 - (b) the amounts for those years to which any directions by an order under subsection (4) of that section are to be applied, and
 - (c) accordingly, the amounts for the purpose of maintaining the value of which that section has effect,
- included the parts of the surplus in an earnings factor referred to in paragraphs 2(2)(a), 5(2)(a) and 7(2)(a) of Schedule 4A to the ^{M8}Social Security Contributions and Benefits Act 1992.
- (3) Nothing in section 148 of the ^{M9}Social Security Administration Act 1992 shall require, or ever have required, the earnings factors used for computing a surplus in an earnings factor for any year under section 44(5A) of the ^{M10}Social Security Contributions and Benefits Act 1992 to be treated as increased in any case in which that surplus, or any part of it, is itself reviewed under section 148 of the ^{M11}Social Security Administration Act 1992.
- (4) In section 128(3) of the ^{M12}Pensions Act 1995 (revaluation of surpluses in earnings factors under section 44(5A) of the Social Security Contributions and Benefits Act 1992), after “1992” there shall be inserted “for the purposes of section 45(1) and (2)(a) and (b) of that Act”.

Commencement Information

I4 S. 33 wholly in force 6.4.2002; s. 33 not in force at Royal Assent see s. 86(2)(3)(a); s. 33 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 33(1)(2) in force for certain purposes at 25.1.2001 and 6.4.2002 for all remaining purposes and s. 33(3)(4) in force for all remaining purposes at 25.1.2001 by S.I. 2001/153, art. 2(c)(d)

Marginal Citations

M6 1992 c. 5.
M7 1992 c. 5.
M8 1992 c. 4.
M9 1992 c. 5.
M10 1992 c. 4.
M11 1992 c. 5.
M12 1995 c. 26.

34 Report of Government Actuary: rebates etc.

In each of sections 42(1)(a)(ii), 42B(1)(a) and 45A(1)(a) of the ^{M13}Pension Schemes Act 1993 (reports by Government Actuary on cost of providing benefits equivalent to benefits which are foregone) for “which, under section 48A,” there shall be substituted “(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,”.

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Commencement Information

- I5** S. 34 wholly in force at 6.4.2002; s. 34 not in force at Royal Assent see s. 86(2)(3)(a); s. 34 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 34 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

Marginal Citations

- M13** 1993 c. 48.

35 Supplementary.

- (1) The ^{M14}Social Security Contributions and Benefits Act 1992 shall be amended as follows.
- (2) In section 21(5A)(b) (contribution conditions)—
 - (a) after “22(1)(a)” there shall be inserted “, (2A)”; and
 - (b) for “44(6)(a)” there shall be substituted “44(6)(za) and (a)”.
- (3) In section 39 (rate of widowed mother’s allowance and widow’s pension), in subsections (1), (2) and (3), after “sections 44 to 45B” there shall be inserted “and Schedule 4A”.
- (4) In section 39C (rate of widowed parent’s allowance and bereavement allowance), in subsections (1), (3) and (4), after “sections 44 to 45A” there shall be inserted “and Schedule 4A”.
- (5) In section 44 (Category A retirement pension), in subsection (5A), after “section 45” there shall be inserted “and Schedule 4A”.
- (6) In that subsection, for the words from “that year,” to “surplus” there shall be substituted “that year,
 - (b) the amount of the surplus is the amount of that excess, and
 - (c) for the purposes of section 45(1) and (2)(a) and (b) below, the adjusted amount of the surplus”.
- (7) In subsection (6) of that section, after “section 45” there shall be inserted “or Schedule 4A”.
- (8) In section 45 (the additional element in a Category A retirement pension)—
 - (a) in subsections (1) and (2)(a) and (b), before “amount” (in each place) there shall be inserted “adjusted”; and
 - (b) in subsection (6), for “the amount of any surpluses” there shall be substituted “any amount”.
- (9) In section 48A(4) (Category B retirement pension for married person), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.
- (10) In section 48B (Category B retirement pension for widows and widowers), in subsections (2) and (3), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.

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- (11) In section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsections (5) and (6), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A below”.
- (12) In section 48C(4) (Category B retirement pension: general), after “sections 44 to 45B above” there shall be inserted “and Schedule 4A below”.
- (13) In section 51 (Category B retirement pension for widowers), in subsections (2) and (3), after “sections 44 to 45A above” there shall be inserted “and Schedule 4A below”.
- (14) In section 122(1) (interpretation of Parts I to VI), at the appropriate place in alphabetical order, there shall be inserted—
- ““first appointed year” means such tax year, no earlier than 2002-03, as may be appointed by order, and “second appointed year” means such subsequent tax year as may be so appointed;”.
- (15) In section 176 (Parliamentary control), after subsection (3) there shall be inserted—
- “(4) Subsection (3) above does not apply to a statutory instrument by reason only that it contains an order appointing the first or second appointed year (within the meanings given by section 122(1) above).”

Commencement Information

I6 S. 35 wholly in force at 6.4.2002; s. 35 not in force at Royal Assent see s. 86(2)(3)(a); s. 35 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); s. 35 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

Marginal Citations

M14 1992 c. 4.

Report on pensions uprating

36 Report on cost of pension uprating in line with general earnings level.

The Government Actuary or the Deputy Government Actuary shall report to the Secretary of State his opinion on the effect on the level of the National Insurance Fund, and the effect which might be expected on the rates of contributions, in each year up to and including 2005-06 of annual increases in the basic pension by the percentage increase in the general level of earnings; and the Secretary of State shall lay a copy of the report before Parliament.

Earnings factors

37 Revaluation of earnings factors.

In section 148(2) of the ^{M15}Social Security Administration Act 1992 (revaluation of earnings factors), for the words from “place” to the end there shall be substituted “place

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- (a) since the end of the period taken into account for the last review under this section, or
- (b) since such other date (whether earlier or later) as he may determine;

and for the purposes of any such review the Secretary of State shall estimate the general level of earnings in such manner as he thinks fit.”

Marginal Citations

M15 1992 c. 5.

38 Modification of earnings factors.

- (1) In section 48A(5) of the ^{M16}1993 Act (power to modify the application of section 44(5) of the ^{M17}1992 Act where in any year a pensioner’s earnings derive only partially from contracted-out employment), after “44(5)” there shall be inserted “or (5A)”.
- (2) Subsection (1) shall have effect—
 - (a) in relation to the application of section 44(5A) of the 1992 Act by virtue of sections 39C(1) and 48BB(5) of that Act;
 - (b) in relation to the application of section 44(5A) of the 1992 Act in the circumstances described in section 128(4) to (6) of the 1995 Act.
- (3) In relation to the period—
 - (a) beginning with 6th April 2000, and
 - (b) ending with the day before the first regulations under section 48A(5) of the 1993 Act (as amended by subsection (1) above) come into force,
 the Secretary of State shall be taken to have, and to have had, power to calculate and pay relevant pensions by reference to section 44(5) of the 1992 Act as modified by regulations under section 48A(5) of the 1993 Act.
- (4) For the purpose of applying subsection (3) above—
 - (a) the substitution made by section 128(1) of the 1995 Act shall be ignored; and
 - (b) references in enactments to section 44(5A) of the 1992 Act shall (so far as necessary) be treated as references to section 44(5).
- (5) The first regulations under section 48A(5) of the 1993 Act (as amended by subsection (1) above) may include provision in relation to—
 - (a) revising the calculation of a relevant pension;
 - (b) paying a relevant pension in accordance with a revised calculation.
- (6) Relevant pensions are pensions which fall to be calculated—
 - (a) in the circumstances described in section 128(4) to (6) of the 1995 Act; and
 - (b) in relation to persons where, by virtue of section 48A(1) of the 1993 Act, section 44(6) of the 1992 Act has effect in any tax year as mentioned in section 48A(1) of the 1993 Act in relation to some but not all of a person’s earnings.
- (7) For the purposes of this section—
 - (a) the 1992 Act is the ^{M18}Social Security Contributions and Benefits Act 1992;
 - (b) the 1993 Act is the ^{M19}Pension Schemes Act 1993;

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(c) the 1995 Act is the ^{M20}Pensions Act 1995.

Marginal Citations

- M16 1993 c. 48.
- M17 1992 c. 4.
- M18 1992 c. 4.
- M19 1993 c. 48.
- M20 1995 c. 26.

Preservation of rights in respect of additional pensions

39 Preservation of rights in respect of additional pensions.

(1) In the provisions of the ^{M21}Social Security Contributions and Benefits Act 1992 that are set out in subsection (2) (provisions relating to additional pensions for surviving spouses)—

- (a) the references to 5th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 5th October 2002; and
- (b) the references to 6th April 2000 (wherever occurring) shall have effect, and be deemed always to have had effect, as references to 6th October 2002.

(2) Those provisions are—

- (a) sections 39(3) and 39C(4) (widowed mother’s allowance and widowed parent’s allowance);
- (b) sections 48BB(7), 48C(3) and 51(3) (Category B retirement pensions); and
- (c) paragraphs 4(3), 5A(2) and (3) and 6(3) and (4) of Schedule 5 (deferred pensions).

(3) For section 52(3) of the ^{M22}Welfare Reform and Pensions Act 1999 (power to substitute a later year for references to year 2000 in prescribed provisions of the Social Security Contributions and Benefits Act 1992) there shall be substituted—

“(3) The regulations may amend (or further amend) any prescribed provision set out in section 39(2) of the Child Support, Pensions and Social Security Act 2000 (which sets out provisions falling within subsection (2) of this section) so as to substitute a reference to a later date for—

- (a) any reference in that provision to 5th October 2002 or 6th October 2002; or
- (b) any reference to a date inserted in that provision by a substitution made by virtue of this subsection.”

(4) After section 52(4) of that Act of 1999 there shall be inserted—

“(4A) The regulations may provide, for the purposes of any provision made by virtue of subsection (4), for a case in which a person who, as a consequence of receiving incorrect or incomplete information, did not give any consideration to—

- (a) the taking of a step which is a step he might have taken had he considered the matter on the basis of correct and complete information, or

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(b) refraining from taking a step which is a step he did take but might have refrained from taking had he considered the matter on that basis, to be treated as a case in which his failure to take the step, or his taking of the step he did take, was in reliance on the incorrect or incomplete information and as a case in which that step is one which he would have taken, or (as the case may be) would not have taken, had the information been correct and complete.”

(5) In section 52(6) of that Act of 1999 (supplemental provisions of regulations relating to the scheme), after paragraph (e) there shall be inserted—

“(ea) prescribing the matters that may be relied on, and the presumptions that may be made, in the determination of whether or not the prescribed conditions have been satisfied;”.

Marginal Citations

M21 1992 c. 4.

M22 1999 c. 30.

Other provisions

40 Home responsibilities protection.

In paragraph 5 of Schedule 3 to the ^{M23}Social Security Contributions and Benefits Act 1992 (contribution conditions for entitlement to Category A and B retirement pension, widowed mother’s allowance and widow’s pension), after sub-paragraph (7) (reduction of number of years for which contribution conditions must be satisfied) there shall be inserted—

“(7A) Regulations may provide that a person is not to be taken for the purposes of sub-paragraph (7)(b) above as precluded from regular employment by responsibilities at home unless he meets the prescribed requirements as to the provision of information to the Secretary of State.”

Marginal Citations

M23 1992 c. 4.

41 Sharing of state scheme rights.

(1) In section 49 of the ^{M24}Welfare Reform and Pensions Act 1999 (creation of state scheme pension debits and credits), for subsection (4) there shall be substituted—

“(4) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.

(4A) The power conferred by subsection (4) above includes power to provide—

(a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and

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- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”
- (2) In section 45B of the ^{M25}Social Security Contributions and Benefits Act 1992 (pension sharing resulting in reduction of additional Category A retirement pension), for subsection (7) there shall be substituted—
- “(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (7A) The power conferred by subsection (7) above includes power to provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”
- (3) In section 55A of that Act (shared additional pension), for subsection (6) there shall be substituted—
- “(6) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (6A) The power conferred by subsection (6) above includes power to provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”
- (4) In section 55B of that Act (pension sharing resulting in reduction of shared additional pension), for subsection (7) there shall be substituted—
- “(7) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of this section.
- (7A) The power conferred by subsection (7) above includes power to provide—
- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, and
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person prescribed by the regulations.”

Marginal Citations

M24 1999 c. 30.

M25 1992 c. 4.

Status: Point in time view as at 18/11/2004.

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42 Disclosure of state pension information.

- (1) This section applies to any state pension information which is held in relation to any individual—
 - (a) by the Secretary of State; or
 - (b) in connection with the provision of any services provided to the Secretary of State for purposes connected with his functions relating to social security, by the person providing those services.
- (2) ^[F1]The Secretary of State may, in the prescribed manner, disclose or authorise the disclosure of any information] to which this section applies in any case in which—
 - (a) the person to whom the disclosure is made is a person falling within subsection (3) who has, in the prescribed manner, applied to the Secretary of State for the disclosure of the information; and
 - (b) it appears to the Secretary of State that the prescribed conditions for the making of a disclosure of the information in question to that person have been satisfied.
- (3) A person falls within this subsection if—
 - (a) he is the trustee or manager of an occupational pension scheme of which the individual to whom the information relates is a member;
 - (b) he is the trustee or manager of a personal pension scheme of which that individual is a member;
 - (c) he is the employer in relation to an occupational pension scheme of which that individual is a member;
 - (d) he is the employer in relation to any employed earner’s employment of that individual which is not contracted-out employment; or
 - (e) he is proposing to provide services to that individual in circumstances in which the provision of the services, or the proposal to do so, may involve the giving of advice or forecasts to which the information to which this section applies may be relevant.

^[F2](3A) For the purposes of this section and of any regulations made under it, anything done by or in relation to a person who—

- (a) provides, or proposes to provide, relevant services to a person falling within subsection (3) (“the qualifying person”), and
- (b) is authorised in writing by the qualifying person to act for the purposes of this section,

is treated as done by or in relation to the qualifying person.

In paragraph (a) “relevant services” means services that may involve the giving of advice or forecasts to which information to which this section applies may be relevant.]

- (4) The Secretary of State shall secure that his powers under this section are exercised so that at least the following is prescribed for the purposes of subsection (2)(b), namely—
 - (a) in the case of an application for information made by a person falling within paragraph (e) of subsection (3), a condition that the individual to whom the information relates has consented to the making of the application and to the disclosure; and
 - (b) in any other case, either that condition or the alternative condition set out in subsection (5).
- (5) The alternative condition is—

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- (a) that such steps as may be prescribed have been taken for the purpose of ascertaining whether the individual to whom the information relates objects to the making of the application for the disclosure of information relating to him; and
 - (b) that the prescribed time has elapsed without any objection by that individual.
- (6) A person applying to the Secretary of State, in accordance with regulations under this section, for the disclosure of any information relating to an individual shall be entitled, for the purpose of making the application, to make such disclosures of information relating to that individual as may be authorised by the regulations.
- (7) In this section the reference, in relation to an individual, to state pension information is a reference to the following information about that individual—
- (a) his date of birth, and the age at which and date on which he attains pensionable age—
 - (i) for the purposes of the ^{M26}Pension Schemes Act 1993, in relation to any guaranteed minimum pension to which he is entitled; and
 - (ii) in accordance with the rules in paragraph 1 of Schedule 4 to the ^{M27}Pensions Act 1995;
 - (b) the amount of any basic retirement pension a present or future entitlement to which has already accrued to that individual, and the amount of any additional retirement pension such an entitlement to which has already accrued to that individual;
 - (c) a projection of the amount of the basic retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances; and
 - (d) a projection of the amount of the additional retirement pension to which that individual is likely to become entitled, or might become entitled in particular circumstances.
- (8) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Subsections (4) to (6) of section 189 of the ^{M28}Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations under this section as they apply in relation to the powers to make regulations that are conferred by that Act.
- (10) For the purposes of section 121E of the ^{M29}Social Security Administration Act 1992 (supply of information by the Inland Revenue to the Secretary of State for the purposes of the Secretary of State’s functions relating to social security), the Secretary of State’s functions relating to social security shall be taken to include any power conferred on him by regulations under this section.
- (11) In this section—
- [^{F3}“additional retirement pension” means any additional pension or shared additional pension under the Social Security Contributions and Benefits Act 1992, or any graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965;
 - “basic retirement pension” means any basic pension under the Social Security Contributions and Benefits Act 1992;]
 - “contracted-out employment” has the same meaning as in the ^{M30}Pension Schemes Act 1993;

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“employed earner” has the same meaning as it has in Parts I to V of the ^{M31}Social Security Contributions and Benefits Act 1992 (by virtue of section 2(1) of that Act);

“employer”—

(a) in relation to any occupational pension scheme, has the same meaning as in Part I of the ^{M32}Pensions Act 1995; and

(b) in relation to employed earner’s employment, has the same meaning as in the ^{M33}Pension Schemes Act 1993;

“member”, in relation to an occupational pension scheme, has the same meaning as in Part I of the ^{M34}Pensions Act 1995;

“occupational pension scheme” and “personal pension scheme” have the same meanings as in the ^{M35}Pension Schemes Act 1993;

“prescribed” means prescribed by or determined in accordance with regulations;

“regulations” means regulations made by the Secretary of State;

[^{F4}“trustee or manager”, in relation to an occupational or personal pension scheme, means—

(a) in the case of a scheme established under a trust, the trustee or trustees of the scheme, and

(b) in any other case, the person or persons responsible for the management of the scheme.]

Textual Amendments

F1 Words in s. 42(2) substituted (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 298(2)**, 322(2)(c)(iii)

F2 S. 42(3A) inserted (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 298(3)**, 322(2)(c)(iii)

F3 S. 42(11): definitions substituted (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 298(5)(a)**, 322(2)(c)(iii)

F4 Definition in s. 42(11) substituted (18.11.2004) by [Pensions Act 2004 \(c. 35\)](#), **ss. 298(5)(c)**, 322(2)(c)(iii)

Commencement Information

I7 S. 42 wholly in force at 1.1.2001; s. 42 not in force at Royal Assent see s. 86(2); s. 42 in force for certain purposes at 1.12.2000 and for all other purposes at 1.1.2001 by [S.I. 2000/3166](#), **art. 2(1)**

Marginal Citations

M26 1993 c. 48.

M27 1995 c. 26.

M28 1992 c. 5.

M29 1992 c. 5.

M30 1993 c. 48.

M31 1992 c. 4.

M32 1995 c. 26.

M33 1993 c. 48.

M34 1995 c. 26.

M35 1993 c. 48.

Status:

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