



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART III

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

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

- C1** Pt. III power to modify conferred by [Social Security Administration Act 1992 \(c. 5\)](#), [s. 148](#) (as read with [Pensions Act 1995 \(c. 26\)](#), [ss. 128\(3\)\(4\)](#), 180(2) (with [s. 128\(5\)\(6\)](#)); [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 33\(2\)-\(4\)](#), 86(1)(b)(2))
- C2** Pt. III: power to modify conferred (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 149\(1\)](#), 180(1); S.I. 1996/778, [art. 2\(6\)](#); S.I. 1997/664, [art. 2\(3\)](#), [Sch. Pt. 2](#)
- C3** Pt. III applied (with modifications) (6.4.1997) by [The Occupational Pension Schemes \(Mixed Benefit Contracted-out Schemes\) Regulations 1996 \(S.I. 1996/1977\)](#), [regs. 1\(1\)](#), [2\(4\)\(a\)-\(f\)](#)
- C4** Pt. III: power to transfer functions conferred (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), [ss. 23](#), 28(3); S.I. 1999/527, [art. 2\(b\)](#), [Sch. 2](#) (with [arts. 3-6](#))

### CHAPTER I

#### CERTIFICATION

##### *Preliminary*

#### 7 Issue of contracting-out and appropriate scheme certificates.

- (1) [<sup>F1</sup>Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme.]

[<sup>F1</sup>(1A) In this Act such a certificate is referred to as “a contracting-out certificate”.]

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- (2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—
- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
  - (b) the occupational pension schemes by reference to which those employments are to be so treated.
- [<sup>F4</sup>(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—
- (a) at the end of a prescribed period beginning with that day, or
  - (b) if prescribed conditions are not satisfied at any time in that period,
- but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.
- (2B) In this Part, “the principal appointed day” means the day designated by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act]
- (3) An occupational pension scheme is a contracted-out scheme in relation to an earner’s employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.
  - (4) A personal pension scheme is an appropriate scheme if there is in force an appropriate scheme certificate issued <sup>F5</sup>... in accordance with this Chapter that it is such a scheme.
  - (5) An appropriate scheme certificate for the time being in force in relation to a scheme shall be conclusive that the scheme is an appropriate scheme.
  - (6) Regulations shall provide that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the [<sup>F6</sup>Inland Revenue].
  - (7) Except in prescribed circumstances, no contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the certificate is issued.
  - [<sup>F7</sup>(8) References in this Act to a contracting-out certificate, a contracted-out scheme and to contracting-out in a context relating to a money purchase contracted-out scheme are to be construed in accordance with section 181A.]

#### Textual Amendments

- F1** S. 7(1)(1A) substituted for s. 7(1) (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 2\(2\)](#) (with Sch. 4 Pt. 3)
- F2** Word in s. 7(1) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 22\(a\)](#); [S.I. 1996/778](#), art. 2(5)(a), Sch. Pt. 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F3** Words in s. 7(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 33](#); [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F4** S. 7(2A)(2B) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. [136\(1\)](#), 180(1); [S.I. 1996/778](#), art. 2(5)(a)(7), Sch. Pt. 5

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- F5** Words in s. 7(4) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 22(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F6** Words in s. 7(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 33**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F7** S. 7(8) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 2(5)** (with Sch. 4 Pt. 3)

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

- C5** S. 7(1)(a) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C6** S. 7(2) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14
- C7** S. 7(7) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **12(3)**, 13(2), 14

#### **Commencement Information**

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

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

- (1) The employment of an earner in employed earner's employment is “contracted-out employment” in relation to him during any period in which [<sup>F8</sup>he is under pensionable age and—][<sup>F8</sup>—]
- (a) [<sup>F8</sup>he is under pensionable age;]
- [<sup>F8</sup>(aa) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out scheme”);]
- (b) there is in force a contracting-out certificate issued by the [<sup>F10</sup>Inland Revenue] in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

- [<sup>F11</sup>(1A) In addition, in relation to any period before the abolition date, the employment of an earner in employed earner's employment was “contracted-out employment” in relation to him during that period if—
- (a) he was under pensionable age;
- (b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.]

- (2) In this Act—

“guaranteed minimum pension” means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner's or, as the case may be, the earner's [<sup>F12</sup>widow's, widower's or surviving civil partner's] guaranteed minimum as determined for the purposes of those sections respectively; and

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

[<sup>F13</sup>and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage [<sup>F14</sup>for the purposes of [<sup>F15</sup>section 42A]] [<sup>F14</sup>for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before the abolition date)].

(3) Regulations may make provision—

- (a) for the manner in which, and time at which or period within which, minimum payments are to be made;
- (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;
- (c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
- (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person’s age on retirement, shall be determined as at the beginning of the week or as at the end of it;
- (e) for securing that liability is not avoided or reduced by the payment of earnings being made in accordance with any practice which is abnormal for the employment in respect of which the earnings are paid;
- (f) without prejudice to paragraph (e), for enabling the [<sup>F16</sup>Inland Revenue], where [<sup>F16</sup>they are] satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;
- (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
- (h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.

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

<sup>F17</sup>(5) .....

#### Textual Amendments

- F8** Words in s. 8(1) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 3\(2\)](#) (with [Sch. 4 Pt. 3](#))
- F9** S. 8(1)(a)(i) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. 136(2), 180(1); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5
- F10** Words in s. 8(1)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 34\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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- F11** S. 8(1A) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(3)** (with Sch. 4 Pt. 3)
- F12** Words in s. 8(2) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 1**
- F13** Words in s. 8(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 23(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F14** Words in s. 8(2) substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(4)** (with Sch. 4 Pt. 3)
- F15** Words in s. 8(2) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 126**; S.I. 1999/418, art. 2(3)(a)
- F16** Words in s. 8(3)(f) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 34(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F17** S. 8(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 23(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

#### Commencement Information

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

### *General requirements for certification*

## 9 Requirements for certification of schemes: general.

(1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) or (3).

[<sup>F18</sup>(2) An occupational pension scheme satisfies this subsection only if—

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

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

- (a) the scheme complies in all respects with sections 13 to 23 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.

(2B) The conditions of this subsection are that the [<sup>F19</sup>Inland Revenue][<sup>F20</sup>are satisfied] that—

- (a) the scheme complies with section 12A,
- (b) restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,
- (c) the scheme satisfies such other requirements as may be prescribed (which—
  - (i) must include requirements as to the amount of the resources of the scheme and,

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- (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and
- (d) the scheme does not fall within a prescribed class or description, and <sup>F20</sup>are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.
- (2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.]
- (3) An occupational pension scheme satisfies this subsection only if—
- (a) the requirements imposed by or by virtue of sections <sup>F21</sup>... 26 to 32 and such other requirements as may be prescribed are satisfied in its case
- <sup>F22</sup>(aa) the <sup>F23</sup>Inland Revenue are] satisfied that the scheme does not fall within a prescribed class or description]; and
- (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- (4) Where there are two or more occupational pension schemes in force in relation to an earner’s employment, none of which can by itself be a contracted-out scheme, the <sup>F24</sup>Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.
- (5) A personal pension scheme can be an appropriate scheme only if—
- (a) the requirements imposed by or by virtue of sections 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
- (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- <sup>F25</sup>(5A) Regulations about pension schemes made under this Chapter may contain provisions framed by reference to whether or not a scheme <sup>F26</sup>is a registered pension scheme under section 153 of the Finance Act 2004].]
- (6) In this section “relevant requirements” means—
- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out or, as the case may be, appropriate schemes; and
- (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the <sup>F27</sup>Secretary of State] as a condition of contracting-out or, as the case may be, of being an appropriate scheme, either generally or in relation to a particular scheme.

#### Textual Amendments

- F18** S. 9(2)-(2C) substituted for s. 9(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 136\(3\), 180\(1\)](#); S.I. 1996/778, art. 2(5)(a)(7), [Sch. Pt. V](#)
- F19** Words in s. 9(2B) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 35\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F20** Words in s. 9(2B) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 35\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F21** Words in s. 9(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 24, Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)



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- F22** S. 9(3)(aa) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 136(4)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5
- F23** Words in s. 9(3)(aa) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 35(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F24** Words in s. 9(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 35(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F25** S. 9(5A) inserted (1.7.2005) by Pensions Act 2004 (c. 35), **ss. 283**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(9)
- F26** Words in s. 9(5A) substituted (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **7(2)**
- F27** Words in s. 9 substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 21**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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

- C8** S. 9 excluded (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 149(1)**, 180(1); S.I. 1996/778, art. 2(6); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- C9** S. 9(2) excluded (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), **2(3)**
- C10** S. 9(2B) modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **27**
- C11** S. 9(2B)(b) modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **48(5)(d)**
- C12** S. 9(3) excluded (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), **2(3)**

#### Commencement Information

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

## 10 Protected rights and money purchase benefits.

- (1) Subject to [<sup>F28</sup>the following provisions of this section], the protected rights of a member of a pension scheme are his rights to money purchase benefits under the scheme.
- (2) If the rules of an occupational pension scheme so provide, a member's protected rights are—
- his rights under the scheme which derive from the payment of minimum payments [<sup>F29</sup>and payments under section 42A(3)] together with any payments by the [<sup>F30</sup>Inland Revenue] to the scheme under section 7 of the <sup>M1</sup>Social Security Act 1986 in respect of the member;
  - any rights of the member to money purchase benefits which derive from protected rights under another occupational pension scheme or under a personal pension scheme which have been the subject of a transfer payment; and
  - such other rights as may be prescribed.
- (3) If the rules of a personal pension scheme so provide, a member's protected rights are—
- his rights under the scheme which derive from any payment [<sup>F31</sup>of minimum contributions][<sup>F31</sup>under section 45(1)] to the scheme; and

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- (b) any rights of his to money purchase benefits which derive from protected rights under another personal pension scheme or protected rights under an occupational pension scheme which have been the subject of a transfer payment; and
  - (c) such other rights as may be prescribed.
- [<sup>F32</sup>(4) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), a member’s rights under the scheme become subject to a pension debit, his protected rights shall exclude the appropriate percentage of the rights which were his protected rights immediately before the day on which the pension debit arose.
- (5) For the purposes of subsection (4), the appropriate percentage is—
- (a) if the order or provision on which the pension debit depends specifies the percentage value to be transferred, that percentage;
  - (b) if the order or provision on which the pension debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of subsection (1) of section 29 of the Welfare Reform and Pensions Act 1999 (lesser of specified amount and cash equivalent of transferor’s benefits) represents of the amount mentioned in subsection (3)(b) of that section (cash equivalent of transferor’s benefits).]

[<sup>F33</sup>(6) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), any liability of the scheme in respect of a member’s protected rights ceases by virtue of a civil recovery order, his protected rights are extinguished or reduced accordingly.]

#### Textual Amendments

- F28** Words in s. 10(1) substituted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 32(2)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F29** Words in s. 10(2)(a) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 25**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F30** Words in s. 10(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 36**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F31** Words in s. 10(3)(a) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 5** (with Sch. 4 Pt. 3)
- F32** S. 10(4)(5) added (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 32(2)**, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F33** S. 10(6) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 22(2)**; S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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

- C13** S. 10 modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), **2(2)(3)**
- C14** S. 10(4)(5) applied (with effect in accordance with art. 1(2) of the amending S.S.I.) by SI 1992/129 Sch. 2 rule N6 (as inserted by [The Firemen’s Pension Scheme \(Pension Sharing on Divorce\) \(Scotland\) Order 2001 \(S.S.I. 2001/310\)](#), arts. 1(2), **3**)
- C15** S. 10(4)(5) applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by SI 1995/365 reg. W6 (as inserted by [The National Health Service \(Scotland\) \(Superannuation Scheme and](#)



*Status: Point in time view as at 01/11/2007.*

*Changes to legislation: Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Additional Voluntary Contributions) (Pension Sharing on Divorce) Amendment Regulations 2001 (S.S.I. 2001/465), reg. 1(2), **sch. 1 para. 3**

#### Commencement Information

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

#### Marginal Citations

**M1** 1986 c. 50.

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

- (1) Subject to the provisions of this Part, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise.
- (2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.
- (4) If the [<sup>F34</sup>Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [<sup>F35</sup>they] may—
  - (a) refuse to give effect to any election made by him in relation to that scheme; or
  - (b) cancel any contracting-out certificate held by him in respect of it.
- (5) Regulations may make provision—
  - (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
  - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
    - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
    - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
    - (iii) to the trustees and managers of the scheme; and
    - (iv) to such other persons as may be prescribed;
  - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
  - (d) for empowering the [<sup>F36</sup>Inland Revenue] to refuse to give effect to an election made by an employer unless [<sup>F36</sup>they are] satisfied that he has complied with the requirements of the regulations;
  - (e) for referring to an industrial tribunal any question—
    - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
    - (ii) whether the requirements of the regulations as to consultation have been complied with.

*Status: Point in time view as at 01/11/2007.*

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### Textual Amendments

- F34** Words in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F35** Word in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F36** Words in s. 11(5)(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

### Modifications etc. (not altering text)

- C16** S. 11 extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\), regs. 1\(1\), 12\(3\), 13\(2\), 14](#)

### Commencement Information

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

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

- (1) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or (3) of section 9.
- (2) Where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of those subsections as the subsection by virtue of which they wish the scheme to be contracted-out.
- (3) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other except in prescribed circumstances.

### Modifications etc. (not altering text)

- C17** S. 12 excluded (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 149\(1\), 180\(1\)](#); S.I. 1996/778, art. 2(6); S.I. 1997/664, art. 2(3), Sch. Pt. 2

### Commencement Information

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

*[<sup>F37</sup> Requirements for certification of occupational pension schemes  
applying from the principal appointed day of the Pensions Act 1995*

### Textual Amendments

- F37** Ss. 12A-12D and cross-heading inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 136\(5\), 180\(1\)](#); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5

*Status: Point in time view as at 01/11/2007.*

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## 12A The statutory standard

- (1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their [<sup>F38</sup>widows, widowers or surviving civil partners], satisfy the statutory standard.
- (2) Subject to regulations made by virtue of section 9(2B)(c)(ii), in applying this section regard must only be had to—
  - (a) earners in employed earner's employment, or
  - (b) their [<sup>F39</sup>widows, widowers or surviving civil partners],collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.
- (3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.
- (4) Regulations may provide for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.
- (5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared from time to time by a prescribed body <sup>F40</sup>  
... .
- (6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of section 47 of the Pensions Act 1995) so certifies.

### Textual Amendments

- F38** Words in s. 12A(1) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 2](#)
- F39** Words in s. 12A(2)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 2](#)
- F40** Words in s. 12A(5) repealed (1.11.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(2), Sch. 5 para. 5, [Sch. 7 Pt. 8](#); S.I. 2007/3063, art. 2(b)(c)

## 12B Reference scheme

- (1) This section applies for the purposes of section 12A.
- (2) A reference scheme is an occupational pension scheme which—
  - (a) complies with each of subsections (3) and (4), and
  - (b) complies with any prescribed requirements.
- (3) In relation to earners employed in employed earner's employment, a reference scheme is one which provides—

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- (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and
  - (b) for the annual rate of the pension at that age to be—
    - (i) 1/80th of average qualifying earnings in the last three tax years preceding the end of service,
    - multiplied by
    - (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.
- (4) In relation to [<sup>F41</sup>widows, widowers or surviving civil partners], a reference scheme is one which provides—
- (a) for the [<sup>F41</sup>widows, widowers or surviving civil partners] of earners employed in the employed earner’s employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme, and
  - [<sup>F42</sup>(b) for entitlements to those pensions to commence on the day following the death of the earners, and
  - (c) except in prescribed circumstances, for the annual rate of those pensions to be—
    - (i) if the earners die on or after their normal pension age, 50 per cent. of the annual rate which a reference scheme was required to provide to the deceased earners immediately before their death, or
    - (ii) if the earners die before their normal pension age, 50 per cent. of the annual rate which a reference scheme would have been required to provide to the deceased earners if the date of their death had been their normal pension age, and
  - (d) if those pensions are payable in respect of earners who die—
    - (i) otherwise than in pensionable service under the scheme, and
    - (ii) before their own entitlements to pensions under the scheme have commenced,
 for those pensions to be revalued in accordance with section 84 as though they were such benefits as are mentioned in section 83(1)(a).]
- (5) For the purposes of this section, an earner’s qualifying earnings in any tax year are 90 per cent. of the amount by which the earner’s earnings—
- (a) exceed the qualifying earnings factor for that year, and
  - (b) do not exceed [<sup>F43</sup>the applicable limit].
- (6) Regulations may modify subsections (2) to (5).
- (7) In this section—
- [<sup>F44</sup>“the applicable limit” means—
  - (a) in relation to a tax year before the flat rate introduction year, the upper earnings limit for the year multiplied by 53;
  - (b) in relation to the flat rate introduction year or any subsequent tax year, the upper accrual point;]
- “normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),

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

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

#### Textual Amendments

- F41** Words in s. 12B(4) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 3**
- F42** Ss. 12B(4)(b)-(d) substituted for s. 12B(4)(b) (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), 2
- F43** Words in s. 12B(5)(b) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 36(a)**
- F44** Words in s. 12B(7) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 36(b)**

### 12C Transfer, commutation, etc

- (1) Regulations may prohibit or restrict—
- (a) the transfer of any liability—
    - (i) for the payment of pensions under a relevant scheme, or
    - (ii) in respect of accrued rights to such pensions,
  - (b) the discharge of any liability to provide pensions under a relevant scheme, or
  - (c) the payment of a lump sum instead of a pension payable under a relevant scheme,
- except in prescribed circumstances or on prescribed conditions.
- (2) In this section “relevant scheme” means a scheme contracted out by virtue of section 9(2B) of this Act and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day.
- (3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.

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

- C18** S. 12C applied (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **58(5)(6)**
- C19** S. 12C(1) extended (with modifications) (6.4.1997) by [The Occupational Pension Schemes \(Discharge of Liability\) Regulations 1997 \(S.I. 1997/784\)](#), regs. 1(1), **11(3)(e)(6)**

### 12D Entitlement to benefit

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

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

### 13 Minimum pensions for earners.

- (1) Subject to the provisions of this Part, the scheme must—
  - (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
  - (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.
- (2) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the <sup>M2</sup>Social Security Contributions and Benefits Act 1992, subject to the provisions of this Part, the scheme must—
  - (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age<sup>F45</sup> ...; and
  - (b) satisfy such other conditions as may be prescribed.
- (3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.
- (4) Subject to subsection (5), the scheme may provide for the commencement of the earner’s guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.
- (5) The scheme must provide for the earner’s consent to be required—
  - (a) for any such postponement by virtue of employment to which the scheme does not relate; and
  - (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.
- (6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner’s guaranteed minimum pension.
- (7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—
  - (a) was for him non-participating employment under that legislation; and
  - (b) was not on its termination the subject of any payment in lieu of contributions;
 but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.
- (8) In this section “the former legislation” means Part III of the <sup>M3</sup>National Insurance Act 1965 and the previous corresponding enactments.

#### Textual Amendments

**F45** Words in s. 13(2)(a) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 26, Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

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



*Status: Point in time view as at 01/11/2007.*

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### Marginal Citations

M2 1992 c. 4.

M3 1965 c. 51.

## 14 Earner's guaranteed minimum.

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

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

[<sup>F46</sup>(2A) Where any liability of a scheme in respect of an earner's guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.]

<sup>F47</sup>(3) .....

(4) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) and the [<sup>F48</sup>Inland Revenue are] satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, [<sup>F49</sup>they] may for that purpose—

- (a) compute, in such manner as [<sup>F49</sup>they][<sup>F50</sup>think] fit, an amount which shall be regarded as the amount of those earnings; or
- (b) take their amount to be such sum as [<sup>F49</sup>he][<sup>F49</sup>they] may specify in the particular case.

(5) In subsection (2) the "appropriate percentage" means—

- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88—
  - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;
  - (ii) in any other case 25/N per cent.;
- (b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent tax years—
  - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
  - (ii) in any other case 20/N per cent.;

where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978.

(6) Regulations may prescribe rules as to the circumstances in which earnings factors are derived from earnings for the purposes of subsection (2).

(7) For the purposes of subsection (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52.

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- (8) In this section “relevant year” means any tax year in the earner’s working life (not being earlier than the tax year 1978-79 [<sup>F51</sup> or later than the tax year ending immediately before the principal appointed day]).

#### Textual Amendments

- F46** S. 14(2A) inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 22(3)**; [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- F47** S. 14(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 27(a)**, **Sch. 7 Pt. III**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 2**
- F48** Words in s. 14(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 38(a)**; [S.I. 1999/527](#), art. 2(b), **Sch. 2** (with arts. 3-6)
- F49** Word in s. 14(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 38(b)**; [S.I. 1999/527](#), art. 2(b), **Sch. 2** (with arts. 3-6)
- F50** Word in s. 14(4)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 38(c)**; [S.I. 1999/527](#), art. 2(b), **Sch. 2** (with arts. 3-6)
- F51** Words in s. 14(8) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 27(b)**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 2**

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

- C20** S. 14(1) applied (with modifications) (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), **6(4)**
- C21** S. 14(2) modified (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **36(1)**

#### Commencement Information

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

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

- (1) Where in accordance with section 13(4) the commencement of an earner’s guaranteed minimum pension is postponed for any period and there are at least seven complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by one-seventh per cent.—
- (a) of the amount of that minimum apart from this subsection; or
  - (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.
- (2) In subsection (1) “week” means any period of seven consecutive days.
- (3) Where an earner’s guaranteed minimum is increased under subsection (1), the increase of that part of it which is attributable to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.
- (4) Where one or more orders have come into force under section 109 during the period for which the commencement of a guaranteed minimum pension is postponed, the

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amount of the guaranteed minimum for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.

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

- C22** S. 15 applied (6.4.2005) by [The Armed Forces Pension Scheme Order 2005 \(S.I. 2005/438\)](#), art. 1, [Sch. 1 rule D.17\(5\)](#)
- C23** S. 15(1) sums payable amended (with effect in accordance with art. 1(3)(a), 6 of the amending S.I.) by [The Social Security Benefits Up Rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(d), [5](#)

#### Commencement Information

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

### [<sup>F52</sup>15A Reduction of guaranteed minimum in consequence of pension debit.

- (1) Where—
- (a) an earner has a guaranteed minimum in relation to the pension provided by a scheme, and
  - (b) his right to the pension becomes subject to a pension debit,
- his guaranteed minimum in relation to the scheme is, subject to subsection (2), reduced by the appropriate percentage.
- (2) Where the earner is in pensionable service under the scheme on the day on which the order or provision on which the pension debit depends takes effect, his guaranteed minimum in relation to the scheme is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.
- (3) For the purposes of subsection (2), the corresponding qualifying benefit is the guaranteed minimum taken for the purpose of calculating the cash equivalent by reference to which the amount of the pension debit is determined.
- (4) For the purposes of this section the appropriate percentage is—
- (a) if the order or provision on which the pension debit depends specifies the percentage value to be transferred, that percentage;
  - (b) if the order or provision on which the pension debit depends specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of subsection (1) of section 29 of the Welfare Reform and Pensions Act 1999 (lesser of specified amount and cash equivalent of transferor's benefits) represents of the amount mentioned in subsection (3)(b) of that section (cash equivalent of transferor's benefits).]

#### Textual Amendments

- F52** S. 15A inserted (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), ss. [32\(3\)](#), [89\(5\)\(a\)](#); [S.I. 2000/1047](#), art. [2\(2\)\(d\)](#), [Sch. Pt. 4](#)

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

- C24** S. 15A applied (with effect in accordance with art. 1(2) of the amending S.S.I.) by [SI 1992/129 Sch. 2 rule N6](#) (as inserted by [The Firemens Pension Scheme \(Pension Sharing on Divorce\) \(Scotland\) Order 2001 \(S.S.I. 2001/310\)](#), arts. [1\(2\)](#), [3](#))

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**C25** S. 15A applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by the [National Health Service Superannuation Scheme \(Scotland\) Regulations 1995 \(S.I. 1995/365\)](#), [reg. W6](#) (as inserted by S.S.I. 2001/465, reg. 1(2), [sch. 1 para. 3](#))

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

- (1) Subject to subsection (2), for the purpose of section 14(2) the earner’s earnings factor for any relevant year (so far as derived as mentioned in that section) shall be taken to be that factor as increased by the same percentage as that prescribed for the increase of that factor by the last order under section 21 of the <sup>M4</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M5</sup>Social Security Administration Act 1992 to come into force before the end of the final relevant year.
- (2) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before the final relevant year shall be determined for the purposes of section 14(2) by reference to the last such order to come into force before the end of the tax year in which that service ends (“the last service tax year”).
- (3) Where a scheme provides as mentioned in subsection (2) the scheme shall provide for the weekly equivalent mentioned in section 14(2) to be increased by at least [<sup>F53</sup>the prescribed percentage for each relevant year after the last service tax year; and the provisions included by virtue of this subsection may also conform with such additional requirements as may be prescribed].
- (4) Except in such cases or classes of case as may be prescribed, the provision made by virtue of subsections (2) and (3) must be the same for all members of the scheme.
- (5) In this section—
  - [<sup>F54</sup>“relevant year” means any tax year in the earner’s working life.]
  - [<sup>F55</sup>“final relevant year” means the last tax year in the earner’s working life].

### Textual Amendments

- F53** Words in s. 16(3) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 28\(a\)](#); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. 5](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#) (with art. 3)
- F54** Words in s. 16(5) substituted (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 4](#); S.I. 2000/1047, art. 2(2)(b), [Sch. Pt. 2](#)
- F55** Words in s. 16(5) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 28\(b\)](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)

### Modifications etc. (not altering text)

- C26** S. 16 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [65](#), [66](#)
- C27** S. 16(1) applied (with modifications) (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), [6\(5\)](#)
- C28** S. 16(2) applied (6.4.1997) by [The Protected Rights \(Transfer Payment\) Regulations 1996 \(S.I. 1996/1461\)](#), regs. 1(1), [6\(6\)](#)

### Commencement Information

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

*Status: Point in time view as at 01/11/2007.*

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### Marginal Citations

**M4** 1975 c. 60.

**M5** 1992 c. 5.

## 17 Minimum pensions for widows and widowers.

- (1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a [<sup>F56</sup>widow, widower or surviving civil partner] (whether before or after attaining pensionable age), the [<sup>F56</sup>widow, widower or surviving civil partner] will be entitled to a guaranteed minimum pension under the scheme.
- (2) The scheme must contain a rule to the effect that—
  - (a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow's pension will be not less than the widow's guaranteed minimum;
  - (b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower's pension will be not less than the widower's guaranteed minimum;
  - <sup>F57</sup>(c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner's pension will not be less than the surviving civil partner's guaranteed minimum.]
- (3) The widow's guaranteed minimum shall be half that of the earner.
- (4) The widower's [<sup>F58</sup>or surviving civil partner's] guaranteed minimum shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.
- <sup>F59</sup>(4A) [<sup>F60</sup>Subject to subsection (4B)] the scheme must provide for the [<sup>F61</sup>widow's, widower's or surviving civil partner's] pension to be payable to the [<sup>F62</sup>widow, widower or surviving civil partner]—
  - (a) for any period for which a Category B retirement pension is payable to the [<sup>F62</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions or would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension);
  - (b) for any period for which widowed parent's allowance or bereavement allowance is payable to the [<sup>F62</sup>widow, widower or surviving civil partner] by virtue of the earner's contributions; and
  - (c) in the case of a [<sup>F62</sup>widow, widower or surviving civil partner] whose entitlement by virtue of the earner's contributions to a widowed parent's allowance or bereavement allowance has come to an end at a time after the [<sup>F62</sup>widow, widower or surviving civil partner] attained the age of 45, for so much of the period beginning with the time when the entitlement came to an end as neither—
    - [ comprises a period during which the widow, widower or surviving
    - <sup>F63</sup>(i) civil partner and—
      - (a) a person of the opposite sex are living together as husband and wife; or
      - (b) a person of the same sex are living together as if they were civil partners; nor

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(ii) falls after the time of any—

- (a) marriage; or
- (b) formation of a civil partnership,

by the widow or widower or surviving civil partner which takes place after the earner’s death.]

[ Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner<sup>F64</sup>(4B) dies before 5th December 2005.]

- (5) The scheme [<sup>F65</sup>must also make provision] for the widow’s pension to be payable to her for any period for which a<sup>F66</sup>... widowed mother’s allowance or widow’s pension is payable to her by virtue of the earner’s contributions<sup>F66</sup>....
- (6) The scheme [<sup>F67</sup>must also make provision] for the [<sup>F68</sup>widower’s or surviving civil partner’s pension to be payable] in the prescribed circumstances and for the prescribed period.
- (7) The trustees or managers of the scheme shall supply to the [<sup>F69</sup>Inland Revenue] any such information as [<sup>F69</sup>the Inland Revenue] may require relating to the payment of pensions under the scheme to [<sup>F70</sup>widows, widowers or surviving civil partners].

[ Where—

- <sup>F71</sup>(8) (a) a lump sum is paid to an earner under provisions included in a scheme by virtue of section 21(1), and
  - (b) those provisions are of a prescribed description,
- the earner shall be treated for the purposes of this section as having any guaranteed minimum under section 14 that he would have had but for that payment.]

[ For the purposes of subsection (4A), two people of the same sex are to be regarded as<sup>F72</sup>(9) living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]]

#### Textual Amendments

- F56** Words in s. 17(1) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050)*, art. 1(2)(3), **Sch. 1 para. 4(a)**
- F57** S. 17(2)(c) added (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050)*, art. 1(2)(3), **Sch. 1 para. 4(b)**
- F58** Words in s. 17(4) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050)*, art. 1(2)(3), **Sch. 1 para. 4(c)**
- F59** S. 17(4A) inserted (1.1.2001) by *Child Support, Pensions and Social Security Act 2000 (c. 19)*, s. 86(1)(b)(2), **Sch. 5 para. 1(1)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F60** Words in s. 17(4A) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050)*, art. 1(2)(3), **Sch. 1 para. 4(d)(i)**
- F61** Words in s. 17(4A) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050)*, art. 1(2)(3), **Sch. 1 para. 4(d)(ii)**



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- F62** Words in s. 17(4A) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(iii)**
- F63** S. 17(4A)(c)(i)(ii) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(d)(iv)**
- F64** S. 17(4B) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(e)**
- F65** Words in s. 17(5) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(2)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F66** Words in s. 17(5) repealed (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(2)(b)**, **Sch. 9 Pt. III(4)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F67** Words in s. 17(6) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 1(3)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(i)
- F68** Words in s. 17(6) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(f)**
- F69** Words in s. 17(7) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 39**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)
- F70** Words in s. 17(7) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(g)**
- F71** S. 17(8) inserted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(2)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), **Sch. Pt. 2**
- F72** S. 17(9) added (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 4(h)**

#### Commencement Information

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

## 18 Treatment of insignificant amounts.

- (1) Where an amount is required to be calculated in accordance with the provisions of sections 14(7), 15(1) or 17(2), (3) or (4) and, apart from this subsection, the amount so calculated is less than 0.5p, then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking 0.5p as nearest to the next whole penny above.
- (2) Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988-89 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by—
  - (a) applying subsection (1) separately to the amount attributable to the period before the tax year 1988-89 and to the amount attributable to that and subsequent tax years, and
  - (b) aggregating the two amounts so calculated.

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### Commencement Information

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

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

- (1) A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person guaranteed minimum pensions—
  - (a) if it is carried out not earlier than the time when that person’s pensionable service terminates; and
  - (b) if and to the extent that it results in guaranteed minimum pensions for or in respect of that person being appropriately secured; and
  - (c) if and to the extent that the requirements set out in paragraph (a), (b) or (c) of subsection (5) are satisfied.
- (2) This section applies to the following transactions—
  - (a) the taking out of a policy of insurance or a number of such policies;
  - (b) the entry into an annuity contract or a number of such contracts;
  - (c) the transfer of the benefit of such a policy or policies or such a contract or contracts.
- (3) In this section “appropriately secured” means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract.
- (4) A policy of insurance or annuity contract is appropriate for the purposes of this section if—
  - (a) the [<sup>F73</sup>insurer] with which it is or was taken out or entered into—
    - (i) is, or was at the relevant time, carrying on <sup>F74</sup>... long-term insurance business in the United Kingdom or any other member State; and
    - (ii) satisfies, or at the relevant time satisfied, prescribed requirements; and
  - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed; and
  - (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed; and
  - (d) it satisfies such other requirements as may be prescribed.
- (5) The requirements referred to in subsection (1) are—
  - (a) that the arrangement for securing the amount by means of the policy or contract was made—
    - (i) at the written request of the earner or, if the earner has died, of the earner’s [<sup>F75</sup>widow, widower or surviving civil partner]; or
    - (ii) with the consent of the earner or the [<sup>F76</sup>widow, widower or surviving civil partner] given in writing in a prescribed form;
  - (b) that—
    - (i) the case is one such as is mentioned in section 96(2); and

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- (ii) the policy or contract only secures guaranteed minimum pensions;
- (c) that—
  - (i) the case is not one such as is mentioned in section 96(2); and
  - (ii) such conditions as may be prescribed are satisfied.
- (6) In subsection (4)(a), “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.

<sup>F77</sup>(7) . . . . .

**Textual Amendments**

- F73** Word in s. 19(4)(a) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **116(2)(a)**
- F74** Word in s. 19(4)(a)(i) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **116(2)(b)**
- F75** Words in s. 19(5)(a)(i) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 5**
- F76** Words in s. 19(5)(a)(ii) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 5**
- F77** S. 19(7) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **116(3)**

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

- C29** S. 19 applied (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **58(5)(6)**

**Commencement Information**

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

**20 Transfer of accrued rights.**

- (1) Regulations may prescribe circumstances in which and conditions subject to which—
  - (a) a transfer of or a transfer payment in respect of—
    - (i) an earner’s accrued rights to guaranteed minimum pensions under a contracted-out scheme;
    - (ii) an earner’s accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
    - (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them, may be made by an occupational pension scheme to another such scheme [<sup>F78</sup>, to a personal pension scheme or to an overseas arrangement];
  - (b) a transfer of or a transfer payment in respect of an earner’s accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 19 may be made to an occupational pension scheme [<sup>F79</sup>, a personal pension scheme or an overseas arrangement].

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- (2) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.
- (3) Regulations under subsection (1) may provide that any provision of this Part (other than sections 18, 19 and 43 to 45, and [<sup>F80</sup>sections 26 to 33][<sup>F80</sup>sections 25A to 33] so far as they apply to personal pension schemes) or of Chapter III of Part IV or Chapter II of Part V shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.
- (4) Regulations under subsection (1) shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.
- (5) The power conferred by subsection (1) is without prejudice to the generality of section 182(2).
- (6) In the provisions mentioned in subsection (3) “accrued rights”, in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for the earner and the earner’s [<sup>F81</sup>widow, widower or surviving civil partner] in accordance with sections 13 and 17, and references to an earner’s accrued rights to guaranteed minimum pensions shall be construed accordingly.

#### Textual Amendments

- F78** Words in s. 20(1)(a) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(1)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F79** Words in s. 20(1)(b) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(1)(b)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F80** Words in s. 20(3) substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 7** (with Sch. 4 Pt. 3)
- F81** Words in s. 20(6) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 6**

#### Commencement Information

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

## 21 Commutation, surrender and forfeiture.

- [<sup>F82</sup>(1) A scheme may, in such circumstances and subject to such restrictions and conditions as may be prescribed, provide for the payment of a lump sum instead of a pension required to be provided by the scheme in accordance with section 13 or 17.]
- (2) Neither section 13 nor section 17 shall preclude a scheme from providing for the earner’s or the earner’s [<sup>F83</sup>widow’s, widower’s or surviving civil partner’s] guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

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**Textual Amendments**

- F82** S. 21(1) substituted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), ss. 284(1), 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F83** Words in s. 21(2) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), Sch. 1 para. 7

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

- C30** S. 21 applied (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, 58(5)(6)

**Commencement Information**

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

**<sup>F84</sup>22 Financing of benefits.**

**Textual Amendments**

- F84** S. 22 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 30, Sch. 7 Pt. III; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**23 Securing of benefits.**

<sup>F85</sup>(1) .....

(2) Subject to subsection (3), the scheme must contain a rule by which any liabilities of the scheme in respect of—

- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (b) any such benefits as are excluded by section 13(6) from earners’ guaranteed minimum pensions;
- (c) pensions and other benefits (whether or not within paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and
- (d) state scheme premiums,

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

(3) The rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which—

- (a) he will be entitled on ceasing to be in employment, or
- (b) the earner’s [<sup>F86</sup>widow, widower or surviving civil partner] or any dependant of the earner’s will be entitled on the earner’s death.

(4) Subsections [<sup>F87</sup>(2) and (3)] do not apply to public service pension schemes.

<sup>F88</sup>(5) .....

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- (6) Subsections (2) and (3) do not apply to schemes falling within any category or description prescribed as being exempt from the requirements of those subsections.
- (7) If the scheme provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, it must make provision so that there may be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

**Textual Amendments**

**F85** S. 23(1) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 31\(a\), Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

**F86** Words in s. 23(3)(b) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\), art. 1\(3\), Sch. 1 para. 8](#)

**F87** Words in s. 23(4) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 31\(b\); S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

**F88** S. 23(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 31\(a\), Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

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

**C31** S. 23(2)(3) excluded (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 31; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

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**Commencement Information**

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

**F89**<sup>24</sup> **Sufficiency of resources.**

.....

**Textual Amendments**

**F89** S. 24 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 32, Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

*Discretionary requirements*

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

**F90**(1) .....

- [F91**(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 **[F92**Inland Revenue are] kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme, and
  - (b) the resources of the scheme are brought to and are maintained at a level satisfactory to the **[F93**Inland Revenue]]



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<sup>F94</sup>(3) .....

#### Textual Amendments

- F90** S. 25(1) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 33(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F91** S. 25(2) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 33(b)**; S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F92** Words in s. 25(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 40(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F93** Words in s. 25(2)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 40(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F94** S. 25(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 33(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

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

*[<sup>F95</sup>Requirements for certification of occupational and personal money purchase schemes][<sup>F95</sup>Requirements for schemes with members with protected rights]*

#### Textual Amendments

- F95** S. 26 cross-heading substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 8** (with Sch. 4 Pt. 3)

### [<sup>F96</sup>25A Requirements for schemes with members with protected rights

- (1) This section applies to—
- (a) an occupational pension scheme which ceased to be a money purchase contracted-out scheme by virtue of section 15(1) of the Pensions Act 2007,
  - (b) a personal pension scheme which ceased to be an appropriate scheme by virtue of section 15(1) of that Act, or
  - (c) a registered pension scheme under section 153 of the Finance Act 2004—
    - (i) which is not a scheme falling within paragraph (a) or (b), and
    - (ii) to which the rights of a person who was at any time a member of a scheme mentioned in either of those paragraphs have been transferred.
- (2) For so long as there are persons who have protected rights under a scheme to which this section applies, or who are entitled to any benefit giving effect to such rights under it, the scheme must satisfy the requirements mentioned in subsection (3).
- (3) Those requirements are—
- (a) the requirements imposed by or by virtue of sections 26 to 32; and
  - (b) such other requirements as may be prescribed.

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- (4) Regulations made under subsection (3)(b) may contain provision framed by reference to whether or not a scheme is a registered pension scheme under section 153 of the Finance Act 2004.]

#### Textual Amendments

**F96** S. 25A inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 9](#) (with [Sch. 4 Pt. 3](#))

## 26 Persons who may establish scheme.

The Secretary of State may prescribe descriptions of persons by whom or bodies by which the scheme may be established and, if he does so, the scheme may only be established by a person or body of a prescribed description.

#### Commencement Information

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

## 27 Identification and valuation of protected rights.

- (1) Where the rules of the scheme make such provision as is mentioned in section 10(2) or (3), they must also make provision for the identification of the protected rights.
- (2) The value of such protected rights as are mentioned in section 10(2) or (3) must be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated.
- (3) Subject to subsection (2), the value of protected rights must be calculated and verified in such manner as may be prescribed.

#### Commencement Information

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

### [<sup>F97</sup>27A Requirements in relation to giving effect to protected rights

- (1) The rules of the scheme must provide that if, in the case of a member who is married or who has a civil partner, effect is to be given to the protected rights of the member by—
  - (a) the provision by the scheme of a pension, or
  - (b) the purchase by the scheme of an annuity,
 the requirement set out in subsection (2) must be satisfied in relation to the pension or annuity.
- (2) The requirement is that, in a case where—
  - (a) the member dies while the pension or annuity is payable to him or her, and
  - (b) the member is survived by a widow, widower or surviving civil partner (“the survivor”),

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the pension or annuity is payable to the survivor in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time.

- (3) The rules of the scheme must provide that, if effect is to be given to a member's protected rights by the provision of a lump sum, the prescribed conditions must be satisfied.
- (4) The rules of the scheme must provide that, if—
- (a) a member has died without effect being given to his or her protected rights, and
  - (b) the member is survived by a widow, widower or surviving civil partner,
- effect is to be given to the protected rights in such manner as may be prescribed.]

#### Textual Amendments

**F97** S. 27A inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 10](#) (with [Sch. 4 Pt. 3](#))

## 28 Ways of giving effect to protected rights.

- (1) The rules of the scheme must provide for effect to be given to the protected rights of a member—
- (a) in any case where subsection (3) so requires, by the purchase of such an annuity as is mentioned in that subsection, and
  - <sup>F98</sup>(aa) .....
  - (b) in any other case, in such of the ways [<sup>F99</sup>provided for] by the following subsections as the rules may specify,
- and they must not provide for any part of a member's protected rights to be discharged otherwise than in accordance with those subsections.
- (1A) [<sup>F100</sup>Where the scheme is a personal pension scheme which provides for the member to elect to receive payments in accordance with this subsection, and the member so elects, effect shall be given to his protected rights during the interim period by the making of payments under an interim arrangement which—
- (a) complies with section 28A, and
  - (b) satisfies such conditions as may be prescribed;
- and in such a case subsections (2) to (4) accordingly apply as regards giving effect to his protected rights as from the end of that period.]
- (2) Effect may be given to protected rights—
- (a) by the provision by the scheme of a pension which—
    - (i) complies with the pension requirements (within the meaning of section 29(1)), and
    - (ii) satisfies such conditions as may be prescribed; or
  - (b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment—
    - (i) in the case of an occupational pension scheme, to another occupational pension scheme [<sup>F101</sup>, to a personal pension scheme or to an overseas arrangement], and

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(ii) in the case of a personal pension scheme, to another personal pension scheme [<sup>F102</sup>, to an occupational pension scheme or to an overseas arrangement],

where the scheme to which the payment is made satisfies such requirements as may be prescribed.

(3) Subject to subsections (5) and (7), if—

- (a) the rules of the scheme do not provide for a pension; or
- (b) the member [<sup>F103</sup>or, where section 28A(2) applies, the member’s [<sup>F104</sup>widow, widower or surviving civil partner]] so elects,

then, except to the extent that effect is given to protected rights in accordance with subsection [<sup>F105</sup>(1A)][<sup>F106</sup>or (4)], effect shall be given to them by the purchase by the scheme of an annuity which—

- (i) complies with the annuity requirements (within the meaning of section 29(3)), and
- (ii) satisfies such conditions as may be prescribed.

(4) Effect may be given to protected rights by the provision of a lump sum [<sup>F107</sup>, subject to such restrictions as may be prescribed.] if—

- <sup>F108</sup>(a) .....
- <sup>F108</sup>(b) .....
- (c) the circumstances are such as may be prescribed; and
- [<sup>F109</sup>(d) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given][<sup>F110</sup>; and
- (e) such other conditions as may be prescribed are satisfied.]

<sup>F111</sup>(4A) .....

<sup>F111</sup>(4B) .....

(5) If the member has died without effect being given to protected rights under subsection [<sup>F112</sup>(1A)] (2), (3) [<sup>F113</sup>or (4)], effect may be given to them in such manner as may be prescribed.

(6) No transaction is to be taken to give effect to protected rights unless it falls within this section.

<sup>F114</sup>(7) .....

[<sup>F115</sup>(8) In this section and sections 28A, 28B and 29—

“the interim period” means the period beginning with the starting date in relation to the member in question and ending with the termination date;

“the starting date” means the date <sup>F116</sup>... by reference to which the member elects to begin to receive payments under the interim arrangement;

“the termination date” means the date by reference to which the member (or, where section 28A(2) applies, the member’s [<sup>F117</sup>widow, widower or surviving civil partner]) elects to terminate the interim arrangement <sup>F118</sup>... .]

[<sup>F119</sup>(9) This section is subject to section 32A]

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## Textual Amendments

- F98** S. 28(1)(aa) repealed (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), Sch. 2 para. 5(2)(a), **Sch. 13 Pt. I**; S.I. 2001/4049, art. 2(1)(a)
- F99** Words in s. 28(1)(b) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(2)(b)**; S.I. 2001/4049, art. 2(1)(a)
- F100** S. 28(1A) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(3)**; S.I. 2001/4049, art. 2(1)(a)
- F101** Words in s. 28(2)(b)(i) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(2)(a)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F102** Words in s. 28(2)(b)(ii) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 2(2)(b)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(ii)
- F103** Words in s. 28(3)(b) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 142(4)(a)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F104** Words in s. 28(3)(b) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(2)(3), **Sch. 1 para. 9(a)**
- F105** Words in s. 28(3) substituted (11.11.1999 for specified purposes, 1.1.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 5(4)**; S.I. 2001/4049, art. 2(1)(a)
- F106** Words in s. 28(3) substituted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(5)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F107** Words in s. 28(4) inserted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(3)(a)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F108** S. 28(4)(a)(b) repealed (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(3)(b)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(13)(15)(a)(b), Sch. Pt. 2
- F109** S. 28(4)(d) substituted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 3(2)** (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(iii)
- F110** S. 28(4)(e) and preceding word inserted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(3)(c)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F111** S. 28(4A)(4B) repealed (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(4)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(13)(15)(a)(b), Sch. Pt. 2
- F112** Word in s. 28(5) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 142(6)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F113** Words in s. 28(5) substituted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(5)**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2
- F114** S. 28(7) omitted (6.4.1997) by virtue of Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 34(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F115** S. 28(8) added (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 142(7)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F116** Words in s. 28(8) repealed (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), **ss. 284(6)**, 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(13)(15)(a)(b), Sch. Pt. 2

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- F117** Words in s. 28(8) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(2)(3), **Sch. 1 para. 9(c)(i)**
- F118** Words in s. 28(8) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **7(3)**
- F119** S. 28(9) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 146(2)**, 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2

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

- C32** S. 28 extended (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(1), **3(7)**

**Commencement Information**

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

**[<sup>F120</sup>28A Requirements for interim arrangements**

- (1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member's [<sup>F121</sup>widow, widower or surviving civil partner], throughout the interim period, at intervals not exceeding twelve months [<sup>F122</sup>but the member, widow, widower or surviving civil partner may forbear to receive such payments].
- (2) This subsection applies where the member dies during the interim period and is survived by a [<sup>F123</sup>widow, widower or surviving civil partner]<sup>F124</sup>...
- (3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months [<sup>F125</sup>("the aggregate payment") must not be greater than—
  - (a) the amount specified by pension rule 5 in subsection (1) of section 165 of the Finance Act 2004 (pension rules) for the unsecured pension year which ends in that period of twelve months, where the member has not reached the age of 75,
  - (b) the amount specified by pension rule 7 in that subsection for the alternatively secured pension year which ends in that period of twelve months, where the member has reached the age of 75,
  - (c) the amount specified by pension death benefit rule 4 in subsection (1) of section 167 of the Finance Act 2004 (pension death benefit rules) for the unsecured pension year which ends in that period of twelve months, where subsection (2) applies and the member's widow, widower or surviving civil partner has not reached the age of 75, or
  - (d) the amount specified by pension death benefit rule 6 in that subsection for the alternatively secured pension year, where subsection (2) applies and the member's widow, widower or surviving civil partner has reached the age of 75.

This is subject to subsection (3A).]

[ The proportion of the aggregate payment which gives effect to a person's protected <sup>F126</sup>(3A) rights must not be greater than the proportion of the value of the rights to money purchase benefits under the scheme that is attributable to the protected rights.]

<sup>F127</sup>(4) .....



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F127(5) .....

#### Textual Amendments

- F120** Ss. 28A, 28B inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 143, 180\(1\); S.I. 1996/778, art. 2\(2\), Sch. Pt. 2](#)
- F121** Words in s. 28A(1) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\), art. 1\(2\)\(3\), Sch. 1 para. 10](#)
- F122** Words in s. 28A(1) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), arts. 1, 7\(4\)\(a\)](#)
- F123** Words in s. 28A(2) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\), art. 1\(2\)\(3\), Sch. 1 para. 10](#)
- F124** Words in s. 28A(2) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), arts. 1, 7\(4\)\(b\)](#)
- F125** Words in s. 28A(3) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), arts. 1, 7\(4\)\(c\)](#)
- F126** S. 28A(3A) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), arts. 1, 7\(4\)\(d\)](#)
- F127** S. 28A(4)(5) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\), arts. 1, 7\(4\)\(e\)](#)

## 28B Information about interim arrangements

- (1) The trustees or managers of a personal pension scheme must, if required to do so by the [F128Inland Revenue], produce any document relevant to—
- the level of payments made under any interim arrangement, or
  - the value of protected rights to which such an arrangement gives effect, or otherwise connected with the making of payments under such an arrangement.
- (2) In this section, “document” includes information recorded in any form, and the reference to the production of a document, in relation to information recorded otherwise than in legible form, is a reference to producing a copy of the information in legible form.]

#### Textual Amendments

- F120** Ss. 28A, 28B inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 143, 180\(1\); S.I. 1996/778, art. 2\(2\), Sch. Pt. 2](#)
- F128** Words in s. 28B(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 41; S.I. 1999/527, art. 2\(b\), Sch. 2 \(with arts. 3-6\)](#)

## 29 The pension and annuity requirements.

- (1) For the purposes of section 28 a pension complies with the pension requirements if—
- [F129(a) in the case of an occupational pension scheme it commences on a [F130date that is not later than the member’s 65th birthday, or on] such later date as has been agreed by him, and continues until the date of his death, or

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- (aa) in the case of a personal pension scheme—
- (i) where the member has elected under section 28(1A) to receive payments under an interim arrangement, it commences on the termination date, and continues until the date of the member’s death or, where section 28A(2) applies, until the death of the member’s widow or widower, or
  - (ii) otherwise, it commences on such a date as has been agreed by the member<sup>F131</sup> ... and continues until the date of his death;]
- (b) in a case where the member dies while it is payable to him and is survived by a [<sup>F132</sup>widow, widower or surviving civil partner]—
- (i) it is payable to the [<sup>F132</sup>widow, widower or surviving civil partner] in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
  - (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in [<sup>F133</sup>the prescribed manner] is provided in lieu of it.
- (2) As respects the period of 5 years beginning with the commencement of the pension referred to in subsection (1), that subsection shall have effect in relation to that pension as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).
- (3) For the purposes of section 28 an annuity complies with the annuity requirements if—
- (a) it satisfies the requirements mentioned in subsections (1) and (2) (taking the references in those subsections to pensions as references to annuities); and
  - (b) it is provided by an [<sup>F134</sup>insurer] which—
    - (i) satisfies prescribed conditions;
    - (ii) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and
    - (iii) subject to subsection (4), has been chosen by the member [<sup>F135</sup>or, where section 28A(2) applies, the member’s [<sup>F136</sup>widow, widower or surviving civil partner]].
- (4) A member [<sup>F137</sup>(or a member’s [<sup>F138</sup>widow, widower or surviving civil partner])] is only to be taken to have chosen an [<sup>F139</sup>insurer] if he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the [<sup>F139</sup>insurer] instead.

#### Textual Amendments

**F129** S. 29(1)(a)(aa) substituted for s. 29(1)(a) (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by *Pensions Act 1995 (c. 26)*, ss. 144(2), 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2

**F130** Words in s. 29(1)(a) substituted (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by *Pensions Act 2004 (c. 35)*, ss. 284(7)(a), 322(1) (with s. 313); S.I. 2005/1720, art. 2(15)(a)(b), Sch. Pt. 2

*Status: Point in time view as at 01/11/2007.*

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- F131** Words in s. 29(1)(aa)(ii) repealed (1.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), ss. 284(7)(b), 322(1), **Sch. 13** (with s. 313); S.I. 2005/1720, art. 2(13)(15)(a)(b), **Sch. Pt. 2**
- F132** Words in s. 29(1)(b) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 11**
- F133** Words in s. 29(1)(b)(ii) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 35**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. 2**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F134** Word in s. 29(3)(b) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **117(2)**
- F135** Words in s. 29(3)(b)(iii) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **144(3)**, 180(1); S.I. 1996/778, art. 2(2), **Sch. Pt. 2**
- F136** Words in s. 29(3)(b) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 11**
- F137** Words in s. 29(4) inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. **144(4)**, 180(1); S.I. 1996/778, art. 2(2), **Sch. Pt. 2**
- F138** Words in s. 29(4) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 11**
- F139** Word in s. 29(4) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **117(3)**

**Commencement Information**

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

**30 Securing of liability for protected rights.**

- (1) The [<sup>F140</sup>Inland Revenue] must be satisfied that the scheme complies with any such requirements as may be prescribed for meeting the whole or a prescribed part of any liability in respect of protected rights under the scheme which the scheme is unable to meet from its own resources—
  - (a) by reason of the commission by any person of a criminal offence;
  - (b) in such other circumstances as may be prescribed.
- (2) Subsection (1) does not apply to a public service pension scheme.

**Textual Amendments**

- F140** Words in s. 30(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 42**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)

**Commencement Information**

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

**31 Investment and resources of schemes.**

<sup>F141</sup>(1) .....

*Status: Point in time view as at 01/11/2007.*

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- (2) The scheme must comply with such requirements as may be prescribed as regards the part—
- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;
  - (b) of any income or capital gain arising from the investment of such a payment; or
  - (c) of the value of rights under the scheme,
- that may be used—
- (i) to defray the administrative expenses of the scheme;
  - (ii) to pay commission; or
  - (iii) in any other way which does not result in the provision of benefits for or in respect of members.
- (3) Subject to subsection (4)—
- (a) in the case of an occupational pension scheme, all minimum payments [<sup>F142</sup>and payments under section 42A(3)] and any payments made by the [<sup>F143</sup>Inland Revenue] under section 7 of the <sup>M6</sup>Social Security Act 1986, and
  - (b) in the case of a personal pension scheme, all minimum contributions, which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member, except so far as they are used—
- (i) to defray the administrative expenses of the scheme; or
  - (ii) to pay commission.
- (4) If regulations are made under subsection (2), the payments mentioned in paragraph (a) of subsection (3) and the contributions mentioned in paragraph (b) of that subsection may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.
- [<sup>F144</sup>(5) Any minimum contributions required by reason of this section to be applied so as to provide money purchase benefits for or in respect of a member of a scheme must be so applied in the prescribed manner and within the prescribed period.]

#### Textual Amendments

- F141** S. 31(1) repealed (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 36(a), **Sch. 7 Pt. III**; S.I. 1996/1412, art. 2(2), **Sch. Pt. II**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F142** Words in s. 31(3)(a) inserted (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 36(b)**; S.I. 1996/1412, art. 2(2), Sch. Pt. 2; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F143** Words in s. 31(3)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 43**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F144** S. 31(5) added (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 36(c)**; S.I. 1996/1412, art. 2(2); S.I. 1997/664, art. 2(3), Sch. Pt. 2

#### Commencement Information

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

*Status: Point in time view as at 01/11/2007.*

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#### Marginal Citations

M6 1986 c. 50.

### 32 Suspension or forfeiture.

Except in such circumstances as may be prescribed, the rules of the scheme must not permit the suspension or forfeiture of a member's protected rights or of payments giving effect to them.

#### Commencement Information

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

### [<sup>F145</sup>32A Discharge of protected rights on winding up: insurance policies

[<sup>F146</sup>(1) Where an occupational pension scheme is being wound up, effect may not be given to the protected rights of a member of the scheme by taking out a policy of insurance (or a number of such policies) under which the member is the beneficiary unless the policy (or each such policy) satisfies the requirement in subsection (2).

(2) The requirement is that the policy of insurance makes such provision in relation to giving effect to the protected rights of the beneficiary as a scheme to which section 25A applies is required to make under or by virtue of section 27A in relation to giving effect to the protected rights of a member of the scheme.]

#### Textual Amendments

F145 S. 32A inserted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 146(1), 180(1); S.I. 1996/778, art. 2(2), Sch. Pt. 2

F146 S. 32A substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), Sch. 4 para. 12 (with Sch. 4 Pt. 3)

F147 Word in s. 32A(2)(a) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, 118(a)

F148 Words in s. 32A(2)(a)(i) repealed (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, 118(b)

### 33 Tax requirements to prevail over [<sup>F149</sup>certification requirements][<sup>F149</sup>requirements of sections 25A to 32].

Nothing in sections [<sup>F150</sup>26][<sup>F150</sup>25A] to 32 shall be taken to prejudice any requirements with which [<sup>F151</sup>a registered scheme must comply under Part 4 of the Finance Act 2004].

#### Textual Amendments

F149 Words in s. 33 sidenote substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), Sch. 4 para. 13(3) (with Sch. 4 Pt. 3)

F150 Word in s. 33 substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), Sch. 4 para. 13(2) (with Sch. 4 Pt. 3)

*Status: Point in time view as at 01/11/2007.*

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**F151** Words in s. 33 substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **7(5)**

#### Commencement Information

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

### [<sup>F152</sup>33A [<sup>F153</sup>Appropriate schemes][<sup>F153</sup>Personal pension schemes]: “Blowing the whistle”

- (1) If any person acting as an auditor or actuary of [<sup>F154</sup>an appropriate scheme][<sup>F154</sup>a personal pension scheme to which section 25A applies] has reasonable cause to believe that—
- (a) [<sup>F155</sup>any requirement which, in the case of the scheme, is required by section 25A to be satisfied is not satisfied,]
  - (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the [<sup>F156</sup>Inland Revenue] of any of [<sup>F157</sup>their] functions relating to [<sup>F158</sup>appropriate schemes][<sup>F158</sup>personal pension schemes to which section 25A applies],
- that person must immediately give a written report of the matter to the [<sup>F156</sup>Inland Revenue].
- (2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.]

#### Textual Amendments

- F152** S. 33A inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), **ss. 147**, 180(1); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F153** Words in s. 33A sidenote substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), **ss. 15(4)**, 30(2)(b)(3), **Sch. 4 para. 14(3)** (with Sch. 4 Pt. 3)
- F154** Words in s. 33A(1) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), **ss. 15(4)**, 30(2)(b)(3), **Sch. 4 para. 14(2)(a)** (with Sch. 4 Pt. 3)
- F155** S. 33A(1)(a) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), **ss. 15(4)**, 30(2)(b)(3), **Sch. 4 para. 14(2)(b)** (with Sch. 4 Pt. 3)
- F156** Words in s. 33A(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 44(a)**; [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F157** Word in s. 33A(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 44(b)**; [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- F158** Words in s. 33A(1)(b) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), **ss. 15(4)**, 30(2)(b)(3), **Sch. 4 para. 14(2)(c)** (with Sch. 4 Pt. 3)

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

#### 34 Cancellation, variation, surrender and refusal of certificates.

- (1) [<sup>F159</sup>Regulations shall provide for the cancellation, variation or surrender of a contracting-out certificate, or the issue of a new certificate—



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- (a) on any change of circumstances affecting the treatment of an employment as contracted-out employment; or
  - (b) where the certificate was issued on or after the principal appointed day, if any employer of persons in the description of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide HMRC, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied.]
- (2) Regulations may enable the [<sup>F161</sup>Inland Revenue] to cancel or vary a contracting-out certificate where—
- (a) [<sup>F162</sup>they have] reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate; and
  - (b) the employer does not show that it ought to be so treated.
- (3) Where—
- [<sup>F163</sup>by or by virtue of any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition] the continued contracting-out of the scheme or, as the case may be, the scheme’s continuing to be an appropriate scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out or appropriate scheme certificate.
- (4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the [<sup>F161</sup>Inland Revenue] if [<sup>F164</sup>they consider] that there are circumstances which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme, notwithstanding that the relevant scheme is one that [<sup>F164</sup>they] would otherwise treat as proper to be contracted-out in relation to all earners in that employment.
- (5) An appropriate scheme certificate may be withheld or cancelled by the [<sup>F161</sup>Inland Revenue] if [<sup>F165</sup>they consider] that there are circumstances which make it inexpedient that the scheme should be or continue to be an appropriate scheme, notwithstanding that [<sup>F165</sup>they] would otherwise issue such a certificate or not cancel such a certificate.
- <sup>F166</sup>(6) .....
- [<sup>F167</sup>(7) Without prejudice to the previous provisions of this section, failure of a scheme to comply with any requirements prescribed by virtue of section 25(2) shall be a ground on which the [<sup>F161</sup>Inland Revenue] may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate].
- (8) Except in prescribed circumstances, no cancellation, variation or surrender of a contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the cancellation, variation or surrender is made.
- [<sup>F168</sup>(9) A reference in this section to a contracting-out certificate does not include a reference to a contracting-out certificate issued in respect of a money purchase contracted-out scheme.]

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### Textual Amendments

- F159** S. 34(1) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 15\(2\)](#) (with [Sch. 4 Pt. 3](#))
- F160** S. 34(1)(a) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 37\(a\)](#); [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. 5](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)
- F161** Words in s. 34 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 45\(2\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F162** Words in s. 34(2)(a) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 45\(3\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F163** Words in s. 34(3) substituted for s. 34(3)(a)(b) (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 15\(3\)\(a\)](#) (with [Sch. 4 Pt. 3](#))
- F164** Words in s. 34(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 45\(4\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F165** Words in s. 34(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 45\(4\)](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)
- F166** S. 34(6) repealed (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 37\(b\)](#), [Sch. 7 Pt. III](#); [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. 5](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)
- F167** S. 34(7) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 37\(c\)](#); [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. 5](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)
- F168** S. 34(9) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 15\(6\)](#) (with [Sch. 4 Pt. 3](#))

### Modifications etc. (not altering text)

- C33** S. 34(1)(a) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [12\(3\)](#), 13(2), 14
- C34** S. 34(2) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [12\(3\)](#), 13(2), 14
- C35** S. 34(8) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [12\(3\)](#), 13(2), 14

### Commencement Information

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

## 35 Surrender and cancellation of contracting-out certificates: issue of further certificates.

- (1) This section applies in any case where—
- (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board; and
  - (b) at any time before the end of the period of 12 months beginning with the date of the surrender or cancellation, that or any connected employer makes an election under section 11 in respect of any employment which was specified

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by virtue of section 7(2)(a) in the first certificate, with a view to the issue of a further contracting-out certificate.

- (2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme which would be specified in the further certificate if it were issued.
- (3) The Board shall not give effect to the election referred to in subsection (1) by issuing a further certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.
- (4) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.
- (5) For the purposes of subsection (1)—
  - (a) an employment (“the second employment”) in respect of which an election of the kind referred to in subsection (1)(b) has been made; and
  - (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,shall be treated as one employment if, in the opinion of the Board—
  - (i) they are substantially the same, however described; or
  - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (6) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.

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

**C36** Ss. 35 36 modified (temp.) (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), 75

**Commencement Information**

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

**36 Surrender and cancellation of contracting-out certificates: cancellation of further certificates.**

- (1) This section applies in any case where—
  - (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board;
  - (b) a further contracting-out certificate (“the further certificate”) has been issued, after the surrender or cancellation of the first certificate but before the end of the period of 12 months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 7(2)(a) in the first certificate; and
  - (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further certificate was issued they would have been prevented by section 35(3) from issuing it.

*Status: Point in time view as at 01/11/2007.*

*Changes to legislation: Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme specified in the further certificate.
- (3) The Board may, before the end of the period of 12 months beginning with the date on which the further certificate was issued, cancel that certificate.
- (4) Where a contracting-out certificate is cancelled under subsection (3) the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.
- (5) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.
- (6) Without prejudice to subsection (5), regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (3), preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner’s liability under section 6(3) of the <sup>M7</sup>Social Security Contributions and Benefits Act 1992 as may be prescribed.
- (7) For the purposes of subsection (1)—
  - (a) an employment (“the second employment”) in respect of which a further contracting-out certificate of the kind referred to in subsection (1)(b) has been issued; and
  - (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,
 shall be treated as one employment if, in the opinion of the Board—
  - (i) they are substantially the same, however described; or
  - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.

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

**C36** Ss. 35 36 modified (temp.) (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **75**

**Commencement Information**

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

**Marginal Citations**

**M7** 1992 c. 4.

*Alteration of scheme rules after certification*

**37 Alteration of rules of contracted-out schemes.**

- [<sup>F169</sup>(1) Except in prescribed circumstances, the rules of a contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

*Status: Point in time view as at 01/11/2007.*

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- (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 [<sup>F170</sup>or surviving civil partner] of an earner only in such cases as may be prescribed.]

#### Textual Amendments

**F169** S. 37 substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 39**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F170** Words in s. 37(4) inserted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 12**

#### Commencement Information

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

### 38 Alteration of rules of [<sup>F171</sup>appropriate schemes][<sup>F171</sup>personal pension schemes].

- (1) [<sup>F172</sup>No alteration of the rules of a personal pension scheme which was an appropriate scheme shall be made so as—
  - (a) to affect any of the matters dealt with in sections 26 to 33; or
  - (b) to cause the scheme to take a different permitted form from that previously taken.]
- (2) Subsection (1) does not apply
  - [<sup>F174</sup>(a)] to an alteration of a prescribed description[<sup>F175</sup>; or
  - (b) where the rules of the relevant scheme are altered to make provision for pensions for surviving civil partners].
- (3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void<sup>F176</sup> ... .
- (4) [<sup>F177</sup>Regulations made by virtue of subsection (2) may] operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (5) [<sup>F178</sup>This section has effect in relation to a personal pension scheme for so long as there are persons who have protected rights under the scheme or who are entitled to any benefit giving effect to such rights under it.]
- (6) The reference in subsection (1)(b) to a permitted form is to one of the following forms,  
namely—
  - (a) an arrangement for the issue of insurance policies or annuity contracts;

*Status: Point in time view as at 01/11/2007.*

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- (b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 to the <sup>M8</sup>Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which [<sup>F179</sup>is an authorised unit trust scheme];
- (c) an arrangement for the investment of contributions in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the <sup>M9</sup>Building Societies Act 1986));
- [<sup>F180</sup>(d) an open-ended investment company within the meaning of the Open-Ended Investment Companies Regulations 2001.]

[<sup>F181</sup>(6A) “Authorised unit trust scheme” has the meaning given in Part 17 of the Financial Services and Markets Act 2000 and includes any scheme which is, as a result of an order made under section 426 of that Act making transitional provisions, treated as falling within that meaning.]

<sup>F182</sup>(7) .....

**Textual Amendments**

- F171** Words in s. 38 sidenote substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 16(4)** (with Sch. 4 Pt. 3)
- F172** S. 38(1) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 16(2)** (with Sch. 4 Pt. 3)
- F173** Words in s. 38(1) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 40(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F174** Word in s. 38(2) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 13(a)**
- F175** Words in s. 38(2) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 13(b)**
- F176** Words in s. 38(3) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 40(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F177** Words in s. 38(4) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 40(c)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F178** S. 38(5) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 16(3)** (with Sch. 4 Pt. 3)
- F179** Words in s. 38(6)(b) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **119(2)**
- F180** S. 38(6)(d) substituted (1.12.2001) by [The Open-Ended Investment Companies Regulations 2001 \(S.I. 2001/1228\)](#), reg. 1(2)(c), **Sch. 7 para. 10** (with reg. 1(3))
- F181** S. 38(6A) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **119(3)**
- F182** S. 38(7) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 40(d), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2

**Commencement Information**

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

**Marginal Citations**

- M8** S.I. 1988/137.
- M9** 1986 c. 53.



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*Status: Point in time view as at 01/11/2007.*

**Changes to legislation:** Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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### General regulations as to administration of Part III

#### 39 General power to make regulations.

Schedule 2 shall have effect for enabling regulations to be made in relation to the operation and administration of this Part, and Part I of that Schedule has effect as respects occupational pension schemes, and Part II of that Schedule as respects personal pension schemes.

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#### Commencement Information

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

## CHAPTER II

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

#### *Preliminary*

#### 40 Scope of Chapter II.

This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [<sup>F183</sup>Inland Revenue] in respect of earners who are members of [<sup>F184</sup>money purchase contracted-out schemes and members of ]appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

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#### Textual Amendments

**F183** Words in s. 40(b) substituted (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(4\) \(d\), Sch. 11 para. 21](#)

**F184** Words in s. 40(b) inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 137\(1\), 180\(1\); S.I. 1996/778, art. 2\(1\)\(5\)\(a\), Sch. Pts. 1, 5; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)

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#### Commencement Information

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

*Status: Point in time view as at 01/11/2007.*

*Changes to legislation: Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**[<sup>F185</sup>Reduced rates of contributions for members of salary related contracted-out schemes]**

**Textual Amendments**

**F185** S. 41 cross-heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(2), 180(1)**; [S.I. 1996/778](#), **art. 2(1)(5)(a), Sch. Pts. I, V**; [S.I. 1997/664](#), **art. 2(3), Sch. Pt. II**

**41 [<sup>F186</sup>Reduced rates of Class 1 contributions]**

<sup>F187</sup>(1) Subsections (1A) to [<sup>F188</sup>(1E)] apply where—

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

and in subsections (1A) and (1B) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not [<sup>F189</sup>the applicable limit] for that week (or the prescribed equivalents if the earner is paid otherwise than weekly.)]

<sup>F190</sup>(1ZA) In subsection (1)—

- (a) “the applicable limit”—
  - (i) in relation to a tax week falling in a tax year before the flat rate introduction year, means the upper earnings limit for the week in question;
  - (ii) in relation to a tax week falling in the flat rate introduction year or any subsequent tax year, means the upper accrual point divided by 52; and
- (b) “prescribed”—
  - (i) in relation to the lower or upper earnings limit, means (in accordance with section 5(4) of the Social Security Contributions and Benefits Act 1992) prescribed under that provision;
  - (ii) in relation to the amount mentioned in paragraph (a)(ii) above, means (in accordance with section 181) prescribed by regulations under this Act.]

<sup>F191</sup>(1A) The amount of any primary Class 1 contribution [<sup>F192</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] in respect of the earnings shall be reduced by an amount equal to 1.6 per cent of the relevant part of the earnings (“Amount R1”).

(1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to [<sup>F193</sup>3.7 per cent] of the relevant part of the earnings (“Amount R2”).

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

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (1A) and (1B); and

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- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
  - (ii) in relation to which the secondary contributor is such a contributor; and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(1D) If—

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

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

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

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

(2) Where—

- (a) an earner has ceased to be employed in an employment; and
- (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the <sup>MI0</sup>Social Security Contributions and Benefits Act 1992 (reduced rates for married women and widows).

#### Textual Amendments

- F186** S. 41 heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 137\(2\)](#), 180(1); S.I. 1996/778, art. 2(1)(5)(a), [Sch. Pts. I, V](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#)
- F187** S. 41(1)-(1C) substituted for s. 41(1)(1A) (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 127](#); S.I. 1999/418, art. 2(3)(a)
- F188** Word in s. 41(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), [Sch. 9 para. 6\(2\)](#); S.I. 1999/3420, art. 2
- F189** Words in s. 41(1) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), [Sch. 1 para. 37\(a\)](#)
- F190** S. 41(1ZA) inserted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), [Sch. 1 para. 37\(b\)](#)

*Status: Point in time view as at 01/11/2007.*

**Changes to legislation:** *Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F191** S. 41(1A)-(1E) substituted for s. 41(1A)-(1C) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), [Sch. 9 para. 6\(3\)](#); [S.I. 1999/3420](#), art. 2
- F192** Words in s. 41(1A) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 36](#)
- F193** Words in s. 41(1B) substituted (6.4.2007) by [The Social Security \(Reduced Rates of Class 1 Contributions, Rebates and Minimum Contributions\) Order 2006 \(S.I. 2006/1009\)](#), arts. 1(1), 2

#### Commencement Information

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

#### Marginal Citations

- M10** 1992 c. 4.

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

- (1) The Secretary of State may from time to time, and shall when required by subsection (2), lay before each House of Parliament—
- (a) [<sup>F194</sup>a report by the Government Actuary or the Deputy Government Actuary on—
- (i) the percentages for the time being applying under section [<sup>F195</sup>41(1A) and (1B)], and
- (ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F196</sup>(or parts of benefits) which, in accordance with section 48A below and [<sup>F197</sup>Schedules 4A and 4B] to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of salary related contracted-out schemes]
- (b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the Deputy Government Actuary, there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.
- (2) The Secretary of State shall lay such reports at intervals of not more than five years.
- (3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section [<sup>F198</sup>41(1A) and (1B)], he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (3) shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.
- (5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.
- (6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified

*Status: Point in time view as at 01/11/2007.*

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in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

#### Textual Amendments

- F194** S. 42(1)(a) substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(3), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. 1, 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F195** Words in s. 42(1)(a)(i) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))
- F196** Words in s. 42(1)(a)(ii) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 34, 86(1)(b)(2)** (with s. 83(6)); [S.I. 2001/153](#), art. 2(a)
- F197** Words in s. 42(1)(a)(ii) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 2 para. 12**
- F198** Words in s. 42(3) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))

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

- C37** S. 42(1)(a) modified (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(4), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. 1, 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

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

*[<sup>F199</sup>Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes*

#### Textual Amendments

- F199** Ss. 42A, 42B and cross-heading inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(5), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. I, V; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II**

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

[<sup>F200</sup>(1) Subsections (2) to [<sup>F201</sup>(2D) and (3)] apply where—

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

and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).]

[ The amount of any primary Class 1 contribution [<sup>F203</sup>attributable to section 8(1)(a) of <sup>F202</sup>(2) the Social Security Contributions and Benefits Act 1992] in respect of the earnings

*Status: Point in time view as at 01/11/2007.*

**Changes to legislation:** *Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

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

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

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—

- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and

- (ii) in relation to which the secondary contributor is such a contributor;

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

(2C) If—

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

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

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

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

(3) The [<sup>F204</sup>Inland Revenue] shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—

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

(4) Regulations may make provision—

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



*Status: Point in time view as at 01/11/2007.*

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- (5) If the <sup>F205</sup>[Inland Revenue]<sup>F206</sup> pay] an amount under subsection (3) which <sup>F206</sup>they<sup>F206</sup>are] not required to pay or is not required to pay to the person to whom, or in respect of whom, he pays it, he may recover it from any person to whom, or in respect of whom, he paid it.
- (6) Where—
- (a) an earner has ceased to be employed in an employment, and
  - (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.
- [ For the purposes of this section “the appropriate age-related percentage” and “the <sup>F207</sup>(8) appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 42B (as it had effect prior to that date).]

#### Textual Amendments

- F200** S. 42A(1)-(2B) substituted for s. 42A(1)(2) (6.4.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 128](#); S.I. 1999/418, art. 2(3)(a)
- F201** Words in s. 42A(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 7\(2\)](#); S.I. 1999/3420, art. 2
- F202** S. 42A(2)-(2D) substituted for s. 42A(2)-(2B) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 7\(3\)](#); S.I. 1999/3420, art. 2
- F203** Words in s. 42A(2) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\), Sch. 1 para. 37](#)
- F204** Words in s. 42A(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 46\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F205** Words in s. 42A(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 46\(3\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F206** Words in s. 42A(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 46\(3\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F207** S. 42A(8) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\), ss. 15\(4\), 30\(2\)\(b\)\(3\), Sch. 4 para. 17](#) (with Sch. 4 Pt. 3)

#### 42B Determination and alteration of rates of contributions, and rebates, applicable under section 42A

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—

*Status: Point in time view as at 01/11/2007.*

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- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [F208(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of money purchase contracted-out schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—
- (a) specify different percentages for primary and secondary Class 1 contributions, and
  - (b) for each of the tax years for which it has effect—
    - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
    - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i)) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### **Textual Amendments**

**F208** Words in s. 42B(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), ss. 34, 86(1)(b)(2) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C38** S. 42B(2) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), ss. 7(1), 89(5)(a) (with ss. 7(3), 8); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

*Minimum contributions: members of appropriate personal pension schemes*

### **43 Payment of minimum contributions to personal pension schemes.**

- (1) Subject to the following provisions of this Part, the [F209Inland Revenue] shall, except in such circumstances [F210or in respect of such periods] as may be prescribed, pay

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minimum contributions in respect of an employed earner for any period during which the earner—

- (a) is over the age of 16 but has not attained pensionable age;
  - (b) is not a married woman or widow who has made an election which is still operative that <sup>F211</sup>so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] shall be a liability to contribute at a reduced rate; and
  - (c) is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.
- (2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner's chosen scheme.
- (3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.
- (4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the <sup>F209</sup>Inland Revenue]<sup>F212</sup>are] required to pay minimum contributions, the duty of the <sup>F209</sup>Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations.
- (5) If the <sup>F209</sup>Inland Revenue]<sup>F213</sup>pay] an amount by way of minimum contributions which <sup>F214</sup>they]<sup>F213</sup>are] not required to pay, <sup>F214</sup>they] may recover it—
- (a) from the person to whom <sup>F214</sup>they] paid it, or
  - (b) from any person in respect of whom <sup>F214</sup>they] paid it.
- (6) If the <sup>F209</sup>Inland Revenue]<sup>F215</sup>pay] in respect of an earner an amount by way of minimum contributions which <sup>F216</sup>they]<sup>F215</sup>are] required to pay, but <sup>F215</sup>do] not pay it to the trustees or managers of the earner's chosen scheme, <sup>F216</sup>they] may recover it from the person to whom <sup>F216</sup>they] paid it or from the earner.
- <sup>F217</sup>(7) In this section “the earner's chosen scheme” means the scheme which was immediately before the abolition date the earner's chosen scheme in accordance with section 44 (as it had effect prior to that date).]

### Textual Amendments

- F209** Words in s. 43 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F210** Words in s. 43(1) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 42**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F211** Words in s. 43(1)(b) substituted (with effect in accordance with s. 8(2) of the amending Act) by National Insurance Contributions Act 2002 (c. 19), **Sch. 1 para. 38**
- F212** Word in s. 43(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F213** Words in s. 43(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(4)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F214** Word in s. 43(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 47(4)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 01/11/2007.*

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- F215** Words in s. 43(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 47\(5\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F216** Word in s. 43(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 47\(5\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F217** S. 43(7) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\), ss. 15\(4\), 30\(2\)\(b\)\(3\), Sch. 4 para. 19](#) (with Sch. 4 Pt. 3)

#### Commencement Information

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

#### 44 Earner’s chosen scheme.

- (1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the <sup>F218</sup>Inland Revenue], in such manner and form and with such supporting evidence as may be prescribed—
- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 43;
  - (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,
- <sup>F219</sup>then, unless the <sup>F218</sup>Inland Revenue] <sup>F220</sup>reject] the notice on either or both of the grounds mentioned in subsection (1A)] that scheme is the earner’s chosen scheme for the purposes of section 43 as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner’s chosen scheme for those purposes.
- <sup>F221</sup>(1A) The grounds referred to in subsection (1) are that the <sup>F218</sup>Inland Revenue] <sup>F222</sup>are] of the opinion—
- (a) that section 31(5) is not being complied with in respect of any members of the scheme,
  - (b) that, having regard to any other provisions of sections 26 to 32 and 43 to 45, it is inexpedient to allow the scheme to be the chosen scheme of any further earners]
- (2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the <sup>F218</sup>Secretary of State] <sup>F218</sup>Inland Revenue] at such time and in such manner and form as may be prescribed.
- (3) When a notice under subsection (2) is given, the scheme ceases to be the earner’s chosen scheme as from a date determined in accordance with regulations and specified in the notice.

#### Textual Amendments

- F218** Words in s. 44 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F219** Words in s. 44(1) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(a\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2

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- F220** Word in s. 44(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F221** S. 44(1A) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(b\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F222** Word in s. 44(1A) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 48\(4\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Commencement Information**

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

**45 Amount of minimum contributions.**

[<sup>F223</sup>(1) In relation to any tax week falling within a period for which the [<sup>F224</sup>Inland Revenue are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly)].

<sup>F225</sup>(2) .....

(3) Regulations may make provision—

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

<sup>F226</sup>(d) .....

- (e) for this section to have effect in prescribed cases as if for any reference to a tax week there were substituted a reference to a prescribed period <sup>F227</sup>... ;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[<sup>F228</sup>(4) For the purposes of this section “the appropriate age-related percentage”, in relation to a tax year beginning before the abolition date, is the percentage (or percentages) specified as such for that tax year in an order made under section 45A (as it had effect prior to that date).]

**Textual Amendments**

- F223** S. 45(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 138\(2\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F224** Words in s. 45(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 49](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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- F225** S. 45(2) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 138(3), 180(1), [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F226** S. 45(3)(d) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 43, [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F227** Words in s. 45(3)(e) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 138(4), 180(1), [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F228** S. 45(4) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 21](#) (with [Sch. 4 Pt. 3](#))

#### Commencement Information

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

### [<sup>F229</sup>45A Determination and alteration of rates of minimum contributions under section 45

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—
- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F230</sup>(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of appropriate personal pension schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection—
- (a) shall have effect in relation to a period of tax years (not exceeding five), and
  - (b) may, for each of the tax years for which it has effect, specify different percentages in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 45).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### Textual Amendments

- F229** S. 45A inserted (13.3.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. 138(5), 180(1); [S.I. 1996/778](#), art. 2(1), Sch. Pt. 1; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2



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**F230** Words in s. 45A(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 34, 86(1)(b)(2) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C39** S. 45A(2) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 7(2), 89(5)(a) (with ss. 7(3), 8); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

**[<sup>F231</sup>45B Money purchase and personal pension schemes: verification of ages**

- (1) Regulations may make provision for the manner in which an earner's age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).
- (2) Information held by the Secretary of State [<sup>F232</sup>or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State [<sup>F232</sup>or the Inland Revenue]—
  - (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
  - (b) to such other persons as may be prescribed,
 in connection with the making of payments under section 42A(3) or the payment of minimum contributions.]

**Textual Amendments**

**F231** S. 45B inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), ss. 139, 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F232** Words in s. 45B(2) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), Sch. 1 para. 50; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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

- (1) Where for any period a person is entitled both—
  - (a) to a Category A or Category B retirement pension, a widowed mother's allowance [<sup>F233</sup>, a widowed parent's allowance][<sup>F234</sup>or a widow's pension] under the <sup>M11</sup>Social Security Contributions and Benefits Act 1992; and
  - (b) to one or more guaranteed minimum pensions,
 the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—
  - (i) [<sup>F235</sup>to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day], or
  - (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

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whichever is the less.

<sup>F236</sup>(2) .....

[<sup>F237</sup>(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992,

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

(4) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M11</sup> Social Security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

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

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M11</sup> Social Security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

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

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—

<sup>F238</sup>(i) .....

(ii) to a Category A retirement pension under section 44 of that Act; or

(iii) to a Category B retirement pension under [<sup>F239</sup>section 48A [<sup>F240</sup>, 48B or 48BB]] of that Act; and

*Status: Point in time view as at 01/11/2007.*

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(c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

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

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

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to any of the pensions under the <sup>M11</sup> Social Security Contributions and Benefits Act 1992 mentioned in subsection (6)(b); and
- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

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

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

- <sup>F241</sup>(a) . . . . .
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

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

<sup>F242</sup>(9) . . . . .

**Textual Amendments**

- F233** Words in s. 46(1) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 18(2)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. 1
- F234** Words in s. 46(1) substituted (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), **Sch. 1 para. 56(2)**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F235** S. 46(1)(i) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 44**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F236** S. 46(2) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(3), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F237** S. 46(3) substituted (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), **Sch. 1 para. 56(4)**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F238** S. 46(6)(b)(i) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(5), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F239** Words in s. 46(6)(b)(iii) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 22**

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- F240** Words in s. 46(6)(b)(iii) substituted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 18(3)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. 1
- F241** S. 46(8)(a) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(6), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F242** S. 46(9) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(7), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4

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

- C40** Ss. 46-48 modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **49(1)**

**Commencement Information**

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

**Marginal Citations**

- M11** 1992 c. 4.

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

- (1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [<sup>F243</sup>or surviving civil partner] of an earner [<sup>F244</sup>in any case where he is entitled to a benefit other than a widowed parent’s allowance]<sup>F245</sup>... only if—
- [<sup>F246</sup>(a) he is also entitled to a Category B retirement pension by virtue of the earner’s contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits Act 1992); or]
- (b) he is also entitled to a Category A retirement pension by virtue of [<sup>F247</sup>section 41(5)] of [<sup>F247</sup>that Act].
- (2) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as a result of which—
- (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
- (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member’s [<sup>F248</sup>widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
- (b) either—
- (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or

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- (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
- (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of—
- (i) any relevant policies and annuity contracts, and
  - (ii) any cash sums paid or alternative arrangements made under the [F249Financial Services Compensation Scheme],
- are inadequate to provide the whole of the amount secured,
- the member and the member's [F248widow, widower or surviving civil partner] shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member's or, as the case may be, the member's [F250widow's, widower's or surviving civil partner's] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.
- (5) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or
  - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).
- [F251(6) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for [F252section 14(2A) and] any reduction under section 15A.]
- [F253(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.]
- [F254(8) For the purposes of section 46, a person shall be treated as entitled to a guaranteed minimum pension to which he would have been entitled but for the fact that the trustees or managers were discharged from their liability to provide that pension on the Board of the Pension Protection Fund assuming responsibility for the scheme.]

#### Textual Amendments

- F243** Words in s. 47(1) inserted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 14(a)**
- F244** Words in s. 47(1) inserted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 18(a)**, 22(3); S.I. 2002/2248, art. 2
- F245** Words in s. 47(1) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), Sch. 1 para. 57, **Sch. 2**; S.I. 1994/2926, art. 2(4), **Sch. Pt. IV**
- F246** S. 47(1)(a) substituted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 18(b)**, 22(3); S.I. 2002/2248, art. 2

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- F247** Words in s. 47(1)(b) substituted (3.9.2002) by State Pension Credit Act 2002 (c. 16), **ss. 18(c), 22(3)**; S.I. 2002/2248, art. 2
- F248** Words in s. 47(3) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 14(b)(i)**
- F249** Words in s. 47(3)(d) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **120**
- F250** Words in s. 47(3) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 14(b)(ii)**
- F251** S. 47(6) added (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), **ss. 32(4), 89(5)(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F252** Words in s. 47(6) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 22(4)**; S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F253** S. 47(7) added (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 6**; S.I. 2002/153, art. 2(g)
- F254** S. 47(8) inserted (6.4.2006) by Pensions Act 2004 (c. 35), **ss. 165(3), 322(1)** (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3

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

- C40** Ss. 46-48 modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **49(1)**
- C41** S. 47(2)(b) applied (with modifications) (6.4.1997) by The Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461), regs. 1(1), **6(3)**

**Commencement Information**

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

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

- (1) Subject to subsection (3), this subsection applies where for any period—
  - (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner’s employment, or
  - (b) minimum contributions have been paid in respect of an earner under section 43.
- (2) Where subsection (1) applies then, for the purposes of section 46—
  - (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
  - <sup>F255</sup>(b) .....
  - (c) in prescribed circumstances <sup>F256</sup>... any [<sup>F257</sup>widow, widower or surviving civil partner] of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of [<sup>F258</sup>section] 47(2) of the Social Security Contributions and Benefits Act 1992<sup>M12</sup> and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.



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- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.

#### Textual Amendments

- F255** S. 48(2)(b) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 140(2), 180(1), **Sch. 7 Pt. III**; S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F256** Words in s. 48(2)(c) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 140(2), 180(1), **Sch. 7 Pt. III**; S.I. 1996/778, art. 2(2), Sch. Pt. 2
- F257** Words in s. 48(2)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), **Sch. 1 para. 15**
- F258** Word in s. 48(2) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), **Sch. 1 para. 58**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4

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

- C40** Ss. 46-48 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), **49(1)**
- C42** S. 48 excluded (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), ss. **140(3)**, 180(1); S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 10)

#### Commencement Information

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

#### Marginal Citations

- M12** 1992 c. 4.

*<sup>F259</sup>Effect of reduced contributions and rebates on social security benefits*

#### Textual Amendments

- F259** S. 48A inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. **140(1)**, 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

### 48A Additional pension and other benefits

- (1) In relation to any tax week where—
- (a) the amount of a Class 1 contribution [<sup>F260</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 [<sup>F261</sup>or 42A][<sup>F261</sup>or, in the case of a week falling before the abolition date, under section 42A (as it then had effect)], or

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- (b) [<sup>F262</sup>an amount is paid under section 45(1)] [<sup>F262</sup>in the case of a week falling before the abolition date, an amount is paid under section 45(1) (as it then had effect)] in respect of the earnings paid to or for the benefit of an earner, section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no [<sup>F263</sup>such] primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).
- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).
- (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.
- (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
- (5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) [<sup>F264</sup>or (5A)] of that Act.]

#### Textual Amendments

- F260** Words in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(a\)](#)
- F261** Words in s. 48A(1)(a) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 23\(2\)](#) (with [Sch. 4 Pt. 3](#))
- F262** Words in s. 48A(1)(b) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 23\(3\)](#) (with [Sch. 4 Pt. 3](#))
- F263** Word in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(b\)](#)
- F264** Words in s. 48A(5) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 38\(1\)](#), 86(1)(b)(2) (with [ss. 38\(2\)](#), 83(6))

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

- C43** S. 48A(1) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), [regs. 1\(1\)](#), [49\(1\)](#)
- C44** S. 48A(5) modified (1.11.2000) by [The Social Security \(Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions\) Regulations 2000 \(S.I. 2000/2736\)](#), [regs. 1\(1\)](#), [3\(1\)](#)

*[<sup>F265</sup>Women, married women and widows]*

#### Textual Amendments

- F265** S. 49 and cross heading substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), [Sch. 4 para. 16](#)

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## **[<sup>F265</sup>49 Women, married women and widows.**

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

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

### **Commencement Information**

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

## **CHAPTER III**

### **TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS: STATE SCHEME PREMIUMS**

#### *Approval of arrangements for schemes ceasing to be certified*

## **50 Powers of [<sup>F266</sup>Inland Revenue] to approve arrangements for scheme ceasing to be certified.**

- (1) In the case of an occupational pension scheme or a personal pension scheme which is or has been certified as a contracted-out or, as the case may be, an appropriate scheme, the [<sup>F266</sup>Inland Revenue] may, for the event of, or in connection with, its ceasing to be such a scheme [<sup>F267</sup>(including by virtue of section 15(1) of the Pensions Act 2007)], approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—
- (a) in the case of an occupational pension scheme other than [<sup>F268</sup>one that was] a money purchase contracted-out scheme—
    - (i) of earners' accrued rights to guaranteed minimum pensions under the scheme [<sup>F269</sup>or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day];
    - (ii) of the liability for the payment of [<sup>F270</sup>such pensions] in respect of persons who have then become entitled to receive them;
    - [<sup>F271</sup>(iii) of safeguarded rights under the scheme;]
  - (b) [<sup>F272</sup>in the case of a][<sup>F272</sup>in the case of an occupational pension scheme that was a] money purchase contracted-out scheme or a personal pension scheme, of protected [<sup>F273</sup>, or safeguarded,] rights under the scheme.

[<sup>F274</sup>(1A) The power of the [<sup>F266</sup>Inland Revenue] to approve arrangements under this section—

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

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

- (2) If the scheme ceases to be a contracted-out scheme or an appropriate scheme (whether by [<sup>F275</sup>virtue of section 15(1) of the Pensions Act 2007, by] being wound up or otherwise) and the [<sup>F266</sup>Inland Revenue] either—

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- (a) [F276have] withdrawn [F276their] approval of previously approved arrangements relating to it; or
  - (b) [F276have] declined to approve arrangements relating to it,
- the [F266Inland Revenue] may issue a certificate to that effect.
- (3) A certificate issued under subsection (2)(a) or (b) shall be cancelled by the [F266Inland Revenue] if [F277they subsequently approve] the arrangements.
  - (4) Regulations may provide that where the [F266Inland Revenue][F278have] approved arrangements under subsection (1) in respect of an occupational pension scheme (other than a money purchase scheme) any provision of this Part (other than sections 18, 19, [F27926 to 33][F27925A to 33] and 43 to 45) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.
  - (5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.
  - (6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme [F280which is not a money purchase contracted-out scheme][F280to which subsection (1)(a) applies] may be withdrawn at any time, notwithstanding that the scheme has been wound up.

F281(7) .....

**Textual Amendments**

- F266** Words in s. 50 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 51(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F267** Words in s. 50(1) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(2)(a)** (with Sch. 4 Pt. 3)
- F268** Words in s. 50(1)(a) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(2)(b)** (with Sch. 4 Pt. 3)
- F269** Words in s. 50(1)(a)(i) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 45(a)(i)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 4(1))
- F270** Words in s. 50(1)(a)(ii) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 45(a)(ii)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 4(1))
- F271** S. 50(1)(a)(iii) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 29(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F272** Words in s. 50(1)(b) substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(2)(c)** (with Sch. 4 Pt. 3)
- F273** Words in s. 50(1)(b) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 29(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F274** S. 50(1A)(1B) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 45(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(1))
- F275** Words in s. 50(2) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(3)** (with Sch. 4 Pt. 3)
- F276** Words in s. 50(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 51(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 01/11/2007.*

*Changes to legislation: Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F277** Words in s. 50(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 51(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F278** Word in s. 50(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 51(5)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F279** Words in s. 50(4) substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(4)** (with Sch. 4 Pt. 3)
- F280** Words in s. 50(6) substituted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 24(5)** (with Sch. 4 Pt. 3)
- F281** S. 50(7) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 45(c), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(1))

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

- C45** S. 50(1)(a)(ii) extended (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **59**
- C46** S. 50(1B) excluded (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **74**

#### Commencement Information

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

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

- (1) This section applies where—
- an earner's guaranteed minimum pension rights or accrued rights to guaranteed minimum pensions under a scheme [<sup>F282</sup>satisfy prescribed conditions], and
  - one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.
- (2) Where this section applies then, except in such circumstances as may be prescribed, section 16(1) shall have effect, subject to the following provisions, that is to say—
- any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the <sup>M13</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M14</sup>Social Security Administration Act 1992 to come into force before those five tax years; and
  - any relevant earnings factors derived from contributions or earnings in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
    - constitutes or begins before the relevant contributions year, or
    - begins after the final relevant year in relation to the earner.
- (3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.
- (4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 16(2).

*Status: Point in time view as at 01/11/2007.*

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

#### Textual Amendments

**F282** Words in s. 51(1)(a) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 46](#); [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. V](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#)

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

- C47** S. 51(1)-(3) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [67](#)
- C48** S. 51(1)-(3) excluded (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [69](#)

#### Commencement Information

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

#### Marginal Citations

- M13** [1975 c. 60](#).
- M14** [1992 c. 5](#).

### *Supervision of formerly certified schemes*

## 52 Supervision of schemes which have ceased to be certified.

- (1) Section 53 shall apply for the purpose of making provision for securing the continued supervision of occupational pension schemes as respects which subsection (2) applies and section 54 shall apply for the purpose of making corresponding provision in relation to personal pension schemes as respects which subsection (3) applies.

- (2) This subsection applies as respects any occupational pension scheme, other than a public service pension scheme, where—

- [<sup>F283</sup>(a) the scheme has ceased to be a contracted-out scheme [<sup>F284</sup>(whether by virtue of section 15(1) of the Pensions Act 2007 or otherwise)], and
- (b) any persons remain who fall within any of the following categories.]

[<sup>F285</sup>(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]
- [<sup>F286</sup>(c) any persons who have safeguarded rights under the scheme or are entitled to any benefit giving effect to safeguarded rights under it.]

- (3) This subsection applies as respects any personal pension scheme where—



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- [<sup>F287</sup>(a) the scheme has ceased to be an appropriate scheme [<sup>F288</sup>(whether by virtue of section 15(1) of the Pensions Act 2007 or otherwise)], and
- (b) any persons remain who have protected [<sup>F289</sup>, or safeguarded,] rights under the scheme or are entitled to any benefit giving effect to protected [<sup>F289</sup>, or safeguarded,] rights under it]

<sup>F290</sup>(4) . . . . .

<sup>F290</sup>(5) . . . . .

<sup>F290</sup>(6) . . . . .

#### Textual Amendments

- F283** S. 52(2)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F284** Words in s. 52(2)(a) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 25(2)** (with Sch. 4 Pt. 3)
- F285** S. 52(2A) added (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F286** S. 52(2A)(c) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 30(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F287** S. 52(3)(a)(b) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 47(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F288** Words in s. 52(3)(a) inserted (26.9.2007 for specified purposes) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 25(3)** (with Sch. 4 Pt. 3)
- F289** Words in s. 52(3)(b) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 30(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F290** S. 52(4)-(6) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 47(c), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

#### Commencement Information

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

### 53 Supervision: former contracted-out schemes.

- [<sup>F291</sup>(1) The [<sup>F292</sup>Inland Revenue] may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the [<sup>F292</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.
- (1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.
- (1B) A direction under subsection (1) shall be enforceable—
- (a) in England and Wales, in a county court as if it were an order of that court, and
- (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order]
- [<sup>F293</sup>(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under section 23 of the Pensions Act 2004 in relation to the

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scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order—

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

<sup>F294</sup>(2) .....

[<sup>F295</sup>(3) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(2A)(a) or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the [<sup>F292</sup>Inland Revenue] may allow].

<sup>F296</sup>(4) .....

<sup>F296</sup>(5) .....

#### Textual Amendments

- F291** S. 53(1)-(1B) substituted for s. 53(1) (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 48(a)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F292** Words in s. 53 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), **Sch. 1 para. 52**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)
- F293** S. 53(1C) inserted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 10**; S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- F294** S. 53(2) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 48(b)**, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F295** S. 53(3) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 48(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F296** S. 53(4)(5) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 5 para. 48(d)**, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

#### Commencement Information

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

## 54 Supervision: former appropriate personal pension schemes.

[<sup>F297</sup>(1) The [<sup>F298</sup>Inland Revenue] may direct the trustees or managers of the scheme to take or refrain from taking such steps as the [<sup>F298</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(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.]

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[<sup>F297</sup>(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 [<sup>F298</sup>Inland Revenue] may allow].

<sup>F299</sup>(3) .....

**Textual Amendments**

**F297** S. 54(1)(1A)(1B)(2) substituted for s. 54(1)(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 49(a)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**F298** Words in s. 54 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 53**; S.I. 1999/527, art. 2(b), **Sch. 2** (with arts. 3-6)

**F299** S. 54(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 49(b)**, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

**Commencement Information**

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

*State scheme premiums*

**55 Payment of state scheme premiums on termination of certified status.**

<sup>F300</sup>(1) .....

[<sup>F301</sup>(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme (other than a money purchase contracted-out scheme),
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has served for less than two years in the employment,

the prescribed person [<sup>F302</sup>shall, if subsection (2B) applies, pay and otherwise] may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

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

- (a) the earner’s service in the employment ceases otherwise than on the earner’s death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner’s death,
- (c) the earner’s service in the employment ceases on the earner’s death and the earner dies leaving a [<sup>F303</sup>widow, widower or surviving civil partner],
- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pension scheme;

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F304 ... ]

[<sup>F305</sup>(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

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

F306(3) .....

F306(4) .....

F306(5) .....

F306(6) .....

#### Textual Amendments

**F300** S. 55(1) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 50](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

**F301** S. 55(2)(2A) substituted for s. 52(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), [ss. 141\(1\)](#), 180(1); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. V](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

**F302** Words in s. 55(2) inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(a\)](#); S.I. 2001/4049, art. 2(3)(a)

**F303** Words in s. 55(2A)(c) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\)](#), art. 1(3), [Sch. 1 para. 16](#)

**F304** Words in s. 55(2A) repealed (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(b\)](#), [Sch. 13 Pt. I](#); S.I. 2001/4049, art. 2(3)(a)

**F305** S. 55(2B)(2C) inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(5)(a), [Sch. 2 para. 7\(1\)\(c\)](#); S.I. 2001/4049, art. 2(3)(a)

**F306** S. 55(3)-(6) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 50](#), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), [Sch. Pt. II](#) (with art. 4(2)(3))

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

**C49** S. 55(2B) excluded (6.4.2002) by S.I. 1996/1172, [reg. 51\(1A\)](#) (as substituted by [The Occupational and Personal Pension Schemes \(Contracting-out\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/681\)](#), regs. 1, [2\(12\)\(a\)](#))

#### Commencement Information

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

## 56 Provisions supplementary to s. 55.

F307(1) .....

(2) A premium under section 55 shall be paid by the prescribed person to the [<sup>F308</sup>Inland Revenue] within the prescribed period <sup>F309</sup> ...

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<sup>F310</sup>(3) .....

[<sup>F311</sup>(4) Where under the rules of the scheme, transfer credits have been allowed—

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

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

<sup>F312</sup>(5) .....

[<sup>F313</sup>(6) Subject to regulations under paragraph 1 of Schedule 2, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 55(2A) as ceasing immediately before the death]

[<sup>F314</sup>(7) Where a premium under section 55 is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the Pensions Act 2004 (effect of the Board assuming responsibility for an occupational pension scheme), then, subject to subsection (8), sections 55 to 68 apply with such modifications as may be prescribed in relation to that premium.

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

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

#### Textual Amendments

**F307** S. 56(1) repealed (6.4.1997) (with savings for existing state scheme premiums) by *Pensions Act 1995* (c. 26), s. 180(1), Sch. 5 para. 51(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(2)(3))

**F308** Words in s. 56(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by *Social Security Contributions (Transfer of Functions, etc.) Act 1999* (c. 2), s. 28(2)(a), **Sch. 1 para. 54**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**F309** Words in s. 56(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by *Pensions Act 1995* (c. 26), s. 180(1), Sch. 5 para. 51(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(2)(3))

**F310** S. 56(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by *Pensions Act 1995* (c. 26), s. 180(1), Sch. 5 para. 51(a), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(2)(3))

**F311** Words in s. 56(4) substituted (6.4.2006) by *Pensions Act 2004* (c. 35), s. 322(1), **Sch. 12 para. 11(2)**; S.I. 2006/560, art. 2(3), Sch. Pt. 3

**F312** S. 56(5) repealed (6.4.2002) by *Child Support, Pensions and Social Security Act 2000* (c. 19), s. 86(1)(e)(2), **Sch. 9 Pt. III(11)** (with s. 83(6)); S.I. 2002/437, art. 3(3)

**F313** S. 56(5)(6) substituted (6.4.1997) (with savings for existing state scheme premiums) by *Pensions Act 1995* (c. 26), s. 180(1), **Sch. 5 para. 51(b)**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 4(2)(3))

**F314** S. 56(7)(8) inserted (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by *Pensions Act 2004* (c. 35), s. 322(1), **Sch. 12 para. 11(3)**; S.I. 2006/2272, art. 2(3)(a)(b)

*Status: Point in time view as at 01/11/2007.*

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#### **Commencement Information**

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

### **57 Elections to pay contributions equivalent premiums.**

- (1) An election under section 55(2) must be made within the prescribed period and in the prescribed manner.
- (2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.
- (3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.
- (4) If [<sup>F315</sup>the Inland Revenue consider] that the prescribed person is contravening subsection (2), [<sup>F315</sup>they] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.

#### **Textual Amendments**

**F315** Words in s. 57(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 55](#); [S.I. 1999/527, art. 2\(b\), Sch. 2](#) (with arts. 3-6)

#### **Commencement Information**

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

### **58 Amount of premiums payable under s. 55.**

- <sup>F316</sup>(1) .....
- <sup>F316</sup>(2) .....
- <sup>F316</sup>(3) .....

[<sup>F317</sup>(4) Subject to subsection (4A), the amount of the contributions equivalent premium shall be equal to the sum of the following amounts—

- (a) the amount of every reduction made under section 41 (as from time to time in force) in the amount of Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme; and
- (b) the total amount by which the reductions falling within paragraph (a) would have been larger if the amount of the contributions falling to be reduced had in each case been at least equal to the amount of the reduction of those contributions provided for by section 41.

(4A) The amounts brought into account in accordance with subsection (4)(b) shall not include any amount which, by virtue of regulations made under section 41(1D) so as to avoid the payment of trivial or fractional amounts, is an amount that was not payable by the Inland Revenue to the secondary contributor.]



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F318(5) .....

F318(6) .....

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

**Textual Amendments**

**F316** S. 58(1)-(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 52, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F317** S. 58(4)(4A) substituted for s. 58(4) (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 5(1)** (with s. 83(6), Sch. 5 para. 4)

**F318** S. 58(5)(6) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 52, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**Commencement Information**

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

**F319 59 Alternative basis for revaluation of earnings factors for calculation of certain premiums.**

.....

**Textual Amendments**

**F319** S. 59 repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 53, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**60 Effect of payment of premiums on rights.**

F320(1) .....

F320(2) .....

F320(3) .....

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [F321 55(2A)(a) and (b), (d) and (e)] shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme [F322 or (in relation to service on or after the principal appointed day) rights to pensions under the scheme so far as attributable to the amount of the premium].

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section [F323 55(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s [F324 widow, widower or surviving civil partner].

F325(6) .....

F325(7) .....

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- F<sup>325</sup>(8) .....
- F<sup>325</sup>(9) .....
- F<sup>325</sup>(10) .....

#### Textual Amendments

- F320** S. 60(1)-(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 54\(a\), Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. II \(with art. 4\(2\)\(3\)\)](#)
- F321** Words in s. 60(4) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 54\(b\)\(i\); S.I. 1997/664, art. 2\(3\), Sch. Pt. II \(with art. 4\(2\)\(3\)\)](#)
- F322** Words in s. 60(4) added (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 54\(b\)\(ii\); S.I. 1997/664, art. 2\(3\), Sch. Pt. II \(with art. 4\(2\)\(3\)\)](#)
- F323** Word in s. 60(5) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 54\(c\); S.I. 1997/664, art. 2\(3\), Sch. Pt. II \(with art. 4\(2\)\(3\)\)](#)
- F324** Words in s. 60(5) substituted (5.12.2005) by [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005 \(S.I. 2005/2050\), art. 1\(3\), Sch. 1 para. 17](#)
- F325** S. 60(6)-(10) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 54\(d\), Sch. 7 Pt. III; S.I. 1997/664, art. 2\(3\), Sch. Pt. II \(with art. 4\(2\)\(3\)\)](#)

#### Commencement Information

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

## 61 Deduction of contributions equivalent premium from refund of scheme contributions.

- (1) This section applies where—
- [<sup>F326</sup>(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and]
  - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
  - (c) a contributions equivalent premium falls to be paid by any person in respect of him.
- (2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to [<sup>F327</sup>any actual reductions of] primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made,

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the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.

- (5) Where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
  - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,
- the amount which may be recovered under this section shall be increased by such amount as may be prescribed.
- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where—
- <sup>[F328]</sup>(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment]
  - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
  - (c) a contributions equivalent premium falls to be paid in respect of him; and
  - (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment,
- then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to service in the employment on the <sup>[F329]</sup>cessation] of which the premium falls to be paid (and subsection (7) shall apply accordingly).
- (9) This section shall apply in relation to such a refund as is referred to in subsection (1)(b) which becomes payable after the <sup>[F330]</sup>cessation] of an earner's service in contracted-out employment as it applies to such a refund becoming payable on the <sup>[F330]</sup>cessation] of an earner's service in such employment.
- <sup>[F331]</sup>(9A) Where under section 101AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.]
- (10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).
- (11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being

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or having been a member of an occupational pension scheme, being a payment which either—

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

#### Textual Amendments

- F326** S. 61(1)(a) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(a\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F327** Words in s. 61(2) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), [Sch. 5 para. 5\(2\)](#) (with s. 83(6), Sch. 5 para. 4)
- F328** S. 61(8)(a) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(b\)\(i\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F329** Word in s. 61(8) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(b\)\(ii\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F330** Word in s. 61(9) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 55\(c\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F331** S. 61(9A) inserted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 12](#); S.I. 2005/3331, art. 2(6), Sch. Pt. 6

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

- C50** S. 61 modified (6.4.2007) by [The Pension Protection Fund \(Contributions Equivalent Premium\) Regulations 2007 \(S.I. 2007/834\)](#), regs. 1(1), [8](#)

#### Commencement Information

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

## 62 No recovery of state scheme premiums from earners etc.

- (1) Notwithstanding any contract to the contrary, a person shall not be entitled—
- (a) to recover any part of a [<sup>F332</sup>contributions equivalent] premium from any earner in respect of whom it is payable; or
  - (b) except in accordance with section 61, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

<sup>F333</sup>(2) .....

#### Textual Amendments

- F332** Words in s. 62(1) substituted (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 56\(a\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F333** S. 62(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 56(b), [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

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### Commencement Information

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

## 63 Further provisions concerning calculations relating to premiums.

- (1) The following amounts shall be certified by the [<sup>F334</sup>Inland Revenue]—
- <sup>F335</sup>(a) .....
- [<sup>F336</sup>(b) the sum of the amounts specified in section 58(4);]
- <sup>F337</sup>(c) .....
- (d) the amount mentioned in section 61(2).
- <sup>F338</sup>(2) .....
- (3) If the [<sup>F334</sup>Inland Revenue]—
- <sup>F339</sup>(a) .....
- (b) [<sup>F340</sup>are satisfied] that records of earnings relevant for determining the amount mentioned in [<sup>F341</sup>section 58(4)] have not been maintained or retained or are otherwise unobtainable,
- then [<sup>F340</sup>they may] for that purpose—
- (i) compute, in such manner as [<sup>F340</sup>they think] fit, an amount which shall be regarded as the amount of those earnings; or
- (ii) take their amount to be such sum as he may specify in the particular case,
- <sup>F342</sup>...
- <sup>F343</sup>(4) .....
- (5) For the purposes of subsection (1) the [<sup>F334</sup>Inland Revenue] may make such adjustments as [<sup>F344</sup>they think] necessary for avoiding fractional amounts.

### Textual Amendments

- F334** Words in s. 63 substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 56(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F335** S. 63(1)(a) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(a)(i), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F336** S. 63(1)(b) substituted (28.7.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 5(3)** (with s. 83(6), Sch. 5 para. 4)
- F337** S. 63(1)(c) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(a)(iii), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F338** S. 63(2) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F339** S. 63(3)(a) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(c)(i), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F340** Words in s. 63(3) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 56(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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- F341** Words in s. 63(3)(b) substituted (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 57(c)(ii)**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F342** Words in s. 63(3) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(c)(iii), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F343** S. 63(4) repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 57(d), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F344** Words in s. 63(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 56(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Commencement Information**

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

**F345 64 Actuarial tables for purposes of calculations relating to premiums.**

.....

**Textual Amendments**

- F345** S. 64 repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 58, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F346 65 Inclusion of former and future earners for some purposes of this Chapter.**

.....

**Textual Amendments**

- F346** S. 65 repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 59, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**F347 66 Power to apply certain provisions to widowers.**

.....

**Textual Amendments**

- F347** S. 66 repealed (6.4.1997) (with savings for existing state scheme premiums) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 60, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))

**67 Non-payment of [F348 contributions equivalent premiums].**

- (1) If a person fails to pay any [F348 contributions equivalent premium] which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.



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- (2) Where—
- (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
  - (b) the premium remains unpaid at the date of the conviction,
- he shall be liable to pay to the [<sup>F349</sup>Inland Revenue] a sum equal to the amount which he failed to pay.
- (3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay [<sup>F348</sup>contributions equivalent premiums] within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

#### Textual Amendments

**F348** Words in s. 67 substituted (6.4.1997) (with savings for existing state scheme premiums) by virtue of [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 61](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. II](#) (with art. 4(2) (3))

**F349** Words in s. 67(2) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 57](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#) (with arts. 3-6)

#### Commencement Information

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

## 68 Unpaid premiums: supplementary.

- (1) Where in England and Wales a person charged with an offence to which section 67(2) applies is convicted of that offence in his absence under section [<sup>F350</sup>12(5)] of the <sup>M15</sup>Magistrates' Courts Act 1980, then if—
- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 67(4) has been duly served specifying the other premiums in respect of which the prosecutor intends to give evidence; and
  - (b) the [<sup>F351</sup>designated officer for] the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,
- section 67(3) and (4) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.
- (2) In England and Wales where—
- (a) a person is convicted of an offence to which section 67(2) applies; and
  - (b) an order is made under [<sup>F352</sup>section 12 of the Powers of Criminal Courts (Sentencing) Act 2000] discharging him absolutely or conditionally,

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

(3) In Scotland where—

- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
- (b) an order is made under the <sup>M16</sup>Criminal Procedure (Scotland) Act 1975 discharging the offender absolutely or placing him on probation,

section 67(2) to (4) shall apply as if—

- (i) the conviction on indictment were a conviction for all purposes; or
- (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

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

(5) [<sup>F353</sup>Contributions equivalent premiums] recovered by the [<sup>F354</sup>Inland Revenue] under those provisions shall be treated for all purposes as premiums paid to the [<sup>F354</sup>Inland Revenue] in respect of the person in respect of whom they were originally payable.

#### Textual Amendments

- F350** Word in s. 68(1) substituted (1.9.1998) by [Magistrates' Courts \(Procedure\) Act 1998 \(c. 15\), ss. 4\(2\)\(b\), 5\(2\)](#); S.I. 1998/1837, art. 2
- F351** Words in s. 68(1)(b) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\), s. 110\(1\), Sch. 8 para. 361](#); S.I. 2005/910, art. 3(y)
- F352** Words in s. 68(2) substituted (25.8.2000) by [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\), s. 168\(1\), Sch. 9 para. 157](#)
- F353** Words in s. 68 substituted (6.4.1997) (with savings for existing state scheme premiums) by virtue of [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 61](#); S.I. 1997/664, art. 2(3), Sch. Pt. II (with art. 4(2)(3))
- F354** Words in s. 68(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 58](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

#### Commencement Information

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

#### Marginal Citations

- M15** 1980 c. 43.  
**M16** 1975 c. 21.

**Status:**

Point in time view as at 01/11/2007.

**Changes to legislation:**

Pension Schemes Act 1993, Part III is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.