



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART IV **E+W+S**

#### PROTECTION FOR EARLY LEAVERS

### CHAPTER I **E+W+S**

#### PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

#### **69** Scope of Chapter I: the preservation requirements. **E+W+S**

- (1) This Chapter has effect in relation to the preservation of benefit under occupational pension schemes to which it applies.
- (2) In this Act “the preservation requirements” means the requirements specified in or under sections 71 to 82.
- (3) This Chapter applies to any occupational pension scheme whose resources are derived in whole or in part from—
  - (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
    - (i) under an actual or contingent legal obligation; or
    - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
  - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

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

- C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

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*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

### Commencement Information

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

## 70 Interpretation. **E+W+S**

(1) In this Chapter—

“scheme” means an occupational pension scheme to which this Chapter applies;

“relevant employment”, in relation to a scheme, means any employment to which the scheme applies;

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

(a) that he remains in relevant employment, and

(b) that he continues to render service which qualifies him for benefits,

until he attains normal pension age; and in this definition “benefits” means—

(i) retirement benefit for the member himself at normal pension age, or

(ii) benefit for the member’s [<sup>F1</sup>wife, husband, civil partner, widow, widower, or surviving civil partner], or dependants, or others, on his attaining that age or his later death, or

(iii) both such descriptions of benefit.

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

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

(a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service; and

(b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.

### Textual Amendments

**F1** Words in [s. 70\(1\)](#) substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), [Sch. para. 11](#)

### Modifications etc. (not altering text)

**C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)

### 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 01/04/2014.*

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## 71 Basic principle as to short service benefit. **E+W+S**

- (1) A scheme must make such provision that where a member's pensionable service is terminated before normal pension age and—
  - (a) he has at least 2 years' qualifying service, or
  - (b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.
- (2) The benefit to which a member is entitled under subsection (1) is referred to in this Act as "short service benefit".
- [<sup>F2</sup>(3) Subject to [<sup>F3</sup>subsections (4) and (5A)], short service benefit must be made payable as from an age which is no greater than—
  - (a) the age of 65, or
  - (b) if in the member's case normal pension age is greater than 65, normal pension age.]
- (4) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time after it as long service benefit payable on or in respect of his death would be payable.
- (5) In applying subsections (3) and (4), no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.
- [<sup>F4</sup>(5A) Subsection (3) does not apply in relation to a scheme under section 1 of the Public Service Pensions Act 2013.]
- (6) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.
- (7) In subsection (1) "2 years' qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—
  - (a) in pensionable service under the scheme; or
  - (b) in service in employment which was contracted-out by reference to the scheme; or
  - (c) in linked qualifying service under another scheme.
- (8) For the purposes of subsection (7), no regard shall be had to whether or not the service was of the same description in the whole of the 2 years.
- (9) A period of service previously terminated is not to count towards the 2 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

### Textual Amendments

- F2** S. 71(3) substituted (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), **ss. 263(1)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), Sch. Pt. 7

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- F3** Words in s. 71(3) substituted (1.4.2014 for specified purposes) by [Public Service Pensions Act 2013 \(c. 25\), s. 41\(2\), Sch. 8 para. 19\(2\)](#) (with [Sch. 11 para. 8](#)); [S.I. 2014/839, art. 4\(3\)](#)
- F4** [S. 71\(5A\)](#) inserted (1.4.2014 for specified purposes) by [Public Service Pensions Act 2013 \(c. 25\), s. 41\(2\), Sch. 8 para. 19\(3\)](#) (with [Sch. 11 para. 8](#)); [S.I. 2014/839, art. 4\(3\)](#)

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

- C1** [Ss. 69-76](#) modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\), regs. 1, 14, Sch. 2 para. 3](#)
- C2** [S. 71](#) modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\), regs. 1\(1\), 2\(2\)\(3\)](#)

**Commencement Information**

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

**72 No discrimination between short service and long service beneficiaries. E+W  
+S**

- (1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.
- (2) Subsection (1) does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, unless the rule—
- (a) was made after the termination of a member's pensionable service; and
  - (b) results, or is capable of resulting, in any treatment less favourable for him than that to which he would have been entitled but for the rule.
- (3) Subsection (1) does not apply to a rule which merely confers discretion on the scheme's trustees or managers, or others, so long as it is not a rule requiring the discretion to be exercised in any discriminatory manner against members in respect of their short service benefit.
- [<sup>F5</sup>(4) This section is subject to subsections (3) and (6) of section 71 (age at which short service benefit is to be payable).]

**Textual Amendments**

- F5** [S. 72\(4\)](#) added (6.4.2005) by [Pensions Act 2004 \(c. 35\), ss. 263\(2\), 322\(1\)](#) (with [s. 313](#)); [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

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

- C1** [Ss. 69-76](#) modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\), regs. 1, 14, Sch. 2 para. 3](#)

**Commencement Information**

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

**73 Form of short service benefit and its alternatives. E+W+S**

- (1) Subject to subsection (2) and section 81, a member's short service benefit must be—
- (a) payable directly out of the resources of the scheme; or

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- (b) assured to him by such means as may be prescribed.
- (2) Subject to subsections (3) to (5), a scheme may, instead of providing short service benefit, provide—
- (a) for the member's accrued rights (including any transfer credits allowed under the scheme)—
- (i) to be transferred to another occupational pension scheme with a view to acquiring transfer credits for the member under the other scheme, or
- (ii) to be transferred to a personal pension scheme <sup>F6</sup>... with a view to acquiring rights for the member under the rules of the scheme <sup>F6</sup>...; or
- (b) for such alternatives to short service benefit as may be prescribed.
- (3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter IV of this Part.
- (4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for short service benefit—
- (a) if the member consents; or
- (b) in such other cases as may be prescribed.
- (5) An alternative prescribed under subsection (2)(b) may only include payment by way of return of contributions—
- (a) if they relate to a period of service before 6th April 1975; or
- (b) if there has been such a payment relating to a period of service before that date and the contributions relate to a period of service of less than 5 years after that date.

#### Textual Amendments

**F6** Words in s. 73(2)(a)(ii) repealed (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. 3\(2\)\(a\)](#), [Sch. 13 Pt. 1](#); [S.I. 2000/1047](#), art. 2(2)(b), [Sch. Pt. 2](#)

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

**C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)

#### Commencement Information

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

## 74 Computation of short service benefit. **E+W+S**

- (1) Subject to the provisions of this section, a scheme must provide for short service benefit to be computed on the same basis as long service benefit.
- (2) For that purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.
- (3) Subsection (1) does not apply to so much of any benefit as accrues at a higher rate, or otherwise more favourably, in the case—

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- (a) of members with a period of pensionable service of some specified minimum length, or
  - (b) of members remaining in pensionable service up to some specified minimum age.
- (4) Subsection (1) does not apply to so much of any benefit as is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.
- (5) Regulations may provide that subsection (1) shall not apply to any category of schemes or members, or description of benefit.
- (6) So far as any short service benefit is not required to be computed in accordance with subsection (1), it must be computed on the basis of uniform accrual, so that at the time when pensionable service is terminated, it bears the same proportion to long service benefit as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.
- (7) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before, the time when his pensionable service is terminated.
- (8) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

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

- C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

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

**75 Credits. E+W+S**

(1) In this section—

“supplementary credits”, in relation to a scheme and a member's entitlement to its benefits, means any increase of benefit or additional benefit to which the member may become entitled—

- (a) in consequence of any provision made by or under the scheme after he becomes a member of it (to the extent that it applies to any previous pensionable service of his); or
- (b) by reference to previous service of his (whether or not pensionable service); or
- (c) in such other circumstances as may be prescribed,

including under paragraph (b) any transfer credits;

“purchased credits” means supplementary credits for which, under the rules of the scheme, a member may or must make a payment in whole or in part (whether by means of additional contributions, or of deduction from

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benefit, or otherwise, and whether separately for each credit or by one or more payments for one or more credits);

“bonus credits” means supplementary credits other than purchased credits or transfer credits.

- (2) Subject to subsections (3) to (7), if a scheme provides for long service benefit to include supplementary credits, it must—
  - (a) provide for such credits to be included in short service benefit, and
  - (b) provide for all credits to be so included.
- (3) Where purchased credits have not been paid for in full at or before termination of pensionable service, the short service benefit must include the appropriate proportion of the credits.
- (4) In subsection (3) “the appropriate proportion of the credits” means—
  - (a) if they were to be paid for by a fixed amount, the same proportion as the amount paid bears to the full amount payable; and
  - (b) otherwise, the same proportion as the period between the time when the first payment became due and the termination of the member’s pensionable service bears to the whole period over which payment was to be made.
- (5) If the benefit includes bonus credits, or credits for which payment is to be made by deduction from that or another benefit, the credits to be included in the benefit and (where applicable) the amount of the deduction must be computed on the assumption—
  - (a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age; and
  - (b) that the amount of any such credit, and also of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.
- (6) Where any such deduction is a percentage of benefit, the percentage must be the same for short service as for long service benefit.
- (7) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

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

**C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

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

**76 Pension increases. E+W+S**

- (1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards revaluation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.

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- (2) Where the provision for increasing long service benefit involves the exercise of a discretion, a corresponding discretion must be conferred in relation to short service benefit.
- (3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.
- (4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, if the rate is at least 3 per cent. a year compound.

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

**C1** Ss. 69-76 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

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

**F777 Assignment, surrender and commutation of benefit. E+W+S**

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**Textual Amendments**

**F7** Ss. 77-80 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II** (with art. 8)

**F778 Forfeiture, etc. E+W+S**

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**Textual Amendments**

**F7** Ss. 77-80 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II** (with art. 8)

**F779 Charges, liens and set-offs. E+W+S**

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**Textual Amendments**

**F7** Ss. 77-80 repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II** (with art. 8)



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**F7 80 Power to modify ss. 77 to 79 as respects alternative benefits. E+W+S**

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**Textual Amendments**

**F7** Ss. 77-80 repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 3 para. 24, **Sch. 7 Pt. I**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 8)

**81 Discharge of liability where short service or alternative benefits secured by insurance policies or annuity contracts. E+W+S**

A transaction to which section 19 applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person short service benefit or any alternative to short service benefit—

- (a) if it is carried out not earlier than the time when that person’s pensionable service terminates; and
- (b) if and to the extent that it results in short service benefit or any alternative to short service benefit for or in respect of that person being appropriately secured (within the meaning of that section); and
- (c) if and to the extent that the requirements set out in paragraph (a) or (c) of section 19(5) are satisfied.

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

**C3** S. 81 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

**Commencement Information**

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

**82 Supplementary regulations. E+W+S**

- (1) Regulations may provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of any specified provision contained in sections 71 to 79.
- (2) Regulations may make provision as to the circumstances in which, for the purposes of sections 70 to 79—
  - (a) a period of a person’s service in two or more different employments is to be treated as a period of service in one or more of those employments; or
  - (b) a person’s service in any employment is to be treated as terminated or not terminated.

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

**C4** S. 82 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

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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 **E+W+S**

### REVALUATION OF ACCRUED BENEFITS (EXCLUDING GUARANTEED MINIMUM PENSIONS)

#### 83 **Scope of Chapter II. **E+W+S****

- (1) This Chapter applies for the purpose of revaluing—
- (a) [<sup>F8</sup>relevant] benefits payable to or in respect of a member of an occupational pension scheme where—
    - (i) his pensionable service ends on or after 1st January 1986;
    - (ii) on the date on which his pensionable service ends (in this Chapter referred to as “the termination date”) he has accrued rights to benefit under the scheme;
    - (iii) the period beginning with the day after the termination date and ending with the date on which he attains normal pension age (in this Chapter referred to as “the pre-pension period”) is at least 365 days; and
    - (iv) in the case of benefit payable to any other person in respect of the member, the member dies after attaining normal pension age; and
  - (b) [<sup>F8</sup>relevant] benefits payable to or in respect of a member of a personal pension scheme—
    - (i) in respect of whom contributions to the scheme have ceased to be paid; and
    - (ii) who has accrued rights to benefit under the scheme.

[<sup>F9</sup>(1A) The following are relevant benefits for the purposes of subsection (1)—

- (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
- (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service.]

[<sup>F10</sup>(1B) The reference in subsection (1)(a)(iii) to normal pension age is to be read, in relation to a person who is an active or deferred member of a scheme under section 1 or 31(7) of the Public Service Pensions Act 2013, as—

- (a) the member's normal pension age within the meaning of that Act, or
- (b) the member's deferred pension age within the meaning of that Act, if that is later.

In this subsection “active member” and “deferred member”, in relation to such a scheme, have the meanings given by section 124(1) of the Pensions Act 1995.]

(2) In calculating 365 days for the purpose of subsection (1)(a)(iii), any day which is 29th February shall be disregarded.

(3) In subsection (1)(b)—

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- (a) the reference to a personal pension scheme does not include a scheme which is comprised in an annuity contract made before 4th January 1988; and
- (b) the reference to contributions includes any minimum contributions.

[<sup>F11</sup>(4) For the purposes of this section, an occupational pension scheme is salary related if—

- (a) it is not a money purchase scheme, and
- (b) it does not fall within a prescribed class.]

#### Textual Amendments

- F8** Words in s. 83(1) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 31(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F9** S. 83(1A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 31(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F10** S. 83(1B) inserted (1.4.2014 for specified purposes) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 8 para. 20** (with Sch. 11 para. 8); S.I. 2014/839, art. 4(3)
- F11** S. 83(4) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 31(4)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C5** Ss. 83-86 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

## 84 Basis of revaluation. **E+W+S**

- (1) Subject to subsections (2) and (3), in the case of such benefits as are mentioned in section 83(1)(a), any pension or other retirement benefit payable under the scheme in question to the member and any pension or other benefit payable under it to any other person in respect of him, is to be revalued by the final salary method.
- (2) If—
  - (a) any such benefit is an average salary benefit or flat rate benefit; and
  - (b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the average salary method or, as the case may be, the flat rate method,then the benefit shall be revalued using that method.
- (3) If any benefit such as is mentioned in paragraph (a) of section 83(1) is a money purchase benefit, and in the case of such benefit as is mentioned in paragraph (b) of that section, the benefit shall be revalued using the money purchase method.
- (4) In this section—
  - “average salary benefit” means benefit the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;
  - “flat rate benefit” means any benefit the rate or amount of which is calculated by reference solely to the member’s length of service;

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

“average salary method”, “final salary method”, “flat rate method” and “money purchase method” have the meanings given in Schedule 3.

(5) The fact that a scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of him to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 151(1) of the <sup>M1</sup>Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes); <sup>F12</sup>... [<sup>F13</sup>or
- (b) under any arrangement which [<sup>F14</sup>in the opinion of the Secretary of State, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain] during that period,]

does not in itself result in conflict with this section, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member's [<sup>F15</sup>widow, widower [<sup>F16</sup>, surviving same sex spouse] or surviving civil partner] has not been deducted.

<sup>F17</sup>(6) .....

#### Textual Amendments

- F12** Words in s. 84(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 62, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F13** S. 84(5)(b) and word inserted (18.11.2004) by Pensions Act 2004 (c. 35), **ss. 281(2)**, 322(2)(b) (with s. 313)
- F14** Words in s. 84(5)(b) substituted (3.1.2012) by Pensions Act 2011 (c. 19), **ss. 19(2)**, 38(4); S.I. 2011/3034, art. 3(b)
- F15** Words in s. 84(5) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 12**
- F16** Words in s. 84(5) inserted (E.W.) (13.3.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 25**; S.I. 2014/93, art. 3(j)(vii)
- F17** S. 84(6) omitted (3.1.2012) by virtue of Pensions Act 2011 (c. 19), **ss. 19(3)**, 38(4); S.I. 2011/3034, art. 3(b)

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

- C5** Ss. 83-86 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

#### Marginal Citations

- M1** 1992 c. 5.

## 85 Revaluation not to apply to substituted benefit. **E+W+S**

Nothing in this Chapter is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of section 73(2)(b) [<sup>F18</sup>or 101D(2)(b)] by way of complete substitute for another pension or benefit.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

#### Textual Amendments

**F18** Words in s. 85 inserted (1.12.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(1\), Sch. 12 para. 32](#); [S.I. 2000/1047, art. 2\(2\)\(d\), Sch. Pt. 4](#)

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

**C5** Ss. 83-86 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\), regs. 1, 14, Sch. 2 para. 3](#)

#### Commencement Information

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

### 86 Supplementary provisions. **E+W+S**

- (1) In making any calculation for the purposes of this Chapter in relation to any occupational pension scheme—
- (a) any commutation, forfeiture or surrender of,
  - (b) any charge or lien on, and
  - (c) any set-off against,
- the whole or part of a pension shall be disregarded.
- (2) The same money may not be treated as providing both the increase in benefit required by this Chapter and the benefit required by Chapter III.

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

**C5** Ss. 83-86 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\), regs. 1, 14, Sch. 2 para. 3](#)

#### Commencement Information

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

## CHAPTER III **E+W+S**

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

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

**C6** [Pt. IV Ch. III](#) excluded (12.2.2001 for specified purposes) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 86\(1\)\(b\)\(2\), Sch. 5 para. 14](#) (with [s. 83\(6\)](#)); [S.I. 2000/3166, art. 2\(5\)](#) (as amended (28.3.2001) by [S.I. 2001/1252, art. 3](#))

### 87 General protection principle. **E+W+S**

- (1) This subsection applies where—
- (a) there is an interval between—
    - (i) the date on which an earner ceases to be in employment which is contracted-out by reference to an occupational pension scheme

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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>F19</sup>that satisfies the requirements of section 9(2)] (“the cessation date”); and
- (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
- (b) the relevant sum exceeds his guaranteed minimum on the day after the cessation date; and
- (c) on the commencement of payment date or at any time after it his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the cessation date.
- (2) This subsection applies where—
- (a) there is an interval between the earner’s cessation date and whichever of the following is the earlier—
- (i) the date of his death; or
- (ii) his commencement of payment date;
- (b) the relevant sum exceeds one half of the earner’s guaranteed minimum on the day after the cessation date; and
- (c) at any time when a pension under the occupational pension scheme is required to be paid to the earner’s [<sup>F20</sup>widow, widower or surviving civil partner, the widow's, widower’s or surviving civil partner’s (as the case may be)] guaranteed minimum pension under the scheme exceeds one half of the earner’s guaranteed minimum on the day after the cessation date.
- (3) Where subsection (1) or (2) applies, the weekly rate of the pension payable to the member at any time when that pension is required to be paid or, as the case may be, payable to the [<sup>F21</sup>widow, widower or surviving civil partner] at any such time as is mentioned in subsection (2)(c) shall be an amount not less—
- (a) in a case where by virtue of section 73(2)(b) a pension is provided by way of complete substitute for short service benefit or, as the case may be, for [<sup>F22</sup>widow's, widower’s or surviving civil partner's] pension, than the weekly rate of that pension; and
- (b) in any other case, than the relevant aggregate.
- (4) In subsection (3) “the relevant aggregate” means the aggregate of the following—
- (a) the relevant sum;
- (b) the excess mentioned in subsection (1)(c) or, as the case may be, subsection (2)(c);
- (c) any amount which is an appropriate addition at the time in question; and
- (d) where the scheme provides that part of the earner’s or, as the case may be, the [<sup>F23</sup>widow's, widower’s or surviving civil partner's] pension shall accrue after the cessation date by reason of the earner’s employment after that date, the later earnings addition.
- (5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before 1st January 1985, they are to be disregarded for the purposes of subsections (1)(c), (2)(c) and (4)(b).
- (6) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

- (7) This section does not apply to a pension to which a person is entitled in respect of employment if—
- (a) the earner left the employment or left it for the last time before 1st January 1985; or
  - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him before that date.

#### Textual Amendments

- F19** Words in s. 87(1)(a)(i) substituted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being “the abolition date” for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 28](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F20** Words in s. 87(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. 18\(a\)](#)
- F21** Words in s. 87(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. 18\(b\)](#)
- F22** Words in s. 87(3)(a) 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. 18\(c\)](#)
- F23** Words in s. 87(4)(d) 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. 18\(c\)](#)

#### Commencement Information

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

## 88 The relevant sum. **E+W+S**

- (1) For the purposes of this Chapter “the relevant sum” means—
- (a) in a case where subsection (1) of section 87 applies—
    - (i) if the earner reaches normal pension age on or before the cessation date, an amount equal to the weekly rate of his pension on the day after the cessation date; and
    - (ii) if he reaches normal pension age after the cessation date, an amount equal to the weekly rate of any short service benefit which has accrued to him on the cessation date or, where no such benefit has then accrued, any other benefit to which this sub-paragraph applies and which has then accrued to him; and
  - (b) in a case where subsection (2) of that section applies, an amount equal to the weekly rate at which, on the prescribed assumptions, a pension would have begun to be paid to the [F24widow, widower or surviving civil partner] if that person had satisfied the conditions for entitlement to a pension which are specified in the scheme.
- (2) Paragraph (a) of subsection (1) has effect subject to subsection (5) and to sections 87(5) and 91(1), and paragraph (b) of subsection (1) has effect subject to section 87(5).
- (3) The benefit other than short service benefit to which subsection (1)(a)(ii) applies is benefit—

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

- (a) which would have been provided as either the whole or part of the earner’s short service benefit; or
  - (b) of which the earner’s short service benefit would have formed part, if section 71(1)(a) had effect with the substitution of a reference to the service which the earner had on the cessation date for the reference to 2 years’ qualifying service.
- (4) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if section 71(1) had effect as mentioned in subsection (3).
- (5) If the payment of any part of the earner’s pension is postponed beyond the cessation date, the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the cessation date if there had been no such postponement.

#### Textual Amendments

**F24** Words in s. 88(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. 19](#)

#### Commencement Information

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

## 89 The appropriate addition. **E+W+S**

- (1) For the purposes of this Chapter “appropriate addition” means—
- (a) where a scheme provides that part of an earner’s or, as the case may be, a [<sup>F25</sup>widow's, widower’s or surviving civil partner's] pension shall accrue after the cessation date by reason of the earner’s employment after that date, an amount equal to the part which has so accrued; and
  - (b) where a scheme provides that an earner’s or, as the case may be, a [<sup>F26</sup>widow's, widower’s or surviving civil partner's] pension which has accrued before that date shall be enhanced after that date if payment of the earner’s pension is postponed, the amount by which the unguaranteed element of the pension has been enhanced by reason of the postponement.
- (2) For the purposes of subsection (1)(b) the unguaranteed element of a pension is—
- (a) in the case of an earner’s pension, the excess of the pension on the day after the cessation date over the earner’s guaranteed minimum on that day; and
  - (b) in the case of the [<sup>F27</sup>widow's, widower’s or surviving civil partner's] pension, the excess of that pension on that day over one half of the earner’s guaranteed minimum on that day.

#### Textual Amendments

**F25** Words in s. 89(1)(a) 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. 20](#)

**F26** Words in s. 89(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. 20](#)



*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

**F27** Words in s. 89(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. 20](#)

#### Commencement Information

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

## 90 The later earnings addition. **E+W+S**

- (1) For the purposes of this Chapter “the later earnings addition” means the amount (if any) by which the assumed later unguaranteed element exceeds the unguaranteed element.
- (2) In subsection (1)—
  - (a) “the unguaranteed element” means the amount by which the relevant sum exceeds the earner’s guaranteed minimum on the day after his cessation date or, in the case of a [<sup>F28</sup>widow's, widower's or surviving civil partner's] pension, one half of that minimum; and
  - (b) “the assumed later unguaranteed element” means the amount by which the relevant sum would exceed the earner’s guaranteed minimum (or, in the case of a [<sup>F29</sup>widow's, widower's or surviving civil partner's] pension, one half of that minimum) on the assumptions mentioned in subsection (3).
- (3) The assumptions mentioned in subsection (2) are—
  - (a) that the relevant sum were calculated on the basis that the weekly rate of the pension or benefit which determines that sum had been calculated by reference to the level of earnings by reference to which that rate would have been calculated if the earner’s cessation date had fallen on the earlier of—
    - (i) the earner’s commencement of payment date, or
    - (ii) the date on which the earner ceased to be in pensionable service under the scheme; and
  - (b) that the earner’s guaranteed minimum were such sum as bears the same proportion to the assumed later unguaranteed element as the guaranteed minimum mentioned in subsection (2)(a) bears to the unguaranteed element.

#### Textual Amendments

**F28** Words in s. 90(2)(a) 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. 21](#)

**F29** Words in s. 90(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. 21](#)

#### Commencement Information

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

## 91 Special provision where employment continues after it ceases to be contracted-out by reference to scheme. **E+W+S**

- (1) If—

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

- (a) an earner’s employment ceases to be contracted-out by reference to an occupational pension scheme but the scheme continues to apply to it; or
- (b) an earner transfers from employment which is contracted-out by reference to an occupational pension scheme to employment to which the scheme applies but which is not contracted-out by reference to it,

the amount of any short service or other benefit which has accrued to the earner shall be computed for the purposes of section 88(1)(a)(ii) as it would be computed if he had ceased on the cessation date to be in employment to which the scheme applies.

(2) If—

- (a) a benefit under a scheme is conditional on an earner attaining a particular age or having a particular length of service; and
- (b) one of the events mentioned in subsection (1) occurs before he has fulfilled the condition; but
- (c) he continues to be in employment to which the scheme applies until he has done so,

the earner shall be treated for the purposes of the previous provisions of this Chapter as if that benefit had accrued to him.

#### **Commencement Information**

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

## **92 Supplementary provisions. E+W+S**

(1) In making any calculation for the purposes of this Chapter—

- (a) any commutation, forfeiture or surrender of,
- (b) any charge or lien on, and
- (c) any set-off against,

the whole or part of a pension shall be disregarded.

(2) In calculating an earner’s guaranteed minimum for the purposes of this Chapter his earnings factor shall be taken to be that factor as increased, except as provided by subsection (3), by the last order under section 21 of the <sup>M2</sup>Social Security Pensions Act 1975 or section 148 of the <sup>M3</sup>Social Security Administration Act 1992 to come into force before the end of the tax year in which the cessation date falls.

(3) If an earner’s cessation date falls in the tax year in which he attains pensionable age, subsection (2) shall have effect in relation to him as if for the words from “tax year” onwards there were substituted the words “final relevant year”.

(4) In this section “final relevant year” has the same meaning as in section 16.

(5) Any reference in this Chapter to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.

#### **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 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

#### Marginal Citations

M2 1975 c. 60.

M3 1992 c. 5.

## CHAPTER IV **E+W+S**

### TRANSFER VALUES

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

C7 Pt. IV Ch. IV applied (31.5.1994) by [The Railway Pensions \(Protection and Designation of Schemes\) Order 1994 \(S.I. 1994/1432\)](#), arts. 1(1), 6(4)

## 93 Scope of Chapter IV. **E+W+S**

(1) This Chapter applies—

[<sup>F30</sup>(a) to any member of an occupational pension scheme—

(i) whose pensionable service has terminated at least one year before normal pension age, and

(ii) who on the date on which his pensionable service terminated had accrued rights to benefit under the scheme,

except a member of a salary related occupational pension scheme whose pensionable service terminated before 1st January 1986 and in respect of whom prescribed requirements are satisfied]; and

(b) to any member of a personal pension scheme (other than a scheme which is comprised in an annuity contract made before 4th January 1988) who has accrued rights to benefit under the scheme.

[<sup>F31</sup>(1ZA) In subsection (1), references to accrued rights to benefit do not include rights which are attributable (directly or indirectly) to a pension credit.]

[<sup>F32</sup>(1A) For the purposes of this section and the following provisions of this Chapter, an occupational pension scheme is salary related if—

(a) the scheme is not a money purchase scheme, and

(b) the scheme does not fall within a prescribed class.

(1B) Regulations may—

(a) provide for this Chapter not to apply in relation to a person of a prescribed description, or

[<sup>F33</sup>(aa) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;]

(b) apply this Chapter with prescribed modifications to occupational pension schemes—

(i) which are not money purchase schemes, but

(ii) where some of the benefits that may be provided are money purchase benefits.]

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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) Any reference to a member of an occupational pension scheme or a personal pension scheme in the following provisions of this Chapter is a reference to a member of such a scheme to whom this Chapter applies.

#### Textual Amendments

- F30** S. 93(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), ss. 152(2), 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F31** S. 93(1ZA) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), Sch. 12 para. 33; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F32** S. 93(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), ss. 152(3), 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F33** S. 93(1B)(aa) inserted (26.11.2008) by Pensions Act 2008 (c. 30), ss. 134(2), 149(2)

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

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, 116-118
- C9** S. 93 modified (1.12.2000) by The Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048), regs. 1(1), 3
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, Sch. 2 para. 3

#### Commencement Information

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

### [<sup>F34</sup>93A Salary related schemes: right to statement of entitlement **E+W+S**

- (1) The trustees or managers of a salary related occupational pension scheme must, on the application of any member, provide the member with a written statement (in this Chapter referred to as a “statement of entitlement”) of the amount of the cash equivalent at the guarantee date of any benefits which have accrued to or in respect of him under the applicable rules.

[ In subsection (1), the reference to benefits which have accrued does not include <sup>F35</sup>(1A) benefits which are attributable (directly or indirectly) to a pension credit.]

- (2) In this section—

“the applicable rules” has the same meaning as in section 94;

“the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—

- (a) within the prescribed period beginning with the date of the application, and
- (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (3) Regulations may make provision in relation to applications for a statement of entitlement, including, in particular, provision as to the period which must elapse after the making of such an application before a member may make a further such application.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

- (4) If, in the case of any scheme, a statement of entitlement has not been provided under this section, section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) applies to any trustee or manager who has failed to take all such steps as are reasonable to secure compliance with this section.]

#### Textual Amendments

- F34** S. 93A 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. 153, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F35** S. 93A(1A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 34**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

## 94 Right to cash equivalent. **E+W+S**

- (1) Subject to the following provisions of this Chapter—

(a) a member of an occupational pension scheme [<sup>F36</sup>other than a salary related scheme] acquires a right, when his pensionable service terminates [<sup>F37</sup>(whether before or after 1st January 1986)] , to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the applicable rules; and

[<sup>F38</sup>(aa) a member of a salary related occupational pension scheme who has received a statement of entitlement and has made a relevant application within three months beginning with the guarantee date in respect of that statement acquires a right to his guaranteed cash equivalent]

(b) a member of a personal pension scheme acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the rules of the scheme.

[<sup>F39</sup>(1A) For the purposes of subsection (1)(aa), a person’s “guaranteed cash equivalent” is the amount stated in the statement of entitlement mentioned in that subsection.]

[<sup>F40</sup>(1B) In subsection (1), references to benefits which have accrued do not include benefits which are attributable (directly or indirectly) to a pension credit.]

- (2) In this section—

[<sup>F41</sup>“the applicable rules” means—

- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision;
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme; and
- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with Chapter 1 of Part 4 of this Act;]

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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>F42</sup>“the guarantee date” has the same meaning as in section 93A(2)]  
 “the relevant date” means, subject to regulations under section 98(4)—

- (a) the date of the relevant application, or
- (b) in the case of an occupational pension scheme, if it is later, the termination date;

“the relevant application” means any application which the member has made under section 95 and not withdrawn.

[<sup>F43</sup>(2A) For the purposes of subsection (2)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
  - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
  - (ii) this Chapter or Chapters 2, 3 or 5 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
  - (iii) Part 4A of this Act or regulations made under that Part;
  - (iv) section 110(1) of this Act;
  - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
  - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
  - (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
  - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
  - (ii) section 129(1) of this Act;
  - (iii) section 117(1) of the Pensions Act 1995;
  - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
  - (v) section 306(1) of the Pensions Act 2004.]

[<sup>F44</sup>(3) Regulations may provide that, in prescribed circumstances, subsection (1)(aa) does not apply to members of salary related occupational pension schemes or applies to them with prescribed modifications.]

#### Textual Amendments

- F36** Words in s. 94(1)(a) 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. 154(1)(a), 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F37** Word in s. 94(1)(a) 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. 154(1)(b), 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F38** S. 94(1)(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. 154(2), 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F39** S. 94(1A) 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. 154(3), 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

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- F40** S. 94(1B) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 35**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F41** Words in s. 94(2) substituted (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 13(2)**; S.I. 2005/3331, art. 2(6), Sch. Pt. 6
- F42** Words in s. 94(2) 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. 154(4)**, 180(1); S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F43** S. 94(2A) inserted (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 13(3)**; S.I. 2005/3331, art. 2(6), Sch. Pt. 6
- F44** S. 94(3) 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. 154(5)**, 180(1); 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)

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

## 95 Ways of taking right to cash equivalent. **E+W+S**

- (1) A member of an occupational pension scheme or a personal pension scheme who acquires a right to a cash equivalent under [F45 paragraph (a), (aa) or (b) of section 94(1)] may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent to which he has acquired a right in whichever of the ways specified in subsection (2) or, as the case may be, subsection (3) he chooses.
- (2) In the case of a member of an occupational pension scheme, the ways referred to in subsection (1) are—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of a personal pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (c) for purchasing from one or more [F46 insurers] such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
  - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) In the case of a member of a personal pension scheme, the ways referred to in subsection (1) are—

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- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of another personal pension scheme—
    - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
    - (ii) which satisfies prescribed requirements;
  - (c) for subscribing to other pension arrangements which satisfy prescribed requirements.
- <sup>F47</sup>(4) .....
- (5) Except in such circumstances as may be prescribed—
    - (a) subsection (2) is to be construed as if paragraph (d) were omitted; and
    - (b) subsection (3) is to be construed as if paragraph (c) were omitted.
  - (6) Without prejudice to the generality of subsections (2) and (3), the powers conferred by those subsections include power to provide that a scheme or pension arrangement or, in the case of subsection (2), an annuity must satisfy requirements of the Inland Revenue.
  - (7) A member of an occupational pension scheme may only exercise the right conferred by this section on or before the last option date.
  - (8) In subsection (7) “the last option date” means, subject to regulations under section 98, the date which falls—
    - (a) one year before the date on which the member attains normal pension age; or
    - (b) six months after the termination date,
 whichever is the later.
  - (9) An application to the trustees or managers of the scheme under subsection (1) is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

#### Textual Amendments

- F45** Words in s. 95(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 6 para. 3](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)
- F46** Word in s. 95(2)(c) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, [121](#)
- F47** S. 95(4) repealed (1.1.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), [Sch. 5 para. 7](#), [Sch. 9 Pt. III\(7\)](#) (with s. 83(6)); S.I. 2000/3166, art. 2(3)(b)(iv)

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

- C8** Ss. 93-101 modified (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, [116-118](#)
- C10** Ss. 93-98 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, [Sch. 2 para. 3](#)



*Status: Point in time view as at 01/04/2014.*

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**Commencement Information**

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

**96 Further provisions concerning exercise of option under s. 95. E+W+S**

- (1) A member may exercise the option conferred by subsection (1) of section 95 in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so—
- (a) in relation to the whole of his cash equivalent; or
  - (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).
- (2) This subsection applies where—
- (a) the trustees or managers—
    - (i) of an occupational pension scheme which is not a contracted-out scheme, or
    - (ii) of a personal pension scheme<sup>F48</sup> ... ,<sup>F49</sup> ...
    - <sup>F49</sup>(iii) .....are able or willing to accept a transfer payment only in respect of a member's rights other than his accrued rights to guaranteed minimum pensions, [<sup>F50</sup>his accrued rights so far as attributable to service in contracted-out employment on or after the principal appointed day]<sup>F51</sup> ... ; and
  - (b) the member has not required the trustees or managers of the scheme from which he is being transferred to use the portion of his cash equivalent which represents those accrued<sup>F52</sup> ... rights in any of the ways specified in subsection (2) or, as the case may be, subsection (3) of section 95.
- (3) Where subsection (2) applies, this section and sections 94, 95 and 97 are to be construed as conferring on the member an option only in respect of the balance of the cash equivalent to which the member would otherwise be entitled, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability—
- (a) in the case of a transfer from an occupational pension scheme, in respect of the member's and the member's [<sup>F53</sup>widow's, widower's or surviving civil partner's (as the case may be)] [<sup>F54</sup>pensions, being guaranteed minimum pensions or pensions so far as attributable to service in contracted-out employment on or after the principal appointed day]<sup>F55</sup> ...
  - <sup>F56</sup>(b) .....
- [<sup>F57</sup>(4) Where a member of an occupational pension scheme or a personal pension scheme—
- (a) is entitled to give a notice under section 101F(1) to the trustees or managers of the scheme, or
  - (b) would be entitled to do so, but for section 101G(1),
- he may not, if the scheme so provides, make an application to them under section 95 unless he also gives them a notice under section 101F(1).]

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*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

### Textual Amendments

- F48** Words in s. 96(2)(a)(ii) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 27(7), 30(2)(b), Sch. 4 para. 29, **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F49** S. 96(2)(a)(iii) and word repealed (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. 3(2)(b), **Sch. 13 Pt. 1**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. 2
- F50** Words in s. 96(2)(a) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 63(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F51** Words in s. 96(2)(a) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), **5(14)(a)(i)**
- F52** Words in s. 96(2)(b) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), **5(14)(a)(ii)**
- F53** Words in s. 96(3)(a) substituted (5.12.2005) by The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), art. 1(3), **Sch. para. 13**
- F54** Words in s. 96(3)(a) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 63(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F55** Words in s. 96(3)(a) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), **5(14)(b)(i)**
- F56** S. 96(3)(b) omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), **5(14)(b)(ii)**
- F57** S. 96(4) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 36**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

### Modifications etc. (not altering text)

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**
- C11** S. 96(2)(3) applied (15.7.1994) by The European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994 (S.I. 1994/1662), arts. 1, **19(3)**

### Commencement Information

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

## 97 Calculation of cash equivalents. **E+W+S**

- (1) Cash equivalents are to be calculated and verified in the prescribed manner.
- (2) Regulations may provide—
- (a) that in calculating cash equivalents [<sup>F58</sup>except guaranteed cash equivalents] account shall be taken—
- (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under section 95;
- (ii) in a case where subsection (2) of section 96 applies, of the need to deduct an appropriate amount to provide for the liabilities mentioned in subsection (3) of that section;

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- [<sup>F59</sup>(aa) for a cash equivalent, including a guaranteed cash equivalent, to be reduced so as to take account of the extent (if any) to which an entitlement has arisen under the scheme to the present payment of the whole or any part of—
- (i) any pension; or
  - (ii) any benefit in lieu of pension; and]
- (b) that in prescribed circumstances a cash equivalent shall be increased or reduced.
- (3) Without prejudice to the generality of subsection (2), the circumstances that may be specified by virtue of paragraph (b) of that subsection include—
- (a) in the case of an occupational pension scheme, the length of time which elapses between the termination of a member’s pensionable service and his exercise of the option conferred by this Chapter or regulations made under it;
  - (b) failure by the trustees or managers of the scheme to do what is needed to carry out what a member of the scheme requires within 6 months of [<sup>F60</sup>the appropriate date]; and
  - (c) the state of the funding of the scheme.
- [<sup>F61</sup>(3A) For the purposes of subsection (3), the “appropriate date”—
- (a) in the case of a salary related occupational pension scheme, is the guarantee date (within the meaning of section 93A), and
  - (b) in any other case, is the date on which the trustees receive an application from the member under section 95.]
- (4) Regulations under subsection (2) may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

#### Textual Amendments

- F58** Words in s. 97(2)(a) 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. 6 para. 4(a)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F59** S. 97(2)(aa) substituted for word (28.7.2000) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 8(1)** (with s. 83(6))
- F60** Words in s. 97(3)(b) 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. 6 para. 4(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F61** S. 97(3A) 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. 6 para. 4(c)**; 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)

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

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## 98 Variation and loss of rights under s. 94. **E+W+S**

(1) Regulations may provide that a member of an occupational pension scheme [<sup>F62</sup>other than a salary related scheme] who continues in employment to which the scheme applies after his pensionable service in that employment terminates—

- (a) only acquires a right to the cash equivalent of such part of the benefits specified in section 94(1) as may be prescribed; or
- (b) acquires no right to a cash equivalent.

[<sup>F63</sup>(1A) Regulations may provide that a member of a salary related occupational pension scheme who continues in employment to which the scheme applies after his pensionable service in that employment terminates—

- (a) acquires a right to only part of his guaranteed cash equivalent, or
- (b) acquires no right to his guaranteed cash equivalent.]

(2) Regulations may provide for the purposes of subsection (1) [<sup>F64</sup>or (1A)] that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.

(3) Regulations may provide that where—

- (a) by virtue of regulations under subsection (1) or (2), a member of an occupational pension scheme [<sup>F65</sup>other than a salary related scheme] does not, on the termination of his pensionable service in an employment to which a scheme applies, acquire a right at the relevant date to the cash equivalent of the whole or a part of the benefits specified in section 94(1); [<sup>F66</sup>or
- (aa) by virtue of regulations under subsection (1A) or (2), a member of a salary related occupational pension scheme does not, on such a termination, acquire a right to the whole or any part of his guaranteed cash equivalent,

and his employment terminates at least one year before normal pension age] that right shall accrue to him on the date when that employment terminates and be valued accordingly.

(4) In relation to any case to which regulations under subsection (3) apply, they may substitute—

- (a) a new definition of “the relevant date” for the definition in section 94(2); and
- (b) a new definition of “the last option date” for the definition in section 95(8).

(5) Where the whole or any part of the [<sup>F67</sup>relevant] benefits payable to a member of a personal pension scheme under the scheme have become payable on or before the relevant date, the right which he acquires under section 94 is only to the cash equivalent of [<sup>F68</sup>benefits] which have not become payable.

(6) A member of an occupational pension scheme or a personal pension scheme loses the right to any cash equivalent under this Chapter if the scheme is wound up.

(7) A member of an occupational pension scheme also loses that right [<sup>F69</sup>if]—

- <sup>F70</sup>(a) .....
- (b) he fails to exercise the option conferred by section 95 on or before the last option date (within the meaning of subsection (7) of that section).

(8) In this section

[<sup>F71</sup>“relevant benefits” means any benefits not attributable (directly or indirectly) to a pension credit; and]

*Status: Point in time view as at 01/04/2014.*

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“the relevant date” has the same meaning as in section 94(2).

#### Textual Amendments

- F62** Words in s. 98(1) 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. 6 para. 5(a)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F63** S. 98(1A) 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. 6 para. 5(b)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F64** Words in s. 98(2) 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. 6 para. 5(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F65** Words in s. 98(3)(a) 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. 6 para. 5(d)(i)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F66** S. 98(3)(aa) 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. 6 para. 5(d)(ii)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**
- F67** Word in s. 98(5) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(2)(a)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F68** Word in s. 98(5) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(2)(b)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F69** Word in s. 98(7) inserted (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), **Sch. 5 para. 8(2)(a)** (with s. 83(6), Sch. 5 para. 8(4)); S.I. 2000/3166, art. 2(3)(b)(v)
- F70** S. 98(7)(a) repealed (1.1.2001) by Child Support, Pensions and Social Security Act 2000 (c. 19), s. 86(1)(b)(2), Sch. 5 para. 8(2)(b), **Sch. 9 Pt. III(8)** (with s. 83(6), Sch. 5 para. 8(4)); S.I. 2000/3166, art. 2(3)(b)(v)(e)
- F71** Words in s. 98(8) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 37(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C10** Ss. 93-98 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

## 99 Trustees' duties after exercise of option. **E+W+S**

(1) Where—

- (a) a member has exercised the option conferred by section 95; and
- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,

the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 96(2), to the extent that an obligation to provide such guaranteed minimum pensions<sup>F72</sup>... continues to subsist.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95, they shall do what is needed to carry out what the member requires—
- <sup>F73</sup>(a) in the case of a member of a salary related occupational pension scheme, within 6 months of the guarantee date, or (if earlier) by the date on which the member attains normal pension age,
  - (b) in the case of a member of any other occupational pension scheme, within 6 months of the date on which they receive the application, or (if earlier) by the date on which the member attains normal pension age, or
  - (c) in the case of a member of a personal pension scheme, within 6 months of the date on which they receive the application.]
- (3) If—
- (a) disciplinary proceedings or proceedings before a court have been begun against a member of an occupational pension scheme at any time before the expiry of the period of 12 months beginning with the termination date; and
  - (b) it appears to the trustees or managers of the scheme that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or <sup>F74</sup>his widow][<sup>F74</sup>his or her surviving spouse or civil partner] being forfeited; and
  - (c) the date before which they would (apart from this subsection) be obliged under subsection (2) to carry out what the member requires is earlier than the end of the period of 3 months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),
- then, subject to the following provisions of this section, they must instead do so before the end of that period of 3 months.
- <sup>F75</sup>(3A) In this section, “guarantee date” has the same meaning as in section 93A.]
- <sup>F76</sup>(4) The Regulatory Authority may, in prescribed circumstances, <sup>F77</sup>by direction] grant an extension of the period within which the trustees or managers of the scheme are obliged to do what is needed to carry out what a member of the scheme requires.]
- <sup>F76</sup>(4A) Regulations may make provision <sup>F78</sup>requiring applications for extensions under subsection (4) to meet prescribed requirements].]
- <sup>F79</sup>(6) .....
- <sup>F80</sup>(7) Where the trustees or managers of an occupational pension scheme have not done what is needed to carry out what a member of the scheme requires within six months of the date mentioned in paragraph (a) or (b) of subsection (2)—
- (a) they must, except in prescribed cases, notify the Regulatory Authority of that fact within the prescribed period, and
  - (b) section 10 of the Pensions Act 1995 (power of the Regulatory Authority to impose civil penalties) shall apply to any trustee or manager who has failed to take all such steps as are reasonable to ensure that it was so done.
- (8) Regulations may provide that in prescribed circumstances subsection (7) shall not apply in relation to an occupational pension scheme.]

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

### Textual Amendments

- F72** Words in s. 99(1) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(15)**
- F73** S. 99(2)(a)-(c) substituted for s. 99(2)(a) (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 6 para. 6(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F74** Words in s. 99(3)(b) substituted (E.W.) (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 7 para. 32**; S.I. 2014/93, art. 3(k)(iii)
- F75** S. 99(3A) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 6 para. 6(b)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2 (with art. 5)
- F76** S. 99(4)(4A) 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. 6 para. 6(c)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 5)
- F77** Words in s. 99(4) inserted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 14(a)**; S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F78** Words in s. 99(4A) substituted (6.4.2006) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 12 para. 14(b)**; S.I. 2006/560, art. 2(3), Sch. Pt. 3
- F79** S. 99(6) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), **Sch. 13**; S.I. 2005/695, art. 2(7), Sch. 1
- F80** S. 99(7)(8) added (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. 6 para. 6(e)**; S.I. 1996/778, art. 2(5)(a), **Sch. Pt. V**; S.I. 1997/664, art. 2(3), **Sch. Pt. II** (with art. 5)

### Modifications etc. (not altering text)

- C8** Ss. 93-101 modified (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), regs. 1, **116-118**
- C12** S. 99 modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 paras. 3, 4**
- C13** S. 99(1) modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), **3(1)**
- C14** S. 99(2)(a) modified (6.4.2005) by [The Pensions Regulator \(Freezing Orders and Consequential Amendments\) Regulations 2005 \(S.I. 2005/686\)](#), regs. 1(1), **3(2)**

### Commencement Information

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

## 100 Withdrawal of applications. **E+W+S**

- (1) Subject to <sup>[F81]</sup>subsections (2) and (2A)], a member of a scheme may withdraw an application under section 95 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.
- (2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in subsection (2) or, as the case may be, subsection (3) of section 95.

<sup>[F82]</sup>(2A) If the making of the application depended on the giving of a notice under section 101F(1), the application may only be withdrawn if the notice is also withdrawn.]

*Status: Point in time view as at 01/04/2014.*

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- (3) A member who withdraws an application may make another.
- (4) A notice to the trustees or managers of a scheme under this section is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

#### Textual Amendments

- F81** Words in s. 100(1) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 38(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F82** S. 100(2A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 38(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

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

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C15** S. 100 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

### 101 Supplementary provisions. **E+W+S**

In making any calculation for the purposes of this Chapter—

- (a) any charge or lien on, and  
 (b) any set-off against,

the whole or part of a pension shall be disregarded.

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

- C8** Ss. 93-101 modified (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, **116-118**
- C16** S. 101 modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

#### Commencement Information

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

## [<sup>F83</sup>CHAPTER 5 **E+W+S**

### EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS

#### Textual Amendments

- F83** Pt. IV Ch. 5 inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), ss. 264, 322(1) (with s. 313); S.I. 2005/3331, art. 2(5)(a)(b), Sch. Pt. 5



*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

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

**C17** Pt. IV Ch. 5 modified (1.1.2006) by [The Occupational Pension Schemes \(Winding up etc.\) Regulations 2005 \(S.I. 2005/706\)](#), regs. 1(2), 5 (with reg. 1(3))

**101AA Scope of Chapter 5** **E+W+S**

- (1) This Chapter applies to any member of an occupational pension scheme to which Chapter 1 applies (see section 69(3)) if—
  - (a) his pensionable service terminates before he attains normal pension age, and
  - (b) on the date on which his pensionable service terminates—
    - (i) the three month condition is satisfied, but
    - (ii) he does not have relevant accrued rights to benefit under the scheme.
- (2) For the purposes of subsection (1), the three month condition is that the period of the member's pensionable service under the scheme, taken together with—
  - (a) any previous period of his pensionable service under the scheme, and
  - (b) any period throughout which he was employed in linked qualifying service under another scheme,amounts to at least three months.
- (3) A period counts for the purposes of paragraph (a) or (b) of subsection (2) only so far as it counts towards qualification for long service benefit within the meaning of Chapter 1.
- (4) For the purposes of subsection (1), “relevant accrued rights to benefit under the scheme”, in relation to a member of a scheme, means rights which—
  - (a) have accrued to or in respect of him under the scheme, and
  - (b) entitle him to the relevant benefits which would have accrued to or in respect of him under the applicable rules if paragraphs (a) and (b) of section 71(1) (and the word “and” immediately preceding them) did not have effect.
- (5) References in the following provisions of this Chapter to a member, in relation to an occupational pension scheme, are to a member of the scheme to whom this Chapter applies.

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AB Right to cash transfer sum and contribution refund** **E+W+S**

- (1) On the termination of his pensionable service, a member of an occupational pension scheme acquires a right to whichever one he elects of the following options—
  - (a) a cash transfer sum;
  - (b) a contribution refund.
- (2) Subsection (1) is subject to the following provisions of this Chapter.

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- (3) In this Chapter “cash transfer sum” means, in relation to a member of an occupational pension scheme, the cash equivalent, at the date on which his pensionable service terminates, of the benefits mentioned in section 101AA(4)(b).
- (4) In this Chapter, “contribution refund” means, in relation to a member of an occupational pension scheme, a sum representing the aggregate of—
- (a) the member’s employee contributions to the scheme, and
  - (b) where transfer credits have been allowed to the member under the scheme by virtue of a payment (“the transfer payment”) made by the trustees or managers of another occupational pension scheme, the member’s employee contributions to that other scheme, so far as they—
    - (i) relate to the transfer payment, and
    - (ii) do not, in aggregate, exceed the amount of the transfer payment.
- (5) In subsection (4), “employee contributions” means, in relation to a member of an occupational pension scheme, contributions made to the scheme by or on behalf of the member on his own account, but does not include—
- (a) a transfer payment by virtue of which transfer credits have been allowed to the member under the scheme, or
  - (b) any pension credit or amount paid to the scheme which is attributable (directly or indirectly) to a pension credit.

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AC Notification of right to cash transfer sum or contribution refund** E+W+S

- (1) This section applies where the pensionable service of a member of an occupational pension scheme has terminated.
- (2) The trustees or managers of the scheme must—
- (a) within a reasonable period after the termination give the member a statement in writing containing information adequate to explain—
    - (i) the nature of the right acquired by him under section 101AB, and
    - (ii) how he may exercise the right,
 and such other information as may be prescribed, and
  - (b) afford the member a reasonable period after giving him that statement within which to exercise the right.
- (3) The statement given under subsection (2)(a) must specify, in particular—
- (a) in relation to the cash transfer sum to which the member acquires a right under section 101AB, its amount and the permitted ways in which the member can use it,
  - (b) the amount of the contribution refund to which the member so acquires a right, and
  - (c) the last day on which the member may, disregarding section 101AI(2), exercise the right (“the reply date”).

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- (4) Information which may be prescribed under subsection (2)(a) includes, in particular—
  - (a) information about any tax liability in respect of, or deduction required or permitted to be made from, the cash transfer sum or contribution refund, and
  - (b) information about the effect on other rights of the member (whether under the applicable rules or otherwise) of exercising the right.
- (5) The trustees or managers may notify the member that, if he does not exercise the right mentioned in subsection (2)(a)(i) on or before the reply date, the trustees or managers will be entitled to pay the contribution refund to him.
- (6) Where the trustees or managers of the scheme fail to comply with subsection (2), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AD Exercise of right under section 101AB** **E+W+S**

- (1) This section applies where a member of an occupational pension scheme acquires a right under section 101AB.
- (2) The member may exercise the right by giving a notice in writing to that effect to the trustees or managers stating—
  - (a) which of the options under section 101AB(1) he elects, and
  - (b) if he elects for the cash transfer sum, the permitted way in which he requires that sum to be used.
- (3) The notice under subsection (2) must be given on or before—
  - (a) the reply date, or
  - (b) such later date as the trustees or managers may allow in his case under section 101AI(2).

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AE Permitted ways of using cash transfer sum** **E+W+S**

- (1) This section applies in relation to a cash transfer sum to which a member of an occupational pension scheme acquires a right under section 101AB.
- (2) The ways in which the cash transfer sum may be used are—
  - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
    - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and

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- (ii) which satisfies prescribed requirements,
  - (b) for acquiring rights allowed under the rules of a personal pension scheme—
    - (i) whose trustees or managers are able and willing to accept the cash transfer sum, and
    - (ii) which satisfies prescribed requirements,
  - (c) for purchasing one or more appropriate annuities,
  - (d) in such circumstances as may be prescribed, for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) For the purposes of subsection (2), “appropriate annuity” means an annuity which satisfies prescribed requirements and is purchased from an insurer who—
- (a) falls within section 19(4)(a),
  - (b) is chosen by the member, and
  - (c) is willing to accept payment on account of the member from the trustees or managers of the scheme.

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AF Calculation of cash transfer sum and contribution refund** **E+W+S**

- (1) Cash transfer sums are to be calculated and verified in the prescribed manner.
- (2) Any calculation of a contribution refund must conform with such requirements as may be prescribed.
- (3) Regulations may provide—
  - (a) for amounts to be deducted in respect of administrative costs in calculating cash transfer sums;
  - (b) for a cash transfer sum or contribution refund to be increased or reduced in prescribed circumstances.
- (4) The circumstances that may be prescribed under subsection (3)(b) include in particular—
  - (a) a failure by the trustees or managers of the scheme to comply with section 101AG(2) or (4) in relation to the cash transfer sum or contribution refund, and
  - (b) the state of funding of the scheme.
- (5) Regulations under subsection (3)(b) may provide—
  - (a) for a cash transfer sum to be reduced so that the member has no right to have any amount paid by way of cash transfer sum in respect of him;
  - (b) for a contribution refund to be reduced so that the member has no right to receive any amount by way of contribution refund under this Chapter.

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*Changes to legislation: Pension Schemes Act 1993, Part IV is up to date with all changes known to be in force on or before 03 September 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)*

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

### 101AG Duties of trustees or managers following exercise of right **E+W+S**

- (1) This section applies where a member of an occupational pension scheme has exercised a right under section 101AB in accordance with section 101AD.
- (2) Where the member has elected for the cash transfer sum, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to carry out the requirement specified in the member's notice under section 101AD(2)(b).
- (3) When the trustees or managers have done what is needed to carry out that requirement, they are discharged from any obligation—
  - (a) in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
  - (b) to make any other payment by way of refund to or in respect of the member of, or in respect of—
    - (i) the contributions, or any payment, mentioned in section 101AB(4), or
    - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit).
- (4) Where the member has elected for the contribution refund, the trustees or managers of the scheme must, within a reasonable period beginning with the date on which the right was exercised, do what is needed to secure that the amount of the contribution refund is paid to the member or as he directs.
- (5) When the trustees or managers have done what is needed to secure the payment of the contribution refund as mentioned in subsection (4)—
  - (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
  - (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of—
    - (i) the contributions, or any payment, mentioned in section 101AB(4), or
    - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),the amount of the contribution refund may be set off against the refund payment.
- (6) Where the trustees or managers fail to comply with subsection (2) or (4), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

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

- C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**
- C19** S. 101AG(3) modified (1.1.2006) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), **3(3)**

**101AH Powers of trustees or managers where right not exercised** E+W+S

- (1) This section applies where—
- (a) a member of an occupational pension scheme does not exercise a right acquired by him under section 101AB on or before the reply date or such later date as the trustees or managers of the scheme allow in his case under section 101AI(2), and
  - (b) the trustees or managers of the scheme have notified the member as mentioned in section 101AC(5).
- (2) The trustees or managers may within a reasonable period beginning with—
- (a) the reply date, or
  - (b) if a later date has been allowed as mentioned in subsection (1), that later date, pay the contribution refund to the member.
- (3) When the trustees or managers have paid the contribution refund to the member—
- (a) they are discharged from any obligation in respect of any rights (including conditional rights) of, or in respect of, the member to relevant benefits under the applicable rules, and
  - (b) if they are required under the applicable rules, or determine in accordance with those rules, to make any payment (“the refund payment”) by way of refund to or in respect of the member of, or in respect of—
    - (i) the contributions, or any payment, mentioned in section 101AB(4), or
    - (ii) any other contributions made to the scheme, or any other scheme, in respect of the member (other than any pension credit or amount attributable (directly or indirectly) to a pension credit),
 the amount of the contribution refund may be set off against the refund payment.

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

- C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**

**101AI Rights under section 101AB: further provisions** E+W+S

- (1) A member of an occupational pension scheme loses any right acquired by him under section 101AB—
- (a) if the scheme is wound up, or
  - (b) subject to subsection (2), if he fails to exercise the right on or before the reply date.

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- (2) If the member has failed to exercise any such right on or before the reply date, the trustees or managers of the scheme may allow him to exercise it on or before such later date as they may determine on the application of the member.
- (3) Where the trustees or managers determine a later date under subsection (2)—
  - (a) they must give a notice in writing to that effect to the member, and
  - (b) subsection (1)(b) applies in relation to the member as if the reference to the reply date were a reference to the later date.
- (4) For the purposes of subsection (3) and sections 101AC(2) and 101AD(2), a document or notice may be given to a person—
  - (a) by delivering it to him,
  - (b) by leaving it at his proper address, or
  - (c) by sending it by post to him at that address.
- (5) For the purposes of subsection (4), and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to that subsection, the proper address of a person is—
  - (a) in the case of a body corporate, the address of the registered or principal office of the body, and
  - (b) in any other case, the last known address of the person.
- (6) This Chapter is subject to any provision made by or under section 61 (deduction of contributions equivalent premium from refund of scheme contributions)—
  - (a) permitting any amount to be deducted from any payment of a contribution refund, or
  - (b) requiring the payment of a contribution refund to be delayed.
- (7) In this Chapter, except where the context otherwise requires, the following expressions have the following meanings—
  - “the applicable rules” means—
    - (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
    - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
    - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of this Part;
  - “member” has the meaning given in section 101AA(5);
  - “permitted way”, in relation to a cash transfer sum, means any of the ways specified in section 101AE(2) in which the sum may be used;
  - “relevant benefits” means benefits which are not attributable (directly or indirectly) to a pension credit;
  - “reply date”, in relation to a member whose pensionable service has terminated, has the meaning given in section 101AC(3)(c).
- (8) For the purposes of subsection (7)—
  - (a) “relevant legislative provision” means any provision contained in any of the following provisions—
    - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);

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- (ii) this Chapter or Chapter 2, 3 or 4 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
  - (iii) Part 4A of this Act or regulations made under that Part;
  - (iv) section 110(1) of this Act;
  - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
  - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
  - (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
- (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
  - (ii) section 129(1) of this Act;
  - (iii) section 117(1) of the Pensions Act 1995;
  - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
  - (v) section 306(1) of the Pensions Act 2004.]

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

**C18** Ss. 101AA-101AI modified (30.12.2005) by [The Occupational Pension Schemes \(Cross-border Activities\) Regulations 2005 \(S.I. 2005/3381\)](#), regs. 1, 14, **Sch. 2 para. 3**



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