



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART III

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

#### CHAPTER I

#### CERTIFICATION

#### *General requirements for certification*

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

- (1) Subject to the provisions of this Part, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise.
- (2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.
- (3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.
- (4) If the [<sup>F1</sup>Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [<sup>F2</sup>they] may—
  - (a) refuse to give effect to any election made by him in relation to that scheme; or
  - (b) cancel any contracting-out certificate held by him in respect of it.
- (5) Regulations may make provision—
  - (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;

*Status: Point in time view as at 18/04/2005. This version of this provision has been superseded.*

*Changes to legislation: Pension Schemes Act 1993, Section 11 is up to date with all changes known to be in force on or before 07 August 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)*

- (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
  - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
  - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
  - (iii) to the trustees and managers of the scheme; and
  - (iv) to such other persons as may be prescribed;
- (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
- (d) for empowering the [<sup>F3</sup>Inland Revenue] to refuse to give effect to an election made by an employer unless <sup>F4</sup>... [<sup>F3</sup>they are] satisfied that he has complied with the requirements of the regulations;
- (e) for referring to an industrial tribunal any question—
  - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
  - (ii) whether the requirements of the regulations as to consultation have been complied with.

#### Textual Amendments

- F1** Words in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F2** Word in s. 11(4) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F3** Words in s. 11(5)(d) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 37\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F4** Words in s. 11(5)(d) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 21](#); S.I. 1996/778, art. 2(5)(a), Sch. Pt. 5; S.I. 1997/664, art. 2(3), Sch. Pt. 2

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

- C1** Pt. III applied (with modifications) (6.4.1997) by [The Occupational Pension Schemes \(Mixed Benefit Contracted-out Schemes\) Regulations 1996 \(S.I. 1996/1977\), regs. 1\(1\), 2\(4\)\(a\)-\(f\)](#)
- C2** Pt. III applied (with modifications) (6.4.1997) by [The Contracting-out \(Transfer and Transfer Payment\) Regulations 1996 \(S.I. 1996/1462\), regs. 1\(1\), 12, 13, Sch. 2 \(with reg. 14, Sch. 4\)](#)
- C3** Pt. III: power to modify conferred (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\), ss. 149\(1\), 180\(1\)](#); S.I. 1996/778, art. 2(6); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- C4** Pt. III: power to amend conferred (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), ss. 23, 28\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- C5** Pt. III: power to transfer functions conferred (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), ss. 23, 28\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- C6** S. 11 extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\), regs. 1\(1\), 12\(3\), 13\(2\), 14](#)

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**Commencement Information**

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

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