



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART III

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

#### CHAPTER I

#### CERTIFICATION

#### *General requirements for certification*

#### **5 Requirements for certification of schemes: general.**

(1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) <sup>F1</sup>....

<sup>F2</sup>(2) An occupational pension scheme satisfies this subsection only if—

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

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

- (a) the scheme complies in all respects with [<sup>F3</sup>sections 9 to 20E] or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations; and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.

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- (2B) The conditions of this subsection are that the [<sup>F4</sup>Inland Revenue][<sup>F5</sup>are satisfied] that—
- (a) the scheme complies with section 8A;
  - (b) restrictions imposed under Article 40 of the Pensions (Northern Ireland) Order 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions;
  - (c) the scheme satisfies such other requirements as may be prescribed (which—
    - (i) must include requirements as to the amount of the resources of the scheme, and
    - (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 8A), and
  - (d) the scheme does not fall within a prescribed class or description;
- and [<sup>F5</sup>are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.
- (2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.]
- <sup>F6</sup>(3) .....
- (4) Where there are two or more occupational pension schemes in force in relation to an earner’s employment, none of which can by itself be a contracted-out scheme, the [<sup>F7</sup>Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.
- <sup>F8</sup>(5) .....
- (5A) Regulations about pension schemes made under this Chapter may contain provisions framed by reference to whether or not a scheme [<sup>F9</sup>is a registered pension scheme under section 153 of the Finance Act 2004].
- (6) In this section “relevant requirements” means—
- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out <sup>F10</sup>... schemes; and
  - (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the [<sup>F11</sup>Department] as a condition of contracting-out <sup>F12</sup>... either generally or in relation to a particular scheme.

#### Textual Amendments

- F1** Words in s. 5(1) repealed (6.4.2012) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), ss. 13(4), 21(1), [Sch. 4 para. 4\(2\)](#), [Sch. 6 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.R. 2012/115, art. 2
- F2** S. 5(2)-(2C) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) for s. 5(2) by S.I. 1995/3213 (N.I. 22) art. 133(3); S.R. 1996/91, art. 2(d)(h), [Sch. Pt. IV](#)
- F3** Words in s. 5(2A) substituted (3.3.2009 for specified purposes, 6.4.2009 in so far as not already in force) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), ss. 12(4), 21(1); S.R. 2009/75, art. 2(a)(b)
- F4** Word in s. 5(2B) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), [Sch. 1 para. 38\(2\)\(a\)](#); S.R. 1999/149, art. 2(c), [Sch. 2](#)
- F5** Words in s. 5(2B) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), [Sch. 1 para. 38\(2\)\(b\)](#); S.R. 1999/149, art. 2(c), [Sch. 2](#)
- F6** S. 5(3) repealed (6.4.2012) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), ss. 13(4), 21(1), [Sch. 4 para. 4\(3\)](#), [Sch. 6 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.R. 2012/115, art. 2

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- F7** Words in s. 5(4) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 38(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F8** S. 5(5) repealed (6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), Sch. 4 para. 4(3), **Sch. 6 Pt. 6** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2
- F9** Words in s. 5(5A) substituted for s. 5(5A)(a)(b) (6.4.2006) by The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **8(2)**
- F10** Words in s. 5(6)(a) repealed (6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), Sch. 4 para. 4(4)(a), **Sch. 6 Pt. 6** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2
- F11** Words in s. 5(6)(b) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, 14 Table; S.R. 1997/192, **art. 2(b)**
- F12** Words in s. 5(6)(b) repealed (6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), Sch. 4 para. 4(4)(b), **Sch. 6 Pt. 6** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2

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

- C1** S. 5 excluded (1.6.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22) art. 146(1); S.R. 1996/91, **art. 2(f)**; S.R. 1997/192, **art. 2**

**<sup>F13</sup>6 Protected rights and money purchase benefits.**

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**Textual Amendments**

- F13** S. 6 repealed (6.4.2012) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 85(3)(a), 118(1), **Sch. 10 Pt. 3** (with s. 73); S.R. 2012/119, art. 2(a)(c)

**7 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>F14</sup>Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [<sup>F15</sup>they may]—
  - (a) refuse to give effect to any election made by him in relation to that scheme; or
  - (b) cancel any contracting-out certificate held by him in respect of it.
- (5) Regulations may make provision—
  - (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
  - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
    - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;

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- (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>F16</sup>Inland Revenue] to refuse to give effect to an election made by an employer unless [<sup>F17</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

- F14** Words in s. 7(4) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by [S.I. 1999/671](#), arts. 1(2)(b), 3(1), [Sch. 1 para. 40\(2\)\(a\)](#); [S.R. 1999/149](#), art. 2(c), [Sch. 2](#)
- F15** Words in s. 7(4) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by [S.I. 1999/671](#), arts. 1(2)(b), 3(1), [Sch. 1 para. 40\(2\)\(b\)](#); [S.R. 1999/149](#), art. 2(c), [Sch. 2](#)
- F16** Words in s. 7(5)(d) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by [S.I. 1999/671](#), arts. 1(2)(b), 3(1), [Sch. 1 para. 40\(3\)](#); [S.R. 1999/149](#), art. 2(c), [Sch. 2](#)
- F17** Words in s. 7(5)(d) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by [S.I. 1999/671](#), arts. 1(2)(b), 3(1), [Sch. 1 para. 40\(3\)](#); [S.R. 1999/149](#), art. 2(c), [Sch. 2](#)

#### <sup>F18</sup> **Determination of basis on which scheme is contracted-out.**

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#### Textual Amendments

- F18** S. 8 repealed (6.4.2012) by [Pensions Act \(Northern Ireland\) 2008 \(c. 1\)](#), ss. 13(4), 21(1), [Sch. 4 para. 6](#), [Sch. 6 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); [S.R. 2012/115](#), art. 2

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