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# 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

#### *Requirements for certification of occupational and personal money purchase schemes*

#### **22 Persons who may establish scheme.**

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

#### **23 Identification and valuation of protected rights.**

- (1) Where the rules of the scheme make such provision as is mentioned in section 6(2) or (3), they must also make provision for the identification of the protected rights.
- (2) The value of such protected rights as are mentioned in section 6(2) or (3) must be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated.
- (3) Subject to subsection (2), the value of protected rights must be calculated and verified in such manner as may be prescribed.

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## **24 Ways of giving effect to protected rights.**

- (1) The rules of the scheme must provide for effect to be given to the protected rights of a member—
  - (a) in any case where subsection (3) so requires, by the purchase of such an annuity as is mentioned in that subsection, and
  - (b) in any other case, in such of the ways permitted by the following subsections as the rules may specify,

and they must not provide for any part of a member’s protected rights to be discharged otherwise than in accordance with those subsections.
- (2) Effect may be given to protected rights—
  - (a) by the provision by the scheme of a pension which—
    - (i) complies with the pension requirements (within the meaning of section 25(1)), and
    - (ii) satisfies such conditions as may be prescribed; or
  - (b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment—
    - (i) in the case of an occupational pension scheme, to another occupational pension scheme or to a personal pension scheme, and
    - (ii) in the case of a personal pension scheme, to another personal pension scheme or to an occupational pension scheme,

where the scheme to which the payment is made satisfies such requirements as may be prescribed.
- (3) Subject to subsections (5) and (7), if—
  - (a) the rules of the scheme do not provide for a pension; or
  - (b) the member so elects,

then, except to the extent that effect is given to protected rights in accordance with subsection (4), effect shall be given to them by the purchase by the scheme of an annuity which—

  - (i) complies with the annuity requirements (within the meaning of section 25(3)), and
  - (ii) satisfies such conditions as may be prescribed.
- (4) Effect may be given to protected rights by the provision of a lump sum if—
  - (a) the lump sum is payable on a date which is—
    - (i) in the case of an occupational pension scheme, a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of 65, or
    - (ii) in the case of a personal pension scheme, the date on which the member attains pensionable age, or
    - (iii) in either case, such later date as has been agreed by him;
  - (b) the annual rate of a pension under subsection (2) or an annuity under subsection (3) giving effect to the protected rights and commencing on the date on which the lump sum is payable would not exceed the prescribed amount;
  - (c) the circumstances are such as may be prescribed; and
  - (d) the amount of the lump sum is calculated in a manner satisfactory to the Board by reference to the amount of the pension or annuity.

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- (5) If the member has died without effect being given to protected rights under subsection (2), (3) or (4), effect may be given to them in such manner as may be prescribed.
- (6) No transaction is to be taken to give effect to protected rights unless it falls within this section.
- (7) Effect need not be given to protected rights if they have been extinguished—
- (a) in the case of an occupational pension scheme, by the payment of a contracted-out protected rights premium under section 51; or
  - (b) in the case of a personal pension scheme, by the payment of a personal pension protected rights premium under that section.

VALID FROM 14/03/1996

#### **[<sup>F1</sup>24A Requirements for interim arrangements.**

- (1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member's widow or widower, throughout the interim period, at intervals not exceeding twelve months.
- (2) This subsection applies where the member dies during the interim period and is survived by a widow or widower who at the date of the member's death has not yet attained the age of 75 years.
- (3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be—
  - (a) greater than the annual amount of the annuity which would have been purchasable by him on the relevant reference date, or
  - (b) less than the prescribed percentage of that amount
- (4) The percentage prescribed under subsection (3)(b) may be zero.
- (5) For the purposes of this section—
  - (a) the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner by reference to—
    - (i) the value on that date, determined by or on behalf of the trustees or managers of the scheme, of the person's protected rights, and
    - (ii) the current published tables of rates of annuities prepared by the Government Actuary for the purposes of section 28A of the Pension Schemes Act 1993, and
  - (b) the relevant reference date is—
    - (i) in relation to payments made to the member during the three years beginning with (and including) the member's starting date, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question, or
    - (ii) where subsection (2) applies, in relation to payments made to the member's widow or widower during the three years beginning with (and including) the date of the member's death, that date, and in

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relation to such payments made during each succeeding period of three years, the first day of the period of three years in question.]

#### Textual Amendments

**F1** Ss. 24A, 24B inserted (14.3.1996 for certain purposes otherwise 6.4.1996) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 140](#); [S.R. 1996/91](#), art. (b), Sch. Pt. II

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

**C1** S. 24A(1)(3)(4)(5) modified (1.12.2000) by [S.R. 2000/147](#), [reg. 6\(2\)\(a\)](#)

VALID FROM 14/03/1996

#### [<sup>F2</sup>24B Information about interim arrangements.

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

#### Textual Amendments

**F2** Ss. 24A, 24B inserted (14.3.1996 for certain purposes otherwise 6.4.1996) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 140](#); [S.R. 1996/91](#), art. 2(b), [Sch. Pt. II](#)

## 25 The pension and annuity requirements.

- (1) For the purposes of section 24 a pension complies with the pension requirements if—
  - (a) it commences—
    - (i) in the case of an occupational pension scheme, on a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of 65, or
    - (ii) in the case of a personal pension scheme, on the date on which the member attains pensionable age, or
    - (iii) in either case, on such later date as has been agreed by him, and continues until the date of his death; and
  - (b) in a case where the member dies while it is payable to him and is survived by a widow or widower—
    - (i) it is payable to the widow or widower in prescribed circumstances and for the prescribed period at an annual rate which at any given

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- time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
- (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in a manner satisfactory to the Board is provided in lieu of it.
- (2) As respects the period of 5 years beginning with the commencement of the pension referred to in subsection (1), that subsection shall have effect in relation to that pension as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).
- (3) For the purposes of section 24 an annuity complies with the annuity requirements if—
- (a) it satisfies the requirements mentioned in subsections (1) and (2) (taking the references in those subsections to pensions as references to annuities); and
- (b) it is provided by an insurance company which—
- (i) satisfies prescribed conditions;
- (ii) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and
- (iii) subject to subsection (4), has been chosen by the member.
- (4) A member is only to be taken to have chosen an insurance company if he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the insurance company instead.

## **26 Securing of liability for protected rights.**

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

## **27 Investment and resources of schemes.**

- (1) The scheme must comply with such requirements as may be prescribed as regards the investment of its resources and with any direction of the Board—
- (a) that no part, or no more than a specified proportion, of the scheme’s resources shall be invested in investments of a specified class or description;
- (b) that the whole or a specified proportion of investments of a specified class or description forming part of the scheme’s resources when the direction is given shall be realised before the end of a specified period.
- (2) The scheme must comply with such requirements as may be prescribed as regards the part—
- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;

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- (b) of any income or capital gain arising from the investment of such a payment;  
 or  
 (c) of the value of rights under the scheme,  
 that may be used—
- (i) to defray the administrative expenses of the scheme;  
 (ii) to pay commission; or  
 (iii) in any other way which does not result in the provision of benefits for or in respect of members.
- (3) Subject to subsection (4)—
- (a) in the case of an occupational pension scheme, all minimum payments and any payments made by the Department under Article 9 of the <sup>M1</sup>Social Security (Northern Ireland) Order 1986, and
- (b) in the case of a personal pension scheme, all minimum contributions, which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member, except so far as they are used—
- (i) to defray the administrative expenses of the scheme; or  
 (ii) to pay commission.
- (4) If regulations are made under subsection (2), the payments mentioned in paragraph (a) of subsection (3) and the contributions mentioned in paragraph (b) of that subsection may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.

#### Marginal Citations

M1 S.I. 1986/1888 (N.I. 18).

## 28 Suspension or forfeiture.

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

VALID FROM 14/03/1996

### **[<sup>F3</sup>28A Discharge of protected rights on winding up: insurance policies.**

- (1) Where an occupational pension scheme is being wound up and such conditions as may be prescribed are satisfied, effect may be given to the protected rights of a member of the scheme (in spite of section 24) by—
- (a) taking out an appropriate policy of insurance, or a number of such policies, under which the member is the beneficiary, or
- (b) assuring the benefits of a policy of insurance, or a number of such policies, to the member, where the policy assured is an appropriate policy.
- (2) A policy of insurance is appropriate for the purposes of this section if—
- (a) the insurance company with which it is or was taken out or entered into—

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- (i) is, or was at the time when the policy was taken out or (as the case may be) the benefit of it was assured, carrying on ordinary long-term insurance business (within the meaning of the Insurance Companies Act 1982) in the United Kingdom or any other member State, and
- (ii) satisfies, or at that time satisfied, prescribed requirements, and
- (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed,
- (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed, and
- (d) it satisfies such other requirements as may be prescribed.]

#### Textual Amendments

- F3** S. 28A inserted (14.3.1996 for certain purposes otherwise 6.4.1996) by [S.I. 1995/3213 \(N.I. 22\)](#) art. 143(1); [S.R. 1996/91](#), art. 2(b)(i)(ii), [Sch. Pt. II](#)

## 29 Tax requirements to prevail over certification requirements.

Nothing in sections 22 to 28 shall be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval.

VALID FROM 06/04/1997

### [<sup>F4</sup>29A Appropriate schemes: “Blowing the whistle”.

- (1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—
  - (a) any requirement which, in the case of the scheme, is required by section 5(5) (a) to be satisfied is not satisfied, and
  - (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the Department of any of its functions relating to appropriate schemes,that person must immediately give a written report of the matter to the Department.
- (2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.]

#### Textual Amendments

- F4** S. 29A inserted (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 144](#); [S.R. 1997/192](#), [art. 2\(b\)](#)

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