



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.

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.

- (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.

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 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;
 - (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 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.

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.

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.