



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART III **N.I.**

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

CHAPTER II **N.I.**

REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

Preliminary

36 Scope of Chapter II. **N.I.**

This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [^{F1}Inland Revenue] in respect of earners who are members of [^{F2}money purchase contracted-out schemes and members of] appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

Textual Amendments

- F1** Words in s. 36(b) 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. 49**; S.R. 1999/149, art. 2(c), **Sch. 2**

Status: Point in time view as at 24/03/1999.

Changes to legislation: *Pension Schemes (Northern Ireland) Act 1993, Chapter II is up to date with all changes known to be in force on or before 15 July 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)*

F2 Words in s. 36 inserted (14.3.1996 for certain purposes and 6.4.1996 for other purposes and otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(1)**; S.R. 1996/91, **art. 2(a)(d)**, **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**

[^{F3} Reduced rates of contributions for members of salary related contracted-out schemes]

Textual Amendments

F3 S. 37(1)(1A), the sidenote and the preceding cross-heading substituted (14.3.1996 for certain purposes, 6.4.1996 for other specified purposes and otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(2)**; S.R. 1996/91, **art. 2(a)(d)**, **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**

[^{F4}37 Reduced rates of Class 1 contributions. N.I.]

(1) Where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earners’s service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme,

the amount of a Class 1 contribution in respect of so much of the earnings paid in that week as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced by the following amount.

(1A) The amount is—

- (a) in the case of a primary Class 1 contribution, an amount equal to 1.8 per cent. of that part of those earnings, and
- (b) in the case of a secondary Class 1 contribution, an amount equal to 3 per cent. of that part of those earnings.]

(2) Where—

- (a) an earner has ceased to be employed in an employment; and
- (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed [^{F5}by regulations made by the Secretary of State], from the day on which he so ceased,

that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the ^{M1}Social Security Contributions and Benefits (Northern Ireland) Act 1992 (reduced rates for married women and widows).

Textual Amendments

F4 S. 37(1)(1A), the sidenote and the preceding cross-heading substituted (14.3.1996 for certain purposes and 6.4.1996 for other specified purposes and otherwise 6.4.1997) for S. 37(1) by S.I. 1995/3213 (N.I. 22), **art. 134(2)**; S.R. 1996/91, **art. 2(a)(d)**, **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**

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F5 Words in s. 37(2)(b) inserted (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. 50**; S.R. 1999/149, art. 2(c), **Sch. 2**

Modifications etc. (not altering text)

C1 S. 37(1A)(a)(b) modified (6.4.1997) by S.R. 1996/149, **arts. 2(a)(b)**

Marginal Citations

M1 1992 c. 7.

38 Alteration of rates of contributions under s. 37. **N.I.**

[^{F6}(1) Whenever the Secretary of State makes an order under section 42 of the Pension Schemes Act 1993 (determination of reduced rates of Class 1 contributions for members of salary related contracted-out schemes), the [^{F7}order may also make corresponding provision] for Northern Ireland.]

(2) An order under subsection (1) may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 3 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

Textual Amendments

F6 S. 38(1) substituted (14.3.1996 for certain purposes and 6.4.1996 for other specified purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(3)**; S.R. 1996/91, art. 2(a)(d), **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**

F7 Words in s. 38(1) 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. 51**; S.R. 1999/149, art. 2(c), **Sch. 2**

[^{F8} Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes]

Textual Amendments

F8 S. 38A and the cross-heading inserted (14.3.1996 for certain purposes and 6.4.1996 for other specified purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(4)**; S.R. 1996/91, art. 2(a)(d), **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**

[^{F9}38A Reduced rates of Class 1 contributions and rebates. **N.I.**

(1) Subsections (2) to (3) apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme.

(2) The amount of a Class 1 contribution in respect of so much of the earnings paid in that week in respect of that employment as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he

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is paid otherwise than weekly) shall be reduced by an amount equal to the appropriate flat-rate percentage of that part of those earnings.

(3) The [^{F10}Inland Revenue] shall, except in prescribed circumstances or in respect of prescribed periods, pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person, the amount by which—

(a) the appropriate age-related percentage of that part of those earnings, exceeds

(b) the appropriate flat-rate percentage of that part of those earnings.

(4) Regulations [^{F11}made by the Secretary of State] may make provisions—

(a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,

(b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,

(c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.

(5) If the [^{F10}Inland Revenue][^{F12}pay] an amount under subsection (3) which [^{F13}they][^{F14}are] not required to pay or [^{F14}are] not required to pay to the person to whom, or in respect of whom, the [^{F10}Inland Revenue][^{F12}pay] it, the [^{F10}Inland Revenue] may recover it from any person to whom, or in respect of whom, the [^{F10}Inland Revenue] paid it.

(6) Where—

(a) an earner has ceased to be employed in an employment, and

(b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it

(7) Subsection (3) of section 37 applies for the purposes of this section as it applies for the purposes of that.]

[^{F15}(8) In subsections (3), (4) and (6) “prescribed” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

F9 S. 38A inserted (14.3.1996 for certain purposes and 6.4.1996 for other purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(4)**; S.R. 1996/91, **art. 2(a)(d)**, **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**

F10 Words in s. 38A(3)(5) 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. 52(2)(4)(a)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

F11 Words in s. 38A(4) inserted (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. 52(3)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

F12 Words in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

F13 Word in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

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- F14** Words in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F15** S. 38A(8) added (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. 52(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**

[^{F16}38B Determination and alteration of rates of contributions, and rebates, applicable under section 38A. **N.I.**

Whenever the Secretary of State makes an order under section 42B of the Pension Schemes Act 1993, (determination and alteration of reduced rates of primary and secondary Class 1 contributions for members of money purchase contracted-out schemes), the [^{F17}order may also make corresponding provision] for Northern Ireland.]

Textual Amendments

- F16** S. 38B inserted (14.3.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213, **arts. 1(2), 134(4)**; S.R. 1996/91, art. 2(a)(d), **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**
- F17** Words in s. 38B 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. 53**; S.R. 1999/149, art. 2(c), **Sch. 2**

Minimum contributions: members of appropriate personal pension schemes

39 Payment of minimum contributions to personal pension schemes. **N.I.**

- (1) Subject to the following provisions of this Part, the [^{F18}Inland Revenue] shall, except in such circumstances [^{F19}or in respect of such periods] as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—
- is over the age of 16 but has not attained pensionable age;
 - is not a married woman or widow who has made an election which is still operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate; and
 - is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.
- (2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner's chosen scheme.
- (3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.
- (4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the [^{F18}Inland Revenue][^{F20}are] required to pay minimum contributions, the duty of the [^{F18}Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations [^{F21}made by the Secretary of State].
- (5) If the [^{F18}Inland Revenue][^{F22}pay] an amount by way of minimum contributions which [^{F23}they are] not required to pay, the [^{F18}Inland Revenue] may recover it—
- from the person to whom the [^{F18}Inland Revenue] paid it, or
 - from any person in respect of whom the [^{F18}Inland Revenue] paid it.

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(6) If the [^{F18}Inland Revenue][^{F22}pay] in respect of an earner an amount by way of minimum contributions which the [^{F18}Inland Revenue][^{F24}are] required to pay, but [^{F25}do] not pay it to the trustees or managers of the earner’s chosen scheme, the may recover it from the person to whom the [^{F18}Inland Revenue] paid it or from the earner.

[^{F26}(7) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

- F18** Words in s. 39(1)(4)(5)(6) 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. 54(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F19** Words in s. 39(1) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 34**; S.R. 1997/192, **art. 2(b)**
- F20** Word in s. 39(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. 54(3)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F21** Words in s. 39(4) inserted (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. 54(3)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F22** Words in s. 39(5)(6) 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. 54(4)(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F23** Words in s. 39(5) 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. 54(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F24** Word in s. 39(6) 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. 54(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F25** Word in s. 39(6) 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. 54(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F26** S. 39(7) added (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. 54(6)**; S.R. 1999/149, art. 2(c), **Sch. 2**

40 Earner’s chosen scheme. **N.I.**

(1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the [^{F27}Inland Revenue], in such manner and form and with such supporting evidence as may be prescribed—

- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 39;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,

[^{F28}then unless the [^{F27}Inland Revenue][^{F29}reject] the notice on either or both of the grounds mentioned in subsection (1A)]

that scheme is the earner’s chosen scheme for the purposes of section 39 as from a date determined in accordance with regulations [^{F30}made by the Secretary of State] and specified in the notice, unless at that date some other appropriate scheme is the earner’s chosen scheme for those purposes.

[^{F31}(1A) The grounds referred to in subsection (1) are that the [^{F27}Inland Revenue][^{F32}are of] the opinion—

- (a) that section 27(5) is not being complied with in respect of any members of the scheme,

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(b) that, having regard to any other provisions of sections 22 to 28 and 39 to 41, it is inexpedient to allow the scheme to be the chosen scheme of any further earners.]

(2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the [F27Inland Revenue] at such time and in such manner and form as may be prescribed.

(3) When a notice under subsection (2) is given, the scheme ceases to be the earner’s chosen scheme as from a date determined in accordance with regulations [F30made by the Secretary of State] and specified in the notice.

[F33(4) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

- F27** Words in s. 40(1)(1A)(2) 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. 55(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F28** Words in s. 40(1) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 160(a)**; S.R. 1997/192, **art. 2(b)**
- F29** Word in s. 40(1) 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. 55(3)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F30** Words in s. 40(1)(3) inserted (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. 55(3)(b)(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F31** S. 40(1A) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 160(b)**; S.R. 1997/192, **art. 2(b)**
- F32** Words in s. 40(1A) 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. 55(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F33** S. 40(4) added (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. 55(6)**; S.R. 1999/149, art. 2(c), **Sch. 2**

41 Amount of minimum contributions. N.I.

[F34(1) In relation to any tax week falling within a period for which the [F35Inland Revenue are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly).]

(2)

(3) Regulations [F36made by the Secretary of State] may make provision—

- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
- (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;

[F37(d)

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- (e) for this section to have effect in prescribed cases as if for any reference to a tax week there were substituted a reference to a ^{F38} . . .
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[^{F39}(4) In subsection (3) “prescribed” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

- F34** S. 41(1) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 135(2)**; S.R. 1997/192, **art. 2(b)**
- F35** Words in s. 41(1) 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. 56(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F36** Words in s. 41(3) inserted (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. 56(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F37** S. 41(3)(d) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 35, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F38** Words in s. 41(3)(e) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 135(4), 168, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F39** S. 41(4) added (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. 56(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**

[^{F40}41A Alteration of rates of minimum contributions under section 41. **N.I.**

Whenever the Secretary of State makes an order under section 45A of the Pension Schemes Act 1993 (determination and alteration of rates of contributions to personal pension schemes) the [^{F41}order may also make corresponding provision] for Northern Ireland.]

Textual Amendments

- F40** S. 41A inserted (14.3.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 135(5)**; S.R. 1996/91, art. 2(a), **Sch. Pt. I**; S.R. 1997/192, **art. 2(b)**
- F41** Words in s. 41A 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. 57**; S.R. 1999/149, art. 2(c), **Sch. 2**

[^{F42}41B Money purchase and personal pension schemes: verification of ages **N.I.**

- (1) Regulations [^{F43}made by the Secretary of State] may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of section 38A and 41(1).
- (2) Information held by the Department [^{F44}or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Department [^{F44}or the Inland Revenue]—
 - (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
 - (b) to such other persons as may be prescribed,
 in connection with the making of payments under section 38A(3) or the payment of minimum contributions.]

Status: Point in time view as at 24/03/1999.

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[^{F45}(3) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

- F42** S. 41B inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 136**; S.R. 1996/91, **art. 2(d)**, **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F43** Words in s. 41B(1) inserted (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. 58(2)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**
- F44** Words in s. 41B(2) inserted (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. 58(3)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**
- F45** S. 41B(3) added (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. 58(4)**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits

42 Effect of entitlement to guaranteed minimum pensions on payment of social security benefits. N.I.

- (1) Where for any period a person is entitled both—
 - (a) to a Category A or Category B retirement pension, a widowed mother’s allowance, [^{F46}or a widow’s pension] under the ^{M2}Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
 - (b) to one or more guaranteed minimum pensions,
 the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—
 - [^{F47}(i) to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day,]
 - (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),
 whichever is the less.

^{F48}(2)

- [^{F49}(3) Where for any period—
 - (a) a person is entitled to one or more guaranteed minimum pensions; and
 - (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 for that period an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions shall be deducted from any increase payable under regulations under section 30B(7) of that Act and he shall be entitled to such an increase only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

- (4) Where for any period—
 - (a) a person is entitled to one or more guaranteed minimum pensions;
 - (b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

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(c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,
 for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the ^{M3}Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—
 - ^{F50}(i)
 - (ii) to a Category A retirement pension under section 44 of that Act; or
 - (iii) to a Category B retirement pension under [^{F51}section 48A or 48B] of that Act; and
- (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

(7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;

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- (b) he is also entitled to any of the pensions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 mentioned in subsection (6)(b); and
- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- ^{F52}(a)
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 11(1).

^{F53}(9)

Textual Amendments

- F46** Words in s. 42(1) substituted (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1), Sch. 1 Pt. II para. 54(2); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F47** S. 42(1)(i) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 36**; S.R. 1997/192, **art. 2(b)**
- F48** S. 42(2) repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(3), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F49** S. 42(3) substituted (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1), Sch. 1 Pt. II para. 54(4); S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F50** S. 42(6)(b)(i) repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(5), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F51** Words in s. 42(6)(b)(iii) substituted (16.12.1995) by S.I. 1995/3213 (NI 22), arts. 1(3)(a), 123, Sch. 2 Pt. III para. 19
- F52** S. 42(8)(a) and the word “and” immediately following it repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(6), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**
- F53** S. 42(9) repealed (13.4.1995) by S.I. 1994/1898 (NI 12), art. 13(1)(2), Sch. 1 Pt. II para. 54(7), Sch. 2; S.R. 1994/450, art. 2(d), **Sch. Pt. IV**

Marginal Citations

- M2** 1992 c. 7.
- M3** 1992 c. 7.

43 Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 42. N.I.

- (1) The reference in section 42(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner ^{F54}. . . only if—

Status: Point in time view as at 24/03/1999.

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- (a) at the time of the earner’s death she and her husband had both attained pensionable age; or
 - (b) he is also entitled to a Category A retirement pension by virtue of section 41(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (2) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 9(4); or
 - (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 16 as a result of which—
 - (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
 - (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member’s widow or widower under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 15; and
 - (b) either—
 - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
 - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
 - (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
 - (d) the combined proceeds of—
 - (i) any relevant policies and annuity contracts, and
 - (ii) any cash sums paid or alternative arrangements made under the ^{M4}Policyholders Protection Act 1975,
 are inadequate to provide the whole of the amount secured,
- the member and the member’s widow or widower shall be treated for the purposes of section 42 as only entitled to such part (if any) of the member’s or, as the case may be, the member’s widow’s or widower’s guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 15 applies.
- (5) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 17(1); or
 - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 17(2).

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Textual Amendments

F54 Words in s. 43(1) repealed (13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 13(1)(2), Sch. 1 Pt. II para. 55, Sch. 2; S.R. 1994/450, art. 2(d), Sch. Pt. IV

Modifications etc. (not altering text)

C2 S. 43(2) modified (6.4.1997) by S.R. 1996/509, reg. 6(3)

Marginal Citations

M4 1975 c. 75.

[^{F55} 44 **Reduced benefits where minimum payments or minimum contributions paid. N.I.**

- (1) Subject to subsection (3), this subsection applies where for any period—
 - (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner’s employment, or
 - (b) minimum contributions have been paid in respect of an earner under section 39.
- (2) Where subsection (1) applies then, for the purposes of section 42—
 - (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
 - ^{F56}(b)
 - (c) in prescribed circumstances ^{F57}. . . any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies, paragraphs (a) to (c) of this subsection apply also for the purposes of [^{F58}section]47(2) of the ^{M5}Social Security Contributions and Benefits (Northern Ireland) Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.
- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.]

Textual Amendments

F55 S. 44 shall cease to have effect for specified purposes (6.4.1997) by S.I. 1995/3213 (N.I.22), art. 137(3)

F56 S. 44(2)(b) repealed (14.3.1996 for certain purposes otherwise 6.4.1996) by S.I. 1995/3213 (N.I. 22), art. 137(2), 168, Sch. 5 Pt. III; S.R. 1996/91, arts. 2(b)(c), Sch. Pts. II III

F57 Words in s. 44(2)(c) repealed (14.3.1996 for certain purposes otherwise 6.4.1996) by S.I. 1995/3213 (N.I. 22), art. 137(2), 168, Sch. 5 Pt. III; S.R. 1996/91, arts. 2(b)(c), Sch. Pts. II III

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F58 Words in s. 44(2) substituted (13.4.1995) by [S.I. 1994/1898](#) (NI 12), art. 13(1), Sch. 1 Pt. II para. 56; [S.R. 1994/450](#), art. 2(d), **Sch. Pt. IV**

Marginal Citations

M5 [1992 c. 7.](#)

[^{F59} Effect of reduced contributions and rebates on social security benefits]

Textual Amendments

F59 S. 44A and cross-heading inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213](#) (N.I. 22), **art. 137(1)**; [S.R. 1996/91](#), art. 2(d), **Sch. Pt. IV**; [S.R. 1997/192](#), **art. 2(b)**

[^{F60} 44A Additional pension and other benefits. N.I.

- (1) In relation to any tax week there—
 - (a) the amount of a Class 1 contribution in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 37 or 38A, or
 - (b) an amount is paid under section 41(1) in respect of the earnings paid to or for the benefit of an earner,
 section 44(6) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).
- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Department may make a determination reducing or eliminating the application of subsection (1).
- (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 1.
- (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) but to the extent only that amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
- (5) In relation to earners where, by virtue of subsection (1), section 44(6) of Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) of that Act.]

Textual Amendments

F60 S. 44A inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213](#) (N.I. 22), **art. 137(1)**; [S.R. 1996/91](#), art. 2(d), **Sch. Pt. IV**; [S.R. 1997/192](#), **art. 2(b)**

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[^{F61}Women, married women and widows]

Textual Amendments

F61 S. 45 substituted (16.12.1995) by S.I. 1995/3213 (N.I. 22), arts. 1(3), 123, **Sch. 2 Pt. III para. 12**

^{F62}**45** [**Women, married women and widows.**] **N.I.**

The Department [^{F63}or as the case may be, the Secretary of State] may make regulations modifying, in such manner as it [^{F64}or he]thinks proper—

- (a) this Chapter in its application to women born on or after 6th April 1950, and
- (b) sections 37, 38, 42(1), 43(2) and (5) and 44, in their application to women who are or have been married.

Textual Amendments

F62 S. 45 substituted (16.12.1995) by S.I. 1995/3213 (N.I. 22), arts. 1(3), 123, **Sch. 2 Pt. III para. 12**

F63 Words in s. 45 inserted (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. 59**; S.R. 1999/149, art. 2(c), **Sch. 2**

F64 Words in s. 45 inserted (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. 59**; S.R. 1999/149, art. 2(c), **Sch. 2**

Status:

Point in time view as at 24/03/1999.

Changes to legislation:

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