



# 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 III

##### TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS: STATE SCHEME PREMIUMS

##### *Approval of arrangements for schemes ceasing to be certified*

#### **46 Powers of Board to approve arrangements for scheme ceasing to be certified.**

(1) In the case of an occupational pension scheme <sup>F1</sup>... which is or has been certified as a [<sup>F2</sup>salary related contracted-out] scheme, the [<sup>F3</sup>Inland Revenue] may, for the event of, or in connection with, its ceasing to be such a scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

[<sup>F4</sup>(a) of earners' accrued rights to guaranteed minimum pensions under the scheme or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day, and]

[<sup>F4</sup>(b) of the liability for the payment of such pensions in respect of persons who have then become entitled to receive them.]

[<sup>F5</sup>(1A) The power of the [<sup>F3</sup>Inland Revenue] to approve arrangements under this section—

(a) includes power to approve arrangements subject to conditions, and

(b) may be exercised either generally or in relation to a particular scheme.

*Status: Point in time view as at 06/04/2012.*

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- <sup>F5</sup>(1B) Arrangements may not be approved under this section unless any prescribed conditions are met]
- (2) If the scheme ceases to be a [<sup>F6</sup>salary related contracted-out] scheme (whether by being wound up or otherwise) and the [<sup>F3</sup>Inland Revenue] either—
- (a) [<sup>F7</sup>have] withdrawn [<sup>F8</sup>their] approval of previously approved arrangements relating to it; or
  - (b) [<sup>F7</sup>have] declined to approve arrangements relating to it,
- the [<sup>F3</sup>Inland Revenue] may issue a certificate to that effect.
- (3) A certificate issued under subsection (2)(a) or (b) shall be cancelled by the [<sup>F3</sup>Inland Revenue] if [<sup>F9</sup>they subsequently approve] the arrangements.
- (4) Regulations may provide that where the [<sup>F3</sup>Inland Revenue][<sup>F10</sup> have] approved arrangements under subsection (1) in respect of an occupational pension scheme <sup>F11</sup>... any provision of this Part (other than sections 14, 15, [<sup>F12</sup>27 and 29] and [<sup>F13</sup>39 and 41]) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.
- (5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into operation.
- (6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme [<sup>F14</sup>to which subsection (1) applies] may be withdrawn at any time, notwithstanding that the scheme has been wound up.
- <sup>F15</sup>(7) .....

#### Textual Amendments

- F1** Words in s. 46(1) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(10)(a)(i)**
- F2** Words in s. 46(1) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(10)(a)(ii)**
- F3** Words in s. 46(1)(1A)(2)-(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. 60(2)**; [S.R. 1999/149](#), art. 2(c), **Sch. 2**
- F4** S. 46(1)(a)(b) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(10)(a)(iii)**
- F5** S. 46(1A)(1B) inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 147, **Sch. 3 para. 37(b)**; [S.R. 1996/91](#), art. 2(d), **Sch. Pt. IV**; [S.R. 1997/192](#) art. 2(b)
- F6** Words in s. 46(2) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(10)(b)**
- F7** Words in s. 46(2)(a)(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. 60(3)**; [S.R. 1999/149](#), art. 2(c), **Sch. 2**
- F8** Word in s. 46(2)(a) 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. 60(3)**; [S.R. 1999/149](#), art. 2(c), **Sch. 2**
- F9** Words in s. 46(3) 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. 60(4)**; [S.R. 1999/149](#), art. 2(c), **Sch. 2**
- F10** Word in s. 46(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. 60(5)**; [S.R. 1999/149](#), art. 2(c), **Sch. 2**

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- F11** Words in s. 46(4) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), [4\(10\)\(c\)\(i\)](#)
- F12** Words in s. 46(4) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), [4\(10\)\(c\)\(ii\)](#)
- F13** Words in s. 46(4) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), [4\(10\)\(c\)\(iii\)](#)
- F14** Words in s. 46(6) substituted (6.4.2012) by [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), [4\(10\)\(d\)](#)
- F15** S. 46(7) repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 147, 168, Sch. 3 para. 37(c), [Sch. 5 Pt. III](#); [S.R. 1997/192](#), [art. 2\(b\)](#)

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

- C1** S. 46 modified (28.3.1997) by [S.R. 1997/192](#), [art. 4\(1\)](#) (with [art. 9](#))
- C2** S. 46 modified by [S.R. 1996/493](#), reg. 77(3) (as substituted (6.4.2009) by [The Pensions \(2008 Acts\) \(Consequential Provisions\) Order \(Northern Ireland\) 2009 \(S.R. 2009/113\)](#), arts. 1, [3\(7\)](#))

## **47 Calculation of guaranteed minimum pensions preserved under approved arrangements.**

- (1) This section applies where—
- (a) an earner's guaranteed minimum pension rights or accrued rights to guaranteed minimum pensions under a scheme [<sup>F16</sup>satisfy prescribed conditions], and
  - (b) one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.
- (2) Where this section applies then, except in such circumstances as may be prescribed, section 12(1) shall have effect, subject to the following provisions, that is to say—
- (a) any earnings factor shall be taken to be that factor as increased by the last order under Article 23 of the <sup>M1</sup>Social Security Pensions (Northern Ireland) Order 1975 or section 130 of the <sup>M2</sup>Social Security Administration (Northern Ireland) Act 1992 to come into operation before those five tax years; and
  - (b) any relevant earnings factors derived from contributions or earnings in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
    - (i) constitutes or begins before the relevant contributions year, or
    - (ii) begins after the final relevant year in relation to the earner.
- (3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.
- (4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 12(2).
- (5) In this section “relevant year” and “final relevant year” have the same meanings as in section 12.

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**Textual Amendments**

**F16** Words in s. 47(1)(a) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 38**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**

**Marginal Citations**

**M1** S.I. 1975/1503 (N.I. 15).  
**M2** 1992 c. 8.

*Supervision of formerly certified schemes*

**48 Supervision of schemes which have ceased to be certified.**

(1) Section 49 shall apply for the purpose of making provision for securing the continued supervision of [<sup>F17</sup>salary related] occupational pension schemes as respects which subsection (2) applies <sup>F18</sup>...

(2) This subsection applies as respects any [<sup>F19</sup>salary related] occupational pension scheme, other than a public service pension scheme, where—

- <sup>F20</sup>(a) the scheme has ceased to be a contracted-out scheme, and
- (b) any persons remain who fall within any of the following categories.

(2A) Those categories are—

- (a) any persons entitled to receive, or having accrued rights to—
  - (i) guaranteed minimum pensions, or
  - (ii) pensions under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out,]

<sup>F21</sup>(b) .....  
<sup>F22</sup>(c) .....

<sup>F23</sup>(3) .....

<sup>F24</sup>(4) .....

<sup>F24</sup>(5) .....

<sup>F24</sup>(6) .....

**Textual Amendments**

**F17** Words in s. 48(1) inserted (6.4.2012) by **The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012** (S.R. 2012/124), arts. 1(b), **4(11)(a)(i)**

**F18** Words in s. 48(1) omitted (6.4.2012) by virtue of **The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012** (S.R. 2012/124), arts. 1(b), **4(11)(a)(ii)**

**F19** Words in s. 48(2) inserted (6.4.2012) by **The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012** (S.R. 2012/124), arts. 1(b), **4(11)(b)**

**F20** S. 48(2)(a)(b)(2A) substituted (6.4.1997) for s. 48(2)(a)(b) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 39(a)**; S.R. 1997/192, **art. 2(b)**

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- F21** S. 48(2A)(b) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(11)(c)**
- F22** S. 48(2A)(c) repealed (6.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), **Sch. 10 Pt. 2** (with s. 73); S.R. 2009/22, art. 2(2)(d)
- F23** S. 48(3) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), **4(11)(d)**
- F24** S. 48(4)-(6) repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 147, 168, Sch. 3 para. 39(c), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)

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

- C3** S. 48 modified by [S.R. 1996/493](#), reg. 77(3) (as substituted (6.4.2009) by [The Pensions \(2008 Acts\) \(Consequential Provisions\) Order \(Northern Ireland\) 2009 \(S.R. 2009/113\)](#), arts. 1, **3(7)**)

## 49 Supervision: former contracted-out schemes.

<sup>F25</sup>(1) The [<sup>F26</sup>Inland Revenue] may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the [<sup>F26</sup>Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable as if it were an order of the county court.]

<sup>F27</sup>(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under Article 19 of the Pensions (Northern Ireland) Order 2005 in relation to the scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order—

- (a) is not binding as described in subsection (1), and
- (b) is not enforceable as described in subsection (1B).]

<sup>F28</sup>(2) .....

<sup>F29</sup>(3) If a certificate has been issued under subsection (2) of section 46 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 48(2A)(a) <sup>F30</sup>... must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the [<sup>F26</sup>Inland Revenue] may allow.]

<sup>F28</sup>(4) .....

<sup>F28</sup>(5) .....

#### Textual Amendments

- F25** S. 49(1)(1A)(1B) substituted (6.4.1997) for s. 49A(1) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 147, **Sch. 3 para. 40(a)**; S.R. 1997/192, art. 2(b)
- F26** Words in s. 49(1)(3) 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. 61**; S.R. 1999/149, art. 2(c), **Sch. 2**

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- F27** S. 49(1C) inserted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#), art. 1(2), **Sch. 10 para. 6**; S.R. 2006/95, art. 2(c), Sch. Pt. 3
- F28** S. 49(2)(4)(5) repealed (6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), arts. 147, 168, Sch. 3 para. 40(b)(d), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)
- F29** S. 49(3) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213 \(NI 22\)](#), arts. 147, Sch. 3 para. 40(c); S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, art. 2(b)
- F30** Words in s. 49(3) omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), 4(12)

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

- C4** S. 49 modified by S.R. 1996/493, reg. 77(3) (as substituted (6.4.2009) by [The Pensions \(2008 Acts\) \(Consequential Provisions\) Order \(Northern Ireland\) 2009 \(S.R. 2009/113\)](#), arts. 1, 3(7))

**F31 50 Supervision: former appropriate personal pension schemes.**

.....

**Textual Amendments**

- F31** S. 50 omitted (6.4.2012) by virtue of [The Pensions \(2008 No. 2 Act\) \(Abolition of Protected Rights\) \(Consequential Provisions\) Order \(Northern Ireland\) 2012 \(S.R. 2012/124\)](#), arts. 1(b), 4(13)

*State scheme premiums*

**51 Payment of state scheme premiums on termination of certified status.**

<sup>F32</sup>(1) .....

[<sup>F33</sup>(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme <sup>F34</sup>....,
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has served for less than two years in the employment,

the prescribed person [<sup>F35</sup>shall, if subsection (2B) applies, pay and otherwise] may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

[ In this section “prescribed” means prescribed by regulations made by the Secretary <sup>F36</sup>(2ZA) of State.]

(2A) The circumstances referred to in subsection (2) are that—

- (a) the earner’s service in the employment ceases otherwise than on the earner’s death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner’s death,
- (c) the earner’s service in the employment ceases on the earner’s death and the earner dies leaving a widow or widower,

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- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pension scheme;

[<sup>F37</sup> . . . ]]

[<sup>F38</sup>(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

(2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.]

(3) . . . . .

<sup>F32</sup>(4) . . . . .

<sup>F32</sup>(5) . . . . .

<sup>F32</sup>(6) . . . . .

**Textual Amendments**

- F32** S. 51(1)(3)-(6) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 42, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F33** S. 51(2) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (NI 22), art. 138(1); S.R. 1996/91, **art. 2(d)**, **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F34** Words in s. 51(2)(a) repealed (6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), **Sch. 4 para. 26**, **Sch. 6 Pt. 6** (with Sch. 4 Pt. 3); S.R. 2012/115, **art. 2**
- F35** Words in s. 51(2) inserted (11.11.1999 for certain purposes and otherwise 6.4.2002) by 1999 c. 30, ss. 18, 89(5)(a), **Sch. 2 para. 7(2)(a)**; S.I. 2001/4049, **art. 2(3)**
- F36** S. 51(2ZA) 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. 63**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**
- F37** Words in s. 51(2A) omitted (11.11.1999 for certain purposes and otherwise 6.4.2002) by virtue of 1999 c. 30, ss. 18, 89(5)(a), **Sch. 2 para. 7(2)(b)** and repealed (6.4.2002) by 1999 c. 30, s. 88, **Sch. 13 Pt. I**; S.I. 2001/4049, **art. 2(3)(b)(ii)**; S.I. 2001/4049, **art. 2(3)**
- F38** S. 51(2B)(2C) inserted (11.11.1999 for certain purposes and otherwise 6.4.2002) by 1999 c. 30, ss. 18, 89(5)(a), **Sch. 2 para. 7(2)(c)**; S.I. 2001/4049, **art. 2(3)**

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

- C5** S. 51 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with **art. 9**)
- C6** S. 51(2B) excluded (6.4.2002) by S.R. 1996/493, **reg. 51(1A)-(1C)** (as substituted by S.I. 2002/681, **reg. 7(2)**)

**52 Provisions supplementary to s. 51.**

<sup>F39</sup>(1) . . . . .

(2) A premium under section 51 shall be paid by the prescribed person to the [<sup>F40</sup>Inland Revenue] within the prescribed period <sup>F41</sup>. . . .

<sup>F39</sup>(3) . . . . .

(4) [<sup>F42</sup>Where under the rules of the scheme, transfer credits have been allowed—  
(a) in respect of the earner’s rights under another scheme, or

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(b) in respect of the earner by reference to the payment of a cash transfer sum (within the meaning of Chapter 5 of Part IV) to the trustees or managers of the scheme by the trustees or managers of another occupational pension scheme,] the reference in section 51(2) to employment which is contracted-out by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

[<sup>F43</sup>(5) <sup>F44</sup>.....]

(6) Subject to regulations under paragraph 1 of Schedule 1, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 51(2A) as ceasing immediately before the death]

[<sup>F45</sup>(7) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

[<sup>F46</sup>(8) Where a premium under section 51 is payable by the Board of the Pension Protection Fund by virtue of a transfer under Article 145 of the Pensions (Northern Ireland) Order 2005 (effect of the Board assuming responsibility for an occupational pension scheme), then, subject to subsection (9), sections 51 to 64 apply with such modifications as may be prescribed in relation to that premium.

(9) A premium under section 51 in respect of an earner ceases to be payable if—  
 (a) the liability to pay the premium is transferred to the Board of the Pension Protection Fund by virtue of Article 145 of the Pensions (Northern Ireland) Order 2005, and  
 (b) prescribed requirements are met.]

#### Textual Amendments

- F39** S. 52(1)(3) repealed (6.4.1997) by [S.I. 1995/3213](#), (N.I. 22), arts. 147, 168, Sch. 3 para. 43(a), Sch. 5 Pt. III; [S.R. 1997/192](#), [art. 2\(b\)](#)
- F40** Words in s. 52(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. 64\(2\)](#); [S.R. 1999/149](#), [art. 2\(c\)](#), [Sch. 2](#)
- F41** Words in s. 52(2) repealed (6.4.1997) by [S.I. 1995/3213](#), (N.I. 22), arts. 147, 168, Sch. 3 para. 43(a), Sch. 5 Pt. III; [S.R. 1997/192](#), [art. 2\(b\)](#)
- F42** Words in s. 52(4) substituted (6.4.2006) by [The Pensions \(Northern Ireland\) Order 2005](#) ([S.I. 2005/255](#) (N.I. 1)), [art. 1\(2\)](#), [Sch. 10 para. 7\(2\)](#); [S.R. 2006/95](#), [art. 2\(c\)](#), Sch. Pt. 3
- F43** S. 52(5)(6) substituted (6.4.1997) by [S.I. 1995/3213](#) (N.I. 22), [art. 147](#), [Sch. 3 para. 43\(b\)](#); [S.R. 1997/192](#), [art. 2\(b\)](#)
- F44** S. 52(5) repealed (6.4.2002) by [2000 c. 19](#), s. 85, [Sch. 9 Pt. III\(11\)](#) (with s. 83(6)); [S.I. 2002/437](#) {[art. 3\(3\)](#)}
- F45** S. 52(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. 64\(3\)](#); [S.R. 1999/149](#), [art. 2\(c\)](#), [Sch. 2](#)
- F46** S. 52(8)(9) added (1.10.2006 for specified purposes, 1.1.2007 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005](#) ([S.I. 2005/255](#)), [art. 1\(2\)](#), [Sch. 10 para. 7\(3\)](#); [S.R. 2006/352](#), [art. 2\(2\)\(a\)\(b\)](#)

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

- C7** S. 52 modified (28.3.1997) by [S.R. 1997/192](#), [art. 4\(2\)](#) (with [art. 9](#))
- C8** S. 52 modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations \(Northern Ireland\) 2005](#) ([S.R. 2005/193](#)), [regs. 1\(1\)](#), [2\(5\)](#), (6)



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### 53 Elections to pay contributions equivalent premiums.

- (1) An election under section 51(2) must be made within the prescribed period and in the prescribed manner.
- (2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.
- (3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.
- (4) If [<sup>F47</sup>the Inland Revenue consider] that the prescribed person is contravening subsection (2), [<sup>F48</sup>they] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.
- [<sup>F49</sup>(5) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

#### Textual Amendments

- F47** Words in s. 53(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. 65(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F48** Words in s. 53(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. 65(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F49** S. 53(5) 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. 65(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**

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

- C9** S. 53 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with **art. 9**)

### 54 Amount of premiums payable under s. 51.

- <sup>F50</sup>(1) .....
- <sup>F50</sup>(2) .....
- <sup>F50</sup>(3) .....

- [<sup>F51</sup>(4) Subject to subsection (4A), the amount of the contributions equivalent premium shall be equal to the sum of the following amounts—
- (a) the amount of every reduction made under section 37 (as from time to time in force) in the amount of Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme; and
  - (b) the total amount by which the reductions falling within paragraph (a) would have been larger if the amount of the contributions falling to be reduced had in each case been at least equal to the amount of the reduction of those contributions provided for by section 37.
- (4A) The amounts brought into account in accordance with subsection (4)(b) shall not include any amount which, by virtue of regulations made under section 37(1D) so as to

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avoid the payment of trivial or fractional amounts, is an amount that was not payable by the Inland Revenue to the secondary contributor.]

(5) .....

<sup>F50</sup>(6) .....

(7) Section 52(4) applies for the purposes of subsection (4) as it applies for the purposes of section 51(2).

**Textual Amendments**

**F50** S. 54(1)-(3)(5)(6) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 44, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

**F51** S. 54(4)(4A) substituted (28.7.2000 with effect as mentioned in Sch. 5 Pt. I para. 6(4) of the amending Act) for s. 54(4) by 2000 c. 19, s. 56, **Sch. 5 Pt. I para. 6(1)** (with s. 83(6))

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

**C10** S. 54 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

<sup>F52</sup>55 .....

**Textual Amendments**

**F52** S. 55 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 45, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

**56 Effect of payment of premiums on rights.**

<sup>F53</sup>(1) .....

<sup>F53</sup>(2) .....

<sup>F53</sup>(3) .....

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [<sup>F54</sup>51(2A)(a) and (b), (d) and (e)] shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme [<sup>F55</sup>or (in relation to service on or after the principal appointed day( rights to pensions under the scheme so far as attributable to the amount of the premium)].

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section [<sup>F56</sup>51(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s [<sup>F57</sup>widow, widower or surviving civil partner] .

<sup>F58</sup>(6) .....

<sup>F58</sup>(7) .....

<sup>F58</sup>(8) .....

<sup>F58</sup>(9) .....

<sup>F58</sup>(10) .....

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### Textual Amendments

- F53** S. 56(1)-(3) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 46(a), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F54** Words in s. 56(4) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 46(b)(i)**; S.R. 1997/192, **art. 2(b)**
- F55** Words in s. 56(4) added (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 46(b)(ii)**; S.R. 1997/192, **art. 2(b)**
- F56** Words in s. 56(5) substituted (6.4.1997) by S.I. 1995/3213 (NI 22), art. 147, Sch. 3 para. 46(c); S.R. 1997/192, **art. 2(b)**
- F57** Words in s. 56(5) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005/433), art. 1(3), **Sch. 1 para. 17**
- F58** S. 56(6)-(10) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 46(d), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

### Modifications etc. (not altering text)

- C11** S. 56 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

## 57 Deduction of contributions equivalent premium from refund of scheme contributions.

- (1) This section applies where—
- <sup>F59</sup>(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and]
  - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
  - (c) a contributions equivalent premium falls to be paid by any person in respect of him.
- (2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to <sup>F60</sup>[any actual reductions of] primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.
- (4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.
- (5) Where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
  - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,

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the amount which may be recovered under this section shall be increased by such amount as may be prescribed.

- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where—
- [<sup>F61</sup>(a) an earner’s service in contracted-out employment ceases or his employment ceases to be contracted-out employment,]
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
- (c) a contributions equivalent premium falls to be paid in respect of him; and
- (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment,
- then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to service in the employment on the [<sup>F62</sup>cessation] of which the premium falls to be paid (and subsection (7) shall apply accordingly).
- (9) This section shall apply in relation to such a refund as is referred to in subsection (1) (b) which becomes payable after the [<sup>F63</sup>cessation] of an earner’s service in contracted-out employment as it applies to such a refund becoming payable on the [<sup>F63</sup>cessation] of an earner’s service in such employment.
- [<sup>F64</sup>(9A) Where under section 97AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.]
- (10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).
- (11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme; or
- (b) is made or to be made out of those resources but by way of distribution on a winding up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.

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[<sup>F65</sup>(12) In this section “prescribed” means prescribed by regulations made by the Secretary of State.]

**Textual Amendments**

- F59** S. 57(1)(a) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 47(a)**; S.R. 1997/192, **art. 2(b)**
- F60** Words in s. 57(2) inserted (28.7.2000 with effect as mentioned in Sch. 5 Pt. I para. 6(4) of the amending Act) by 2000 c. 19, s. 56, **Sch. 5 Pt. I para. 6(2)** (with s. 83(6))
- F61** S. 57(8)(a) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, **Sch. 3 para. 47(b)(i)**; S.R. 1997/192, **art. 2(b)**
- F62** Word in s. 57(8) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 47(b)(ii)**; S.R. 1997/192, **art. 2(b)**
- F63** Words in s. 57(9) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 47(c)**; S.R. 1997/192, **art. 2(b)**
- F64** S. 57(9A) inserted (6.4.2006) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), art. 1(2), **Sch. 10 para. 8**; S.R. 2005/543, art. 2(6), Sch. Pt. 6
- F65** S. 57(12) 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. 66**; S.R. 1999/149, art. 2(c), **Sch. 2**

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

- C12** S. 57 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)
- C13** S. 57 modified (6.4.2007) by The Pension Protection Fund (Contributions Equivalent Premium) Regulations 2007 (S.I. 2007/834), regs. 1(1), **9**

**58 No recovery of state scheme premiums from earners, etc.**

- (1) Notwithstanding any contract to the contrary, a person shall not be entitled—
  - (a) to recover any part of a [<sup>F66</sup>contributions equivalent] premium from any earner in respect of whom it is payable; or
  - (b) except in accordance with section 57, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

<sup>F67</sup>(2) .....

**Textual Amendments**

- F66** Words in s. 58(1)(a) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 48(a)**; S.R. 1997/192, **art. 2(b)**
- F67** S. 58(2) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 48(b), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

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

- C14** S. 58 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

**59 Further provisions concerning calculations relating to premiums.**

- (1) The following amounts shall be certified by the [<sup>F68</sup>Inland Revenue]—
  - <sup>F69</sup>(a) .....

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- [<sup>F70</sup>(b) the sum of the amounts specified in section 54(4);]  
 (c) .....  
 (d) the amount mentioned in section 57(2).
- <sup>F71</sup>(2) .....
- (3) If the [<sup>F68</sup>Inland Revenue]—  
<sup>F72</sup>(a) .....  
 (b) [<sup>F73</sup>are satisfied] that records of earnings relevant for determining the amount mentioned in [<sup>F74</sup>section 54(4)] have not been maintained or retained or are otherwise unobtainable,  
 then the [<sup>F68</sup>Inland Revenue] may for that purpose—  
 (i) compute, in such manner as [<sup>F75</sup>they think] fit, an amount which shall be regarded as the amount of those earnings; or  
 (ii) take their amount to be such sum as [<sup>F76</sup>they may] specify in the particular case,  
<sup>F77</sup> .....
- <sup>F78</sup>(4) .....
- (5) For the purposes of subsection (1) the [<sup>F68</sup>Inland Revenue] may make such adjustments as [<sup>F75</sup>they think] necessary for avoiding fractional amounts.

#### Textual Amendments

- F68** Words in s. 59(1)(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. 67(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F69** S. 59(1)(a) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 49(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F70** S. 59(1)(b) substituted (28.7.2000 with effect as mentioned in Sch. 5 Pt. I para. 6(4) of the amending Act) by 2000 c. 19, s. 56, **Sch. 5 Pt. I para. 6(3)** (with s. 83(6))
- F71** S. 59(2) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 49(b), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F72** S. 59(3)(a) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 49(c)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F73** Words in s. 59(3) 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. 67(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F74** Words in s. 59(3)(b) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 49(c)(ii)**; S.R. 1997/192, **art. 2(b)**
- F75** Words in s. 59(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. 67(3)(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F76** Words in s. 59(3) 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. 67(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F77** Words in s. 59(3) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 49(c)(iii), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F78** S. 59(4) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 49(d), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

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

- C15** S. 59 modified (6.4.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

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F79 **60** .....

**Textual Amendments**

**F79** S. 60 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 50, **Sch. 5 Pt. III**

F80 **61** .....

**Textual Amendments**

**F80** S. 61 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 50, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

F81F81 **62** .....

**Textual Amendments**

**F81** S. 62 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 50, **Sch. 5 Pt. III**

**63 Non-payment of state scheme premiums.**

- (1) If a person fails to pay any [<sup>F82</sup>contributions equivalent] premium which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.
- (2) Where—
  - (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
  - (b) the premium remains unpaid at the date of the conviction,
 he shall be liable to pay to the [<sup>F83</sup>Inland Revenue] a sum equal to the amount which he failed to pay.
- (3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay [<sup>F82</sup>contributions equivalent] premiums within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant on which the person appeared before the court which convicted him.

**Textual Amendments**

**F82** Words in s. 63 substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 51**; S.R. 1997/192, **art. 2(b)**

**F83** Word in s. 63(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. 68**; S.R. 1999/149, art. 2(c), **Sch. 2**

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

**C16** S. 63 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with **art. 9**)

**64 Unpaid premiums: supplementary.**

- (1) Where a person charged with an offence to which section 63(2) applies is convicted of that offence in his absence under Article 24(2) of the <sup>M3</sup>Magistrates’ Courts (Northern Ireland) Order 1981, then if—
- (a) it is proved to the satisfaction of the court, on oath or by affidavit or in the manner prescribed by magistrates’ courts rules, that notice under section 63(4) has been duly served specifying the other premiums in respect of which the complainant intends to give evidence; and
  - (b) the clerk of petty sessions has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,
- section 63(3) and (4) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.
- (2) Where—
- (a) a person is convicted of an offence to which section 63(2) applies; and
  - (b) an order is made under the <sup>M4</sup>Probation Act (Northern Ireland) 1950 placing the offender on probation or discharging him absolutely or conditionally,
- subsection (1) and section 63(2) to (4) shall apply as if it were a conviction for all purposes.
- (3) Any sum which a person is liable to pay under subsection (1) or section 63(2) to (4) shall be recoverable from him as a penalty.
- (4) [<sup>F84</sup>contributions equivalent] premiums recovered by the [<sup>F85</sup>Inland Revenue] under those provisions shall be treated for all purposes as premiums paid to the [<sup>F85</sup>Inland Revenue] in respect of the person in respect of whom they were originally payable.

**Textual Amendments**

**F84** Words in s. 64 substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 147**, **Sch. 3 para. 51**; S.R. 1997/192, **art. 2(b)**

**F85** Words in s. 64(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. 69**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

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

**C17** S. 64 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with **art. 9**)

**Marginal Citations**

**M3** S.I. 1981/1675 (N.I. 26).

**M4** 1950 c. 7 (N.I.).



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