



# 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 III **N.I.**

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

#### *State scheme premiums*

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

<sup>F1</sup>(1) .....

[<sup>F2</sup>(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pension scheme (other than a money purchase contracted-out scheme),
- (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 may elect to pay a premium under this subsection (referred to in this Act as a "contributions equivalent premium").

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

*Status: Point in time view as at 25/02/1999.*

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- (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,
  - (d) the scheme is wound up,
  - (e) the scheme ceases to be a contracted-out occupational pension scheme;
- but paragraph (a), (b), (d) or (e) does not apply if the earner has an accrued right to short service benefit.]

- (3) .....
- <sup>F1</sup>(4) .....
- <sup>F1</sup>(5) .....
- <sup>F1</sup>(6) .....

**Textual Amendments**

**F1** S. 51(1)(3)-(6) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 42, **Sch. 5 Pt.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)**

**F2** 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)**

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

**C1** S. 51 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

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

- <sup>F3</sup>(1) .....
- (2) A premium under section 51 shall be paid by the prescribed person to the Department within the prescribed period <sup>F4</sup> . . . .
- <sup>F3</sup>(3) .....
- (4) Where under the rules of the scheme transfer credits have been allowed in respect of the earner’s accrued rights under another 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>F5</sup>(5) The reference in section 51(2A) to an accrued right to short service benefit includes an accrued right to any provision which, under the preservation requirements, is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).
- (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]

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#### Textual Amendments

- F3** 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)**
- F4** 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)**
- F5** 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)**

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

- C2** S. 52 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

### 53 Elections to pay contributions equivalent premiums. **N.I.**

- (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 the [<sup>F6</sup>Department][<sup>F7</sup>considers] that the prescribed person is contravening subsection (2), [<sup>F7</sup>it] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.

#### Textual Amendments

- F6** Word in s. 53(4) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(a)** Table; S.R. 1997/192, **art. 2(b)**
- F7** Words in s. 53(4) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(b)**, Table; S.R. 1997/192, **art. 2(b)**

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

- C3** 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. **N.I.**

- <sup>F8</sup>(1) .....
- <sup>F8</sup>(2) .....
- <sup>F8</sup>(3) .....

- (4) The amount of a contributions equivalent premium shall be the difference between—
  - (a) the amount of the Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme, and

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(b) the amount of those contributions which would have been payable if the employment had not been contracted-out.

<sup>F8</sup>(5) .....

<sup>F8</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**  
**F8** 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)**

**Modifications etc. (not altering text)**  
**C4** S. 54 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

<sup>F9</sup>55 ..... **N.I.**

**Textual Amendments**  
**F9** 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. **N.I.**

<sup>F10</sup>(1) .....

<sup>F10</sup>(2) .....

<sup>F10</sup>(3) .....

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [<sup>F11</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>F12</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>F13</sup>51(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s widow [<sup>F14</sup>or widower].

<sup>F15</sup>(6) .....

<sup>F15</sup>(7) .....

<sup>F15</sup>(8) .....

<sup>F15</sup>(9) .....

<sup>F15</sup>(10) .....

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### Textual Amendments

- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** Words in s. 56(5) added (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 46(c)**; S.R. 1997/192, **art. 2(b)**
- F15** 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)

- C5** 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. **N.I.**

- (1) This section applies where—
- <sup>F16</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 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,
- the amount which may be recovered under this section shall be increased by such amount as may be prescribed.

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- (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>F17</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>F18</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>F19</sup>cessation] of an earner’s service in contracted-out employment as it applies to such a refund becoming payable on the [<sup>F19</sup>cessation] of an earner’s service in such employment.
- (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.

#### Textual Amendments

**F16** 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)**

**F17** 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)**

*Status: Point in time view as at 25/02/1999.*

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**F18** 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)**

**F19** 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)**

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

**C6** S. 57 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

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

- (1) Notwithstanding any contract to the contrary, a person shall not be entitled—
  - (a) to recover any part of a [<sup>F20</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>F21</sup>(2) .....

**Textual Amendments**

**F20** 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)**

**F21** 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)**

**C7** 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. N.I.**

- (1) The following amounts shall be certified by the Department—
  - <sup>F22</sup>(a) .....
  - (b) the amount of the difference mentioned in [<sup>F23</sup>section 54(4)] of that section,
  - <sup>F24</sup>(c) .....
  - (d) the amount mentioned in section 57(2).

<sup>F25</sup>(2) .....

- (3) If the Department—
  - <sup>F26</sup>(a) .....
  - (b) is satisfied that records of earnings relevant for determining the amount mentioned in [<sup>F27</sup>section 54(4)] have not been maintained or retained or are otherwise unobtainable,

then the Department may for that purpose—

- (i) compute, in such manner as it thinks fit, an amount which shall be regarded as the amount of those earnings; or
- (ii) take their amount to be such sum as it may specify in the particular case,

<sup>F28</sup> .....

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F29(4) .....

(5) For the purposes of subsection (1) the Department may make such adjustments as it thinks necessary for avoiding fractional amounts.

**Textual Amendments**

- F22 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)**
- F23 Words in s. 59(1)(b) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 49(a)(ii)**; S.R. 1997/192, **art. 2(b)**
- F24 S. 59(1)(c) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 49(a)(iii), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F25 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)**
- F26 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)**
- F27 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)**
- F28 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)**
- F29 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)**

- C8 S. 59 modified (6.4.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

F30 **60** **N.I.**

**Textual Amendments**

- F30 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**

F31 **61** **N.I.**

**Textual Amendments**

- F31 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)**

F32F32 **62** **N.I.**

**Textual Amendments**

- F32 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**



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### 63 Non-payment of state scheme premiums. **N.I.**

- (1) If a person fails to pay any [<sup>F33</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 Department 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>F33</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

**F33** 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)**

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

**C9** S. 63 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

### 64 Unpaid premiums: supplementary. **N.I.**

- (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>M1</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>M2</sup>Probation Act (Northern Ireland) 1950 placing the offender on probation or discharging him absolutely or conditionally,

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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>F34</sup>contributions equivalent] premiums recovered by the Department under those provisions shall be treated for all purposes as premiums paid to the Department in respect of the person in respect of whom they were originally payable.

#### Textual Amendments

**F34** 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)**

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

**C10** S. 64 modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)

#### Marginal Citations

**M1** S.I. 1981/1675 (N.I. 26).

**M2** 1950 c. 7 (N.I.).

**Status:**

Point in time view as at 25/02/1999.

**Changes to legislation:**

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