

*Status: Point in time view as at 06/04/1997.*

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## SCHEDULES

### SCHEDULE 1

#### CERTIFICATION REGULATIONS

#### PART I

#### OCCUPATIONAL PENSION SCHEMES

##### *General regulations: beginning and ending of employment*

- 1 (1) In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which employments are or have been contracted-out, regulations may make provision generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end and, in particular, as to the matters mentioned in sub-paragraphs (2) to (4).
  - (2) Regulations may make provision for treating an earner's employment which ends before a person succeeds to the business of the earner's employer as having been employment under the employer's successor.
  - (3) Regulations may make provision—
    - (a) for changes in an earner's employment due to the death of an employer or another cause, or any cesser of contracted-out employment so due, to be disregarded; or
    - (b) for employment under one employer to be treated as a continuation of that under another and any contracting-out certificate issued to, or election made by, the former employer to be treated as issued to or made by the latter.
  - (4) Regulations may also make provision—
    - (a) for temporary interruptions in an earner's employment or contracted-out employment to be disregarded; and
    - (b) for the employment in either case to be treated as continuing during the interruption.
  - (5) References in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.
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- 2 (1) Subject to sub-paragraph (2), regulations may enable the [<sup>F1</sup>Department] to determine in prescribed circumstances that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date ("the determined date") earlier than would otherwise be the case.

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- (2) The determined date for any earner may not be earlier than—
- (a) the date on which his relevant employment began, or
  - (b) the date on which a contracting-out certificate was issued in respect of it,
- whichever is the later.

#### Textual Amendments

- F1** Word in [Sch. 1 para. 2\(1\)](#) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), art. 147, [Sch. 3 para. 70\(a\)](#); [S.R. 1996/91](#), art. 2(d), [Sch. Pt. IV](#); [S.R. 1997/192](#), art. 2(b)

- 3 Provision may be made by regulations for requiring an employer to give notice to the Department—
- (a) when an earner’s employment becomes or ceases to be contracted-out employment; and
  - (b) when an earner’s employment in contracted-out employment begins or ends.

*Power to modify Part III, etc.*

- 4 (1) Regulations may modify the provisions of Part III (other than sections 14, 15 and <sup>F2</sup> . . . 64), Chapter III of Part IV and Chapter II of Part V (except, so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to cases in which—
- (a) a person is employed at the same time in two or more employments (whether or not under the same employer); and
  - (b) at least one but not all of those employments is contracted-out employment, with a view to enabling the employments to be treated either separately or together for the purposes of those provisions.
- (2) Regulations may also modify those provisions in their application to cases in which—
- (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits; or
  - (b) earners qualify for the benefits of a scheme by reference to both—
    - (i) service in employment which is contracted-out in relation to them by reference to the scheme; and
    - (ii) service in the same employment or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment.
- (3) Regulations under this paragraph may include provision for securing that in the cases to which they apply an earner’s employment [<sup>F3</sup>which, apart from the regulations, would not be contracted-out employment is treated as contracted-out employment where any benefits provided under the scheme are attributable to a period when the scheme was contracted-out].

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#### Textual Amendments

- F2** Words in Sch. 1 para. 4(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 168, Sch. 5 Pt. III; S.R. 1997/192, art. 2(b)
- F3** Words in Sch. 1 para. 4(3) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 70(b); S.R. 1996/91, art. 2(d), Sch. Pt. IV; S.R. 1997/192, art. 2(b)

<sup>F4</sup> . . . premiums

#### Textual Amendments

- F4** Words in the heading to Sch. 1 para. 5 repealed (6.4.1997) by S.I. 1995/3213 (NI 22), art. 168, Sch. 5 Pt. III

- 5 (1) Regulations may make provision for requiring persons to furnish the Department <sup>F5</sup> . . . with such information as the Department <sup>F5</sup> . . . may require for the purposes of sections 33, 34, 46 to [<sup>F6</sup>59], <sup>F7</sup> . . . and 155(1) to (3), (5) and (6) (except as they apply to personal pension schemes, the members of such schemes or rights in respect of them).
- (2) Regulations may provide that for the purposes of sections 46, 51 to 56 and 59 <sup>F8</sup> . . . (except as they so apply) the prescribed person shall be treated as the employer—
- (a) of any employed earners who, in any period of service in contracted-out employment—
- (i) have been paid earnings in any income tax week by more than one person in respect of different employments; or
- (ii) have worked under the general control or management of a person other than their immediate employer, or
- (b) of any other employed earners in the case of whom it appears to the Department that such provision is needed.
- (3) Regulations may <sup>F9</sup> . . . provide—
- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- <sup>F10</sup>(b) . . . . .
- (c) for treating part of a premium payable in prescribed circumstances in respect of a person as having been paid and for modifying the provisions mentioned in paragraph 4(1) in relation to a case in which such a part is so treated;
- (d) for treating a premium wrongly paid or an overpayment in respect of a premium as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the <sup>M1</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (e) for the return of premiums paid in error or, in prescribed circumstances, of premiums which the Department is satisfied ought to be repaid;
- (f) for the Department, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National

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Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;

- (g) for any other matters incidental to the payment, collection or return of premiums.

[<sup>F11</sup> and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium,]

[<sup>F12</sup>(3A) Sub-paragraph (3B) applies in relation to a member of a contracted-out occupational pension scheme which is being wound up if, in the opinion of the Department—

- (a) the resources of the scheme are insufficient to meet the whole of the liability for the cash equivalent of the member’s rights under the scheme, and
- (b) if the resources of the scheme are sufficient to meet a part of that liability, that part is less than the amount required for restoring his State scheme rights.

(3B) Where this sub-paragraph applies—

- (a) regulations may provide for treating the member as if sections 42 to 44 or, as the case may be, section 44A(1) did not apply, or applied only to such extent as is determined in accordance with the regulations, and
- (b) the amount required for restoring the member’s State scheme rights, or a prescribed part of that amount, shall be a debt due from the trustees or managers of the scheme to the Department.

(3C) Regulations may make provision—

- (a) for determining the cash equivalent of a member’s rights under a scheme and the extent (if any) to which the resources of the scheme are insufficient to meet the liability for that cash equivalent,
- (b) for the recovery of any debt due under sub-paragraph (3B)(b), and
- (c) for determining the amount required for restoring a member’s State scheme rights including provision requiring the Department to apply whichever prescribed actuarial table in force at the appropriate time is applicable.

(3D) Section 151 shall apply as if sub-paragraphs (3A) and (3B), and regulations made by virtue of those sub-paragraphs, were included among the provisions there referred to.

(3E) In sub-paragraphs (3A) and (3B), “State scheme rights”, in relation to a member of a scheme, are the rights for which, if the scheme had not been a contracted-out scheme, the member would have been eligible by virtue of section 44(6) of Social Security Contributions and Benefits (Northern Ireland) Act 1992 (earnings factors for additional pension.)]

(4) The Department may accept payments in connection with a case in which a premium or part of it is treated as having been paid.

<sup>F13</sup>(5) . . . . .

**Textual Amendments**

**F5** Words in [Sch. 1 para. 5\(1\)](#) repealed (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [arts. 147, 168](#), [Sch. 3 para. 70\(c\)\(i\)](#), [Sch. 5 Pt. III](#); [S.R. 1996/91](#), [art. 2\(d\)](#), [Sch. Pt. IV](#); [S.R. 1997/192](#), [art. 2\(b\)](#)

**F6** Word in [Sch. 1 para. 5\(1\)](#) substituted (6.4.1996 for certain purposes otherwise 6.4.1997) by [S.I. 1995/3213 \(N.I. 22\)](#), [art. 147](#), [Sch. 3 para. 70\(c\)\(ii\)](#); [S.R. 1996/91](#), [art. 2\(d\)](#), [Sch. Pt. IV](#); [S.R. 1997/192](#), [art. 2\(b\)](#)

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- F7** Words in Sch. 1 para. 5(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 168, **Sch. 5 Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F8** Words in Sch. 1 para. 5(2) repealed (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 70(d), **Sch. 5 Pt. III**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F9** Words in Sch. 1 para. 5(3) repealed (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 138(2)(a)(i), 168, **Sch. 5 Pt. III**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F10** Sch. 1 para. 5(3)(b) repealed (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 138(2)(a)(ii), 168, **Sch. 5 Pt. III**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F11** Words in Sch. 1 para. 5(3) added (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **arts. 1(2), 138(2)(a)(iii)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F12** Sch. 1 para. 5(3A)-(3E) inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 138(2)(b)**; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F13** Sch. 1 para. 5(5) repealed (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 138(2)(c), 168, **Sch. 5 Pt. III**; S.R. 1996/91, art. 2(d), **Sch. Pt. III**; S.R. 1997/192, **art. 2(b)**

#### Marginal Citations

- M1** 1992 c. 7.

#### *Schemes covering different employers*

- 6 (1) Regulations may modify Chapters I and III of Part III (other than sections 4, 14, 15, 31 to 35, and 62 to 64), Chapter III of Part IV and Chapter II of Part V (except so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.
- (2) Regulations under this paragraph may provide for the adjustment of rights and liabilities as between employers, earners and the trustees or managers.

#### *Special provisions for certain public service pension schemes*

- 7 (1) In relation to employments of any class to which this paragraph applies, the appropriate government department may by regulations—
- direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by that department instead of by the employer;
  - make provision for other things which by or under the provisions mentioned in paragraph 4(1) are required or authorised to be done by or to an employer to be done instead by or to that department;
  - make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
  - make provision for the recovery by that department of any state scheme premium from any person where it has been paid by that department instead of by that person.

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- (2) Subject to sub-paragraphs (3) and (4), the employments in which a person’s service qualifies him for benefit under any of Articles 9 to 12 of the <sup>M2</sup>Superannuation (Northern Ireland) Order 1972 shall constitute a class to which this paragraph applies.
- (3) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (2) but for regulations having effect under that Order of 1972 which allow arrangements made in connection with a previous employment to continue in force, the employment shall be treated for the purposes of this paragraph as falling within the class to which that enactment relates and as not falling within any other class to which this paragraph applies.
- (4) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (2), that provision shall be deemed to be included among the enactments so specified.
- (5) In this paragraph “the appropriate government department” in relation to any class of employment qualifying a person for benefit under any Article of the Superannuation (Northern Ireland) Order 1972 means the department which has power to make regulations under that Article.

**Marginal Citations**

**M2** [S.I. 1972/1073 \(N.I. 10\)](#).

*Incidental matters*

- 8 Regulations may make provision—
- (a) for any incidental matters connected with the provisions mentioned in paragraph 4(1) in relation to any employment which is, has been or may become contracted-out employment; and
  - (b) for any incidental matters otherwise connected with those provisions.

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