



Pensions Act 1995

1995 CHAPTER 26

PART III

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

Introductory

135 The “principal appointed day” for Part III.

An order under section 180 of this Act appointing a day for the coming into force of any provisions of this Part, being 6th April in any year, may designate that day as the principal appointed day for the purposes of this Part.

New certification requirements applying as from the principal appointed day

136 New requirements for contracted-out schemes.

- F¹(1)
- F²(2)
- F³(3)
- F⁴(4)
- F⁵(5)

Textual Amendments

- F1** S. 136(1) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 65](#)
- F2** S. 136(2) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), s. 27(6), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F3** S. 136(3) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 65](#)

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- F4** S. 136(4) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F5** S. 136(5) repealed (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 65**

Reduction in State scheme contributions, payment of rebates and reduction in State scheme benefits

137 State scheme contributions and rebates.

(1) In section 40 of the ^{M1}Pension Schemes Act 1993 (scope of Chapter II of Part III), in paragraph (b), after “members of” there is inserted “ money purchase contracted-out schemes and members of ”.

^{F6}(2)

^{F7}(3)

^{F8}(4)

(5) [^{F9}After that section there is inserted—

“ Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes

Reduced rates of Class 1 contributions, and rebates.

- (1) Subsections (2) and (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 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 Secretary of State 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 may make provision—
 - (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,

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- (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 Secretary of State pays an amount under subsection (3) which he is not required to pay or is not required to pay to the person to whom, or in respect of whom, he pays it, he may recover it from any person to whom, or in respect of whom, he 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 41 applies for the purposes of this section as it applies for the purposes of that.

Determination and alteration of rates of contributions, and rebates, applicable under section 42A.

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—
- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of money purchase contracted-out schemes,
 - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
 - (c) a draft of an order under subsection (2).
- (2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—
- (a) specify different percentages for primary and secondary Class 1 contributions, and
 - (b) for each of the tax years for which it has effect—
 - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
 - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i)) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners

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being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).

- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182”.]
- (6) [^{F9}In Schedule 4 to that Act (priority in bankruptcy, etc.), in paragraph 2(3)—
- (a) in paragraph (a), for “4.8 per cent.” there is substituted “ the percentage for non-contributing earners ”,
- (b) in paragraph (b), for “3 per cent.” there is substituted “ the percentage for contributing earners ”.]
- (7) [^{F9}In paragraph 2(5) of that Schedule—
- (a) before the definition of “employer” there is inserted—
- ““appropriate flat-rate percentage” has the same meaning as in section 42A”, and
- (b) after the definition there is inserted—
- ““the percentage for contributing earners” means—
- (a) in relation to a salary related contracted-out scheme, 3 per cent, and
- (b) in relation to a money purchase contracted-out scheme, the percentage which is the appropriate flat-rate percentage for secondary Class 1 contributions,
- “the percentage for non-contributing earners” means—
- (a) in relation to a salary related contracted-out scheme, 4.8 per cent, and
- (b) in relation to a money purchase contracted-out scheme, a percentage equal to the sum of the appropriate flat-rate percentages for primary and secondary Class 1 contributions”.]

Textual Amendments

- F6** S. 137(2) repealed (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 8](#); S.I. 1999/418, art. 2(3)(c)(ii)
- F7** S. 137(3) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 65](#)
- F8** S. 137(4) repealed (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 13 para. 65](#)
- F9** S. 137(5)(6)(7) repealed (6.4.2012 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 27(7), 30(2)(b), [Sch. 7 Pt. 7](#); S.I. 2011/1267, art. 2(c) (as substituted (20.3.2012) by S.I. 2012/911, art. 2(b))

Commencement Information

- I1** S. 137 in force at 6.4.1996 for specified purposes by [S.I. 1996/778](#), art. 2(5)(a), [Sch. Pt. V](#)
- I2** S. 137 in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 3](#)
- I3** S. 137(1)(5) in force at 13.3.1996 for specified purposes by [S.I. 1996/778](#), art. 2(1), [Sch. Pt. I](#)
- I4** S. 137(2)-(4) in force at 13.3.1996 for specified purposes by [S.I. 1996/778](#), art. 2(1), [Sch. Pt. I](#)

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Marginal Citations

M1 1993 c. 48.

138 Minimum contributions towards appropriate personal pension schemes.

(1) Section 45 of the ^{M2}Pension Schemes Act 1993 (minimum contributions to personal pension schemes) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) In relation to any tax week falling within a period for which the Secretary of State is 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)”.

(3) Subsection (2) is omitted.

(4) In subsection (3)(e), the words following “ prescribed period ” are omitted.

^{F10}(5)

Textual Amendments

F10 S. 138(5) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

Commencement Information

I5 S. 138 in force at 6.4.1997 in so far as not already in force by S.I. 1997/664, art. 2(3), **Sch. Pt. 3**

I6 S. 138(5) in force at 13.3.1996 for specified purposes by S.I. 1996/778, art. 2(1), **Sch. Pt. I**

Marginal Citations

M2 1993 c. 48.

^{F11}**139 Money purchase and personal pension schemes: verification of ages.**

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Textual Amendments

F11 S. 139 repealed (6.4.2015) by Pensions Act 2007 (c. 22), ss. 27(7), 30(2)(b), **Sch. 7 Pt. 7**; S.I. 2011/1267, art. 3(b)(iii) (as amended (20.3.2012) by S.I. 2012/911, art. 2(d))

140 Reduction in benefits for members of certified schemes.

(1) After section 48 of the ^{M3}Pension Schemes Act 1993 there is inserted—

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“Effect of reduced contributions and rebates on social security benefits

48A Additional pension and other benefits.

- (1) In relation to any tax week where—
 - (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 41 or 42A, or
 - (b) an amount is paid under section 45(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 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 Secretary of State 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 2.
- (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 Act 1992) but to the extent only that the 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 the Social Security Contributions and Benefits 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.”
- (2) In section 48 of the ^{M4}Pension Schemes Act 1993 (effect of membership of money purchase contracted-out scheme or appropriate scheme on payment of social security benefits) in subsection (2), paragraph (b) is omitted and, in paragraph (c), “ if the earner dies before reaching pensionable age ” is omitted.
- (3) Section 48 of that Act shall cease to have effect in relation to minimum payments made, or minimum contributions paid, on or after the principal appointed day.

Commencement Information

- I7** S. 140(1) in force at 6.4.1996 for specified purposes by [S.I. 1996/778, art. 2\(5\)\(a\)](#), **Sch. Pt. V**
- I8** S. 140(1) in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664, art. 2\(3\)](#), **Sch. Pt. 3**
- I9** S. 140(2) in force at 13.3.1996 for specified purposes and 6.4.1996 in so far as not already in force by [S.I. 1996/778, art. 2\(2\)](#), **Sch. Pt. II**
- I10** S. 140(3) in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664, art. 2\(3\)](#), **Sch. Pt. 3** (with [art. 10](#))

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Marginal Citations

M3 1993 c. 48.

M4 1993 c. 48.

Premiums and return to State scheme

141 State scheme etc. premiums and buyback into State scheme.

(1) In section 55 of the ^{M5}Pension Schemes Act 1993 (payment of state scheme premiums on termination of certified status), for subsection (2) there is substituted—

“(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—

- (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”.

(2) In Schedule 2 to that Act, in paragraph 5 (state scheme premiums)—

- (a) in sub-paragraph (3)—
 - (i) “ in relation to state scheme premiums ” is omitted,
 - (ii) paragraph (b) is omitted, and
 - (iii) at the end there is added— “ and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium ”,

(b) after sub-paragraph (3) there is inserted—

“(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 Secretary of State—

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- (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 46 to 48 or, as the case may be, section 48A(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 Secretary of State.
- (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 Secretary of State to apply whichever prescribed actuarial table in force at the appropriate time is applicable.
- (3D) Section 155 shall apply as if sub-paragraphs (3A) and (3B)(a), and regulations made by virtue of this sub-paragraph and sub-paragraph (3B)(b), 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 the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension).”, and
- (c) sub-paragraph (5) is omitted.

Commencement Information

I11 S. 141 in force at 6.4.1996 for specified purposes by [S.I. 1996/778, art. 2\(5\)\(a\)](#), [Sch. Pt. V](#)

I12 S. 141 in force at 6.4.1997 in so far as not already in force by [S.I. 1997/664, art. 2\(3\)](#), [Sch. Pt. 3](#)

Marginal Citations

M5 [1993 c. 48.](#)

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Protected rights

F12 142 Interim arrangements for giving effect to protected rights.

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Textual Amendments

F12 Ss. 142-146 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F12 143 Requirements for interim arrangements.

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Textual Amendments

F12 Ss. 142-146 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F12 144 Interim arrangements: supplementary.

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Textual Amendments

F12 Ss. 142-146 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F12 145 Extension of interim arrangements to occupational pension schemes.

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Textual Amendments

F12 Ss. 142-146 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

F12 146 Discharge of protected rights on winding up: insurance policies.

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Textual Amendments

F12 Ss. 142-146 repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), s. 27(6), **Sch. 7 Pt. 6** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)

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Miscellaneous

147 Monitoring personal pension schemes.

After section 33 of the ^{M6}Pension Schemes Act 1993 there is inserted—

“33A Appropriate schemes: “Blowing the whistle”.

- (1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—
 - (a) any requirement which, in the case of the scheme, is required by section 9(5)(a) to be satisfied is not satisfied, and
 - (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the Secretary of State of any of his functions relating to appropriate schemes,
 that person must immediately give a written report of the matter to the Secretary of State.
- (2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.”

Commencement Information
 I13 S. 147 in force at 6.4.1997 in so far as not already in force by S.I. 1997/664, art. 2(3), Sch. Pt. 3

Marginal Citations
 M6 1993 c. 48.

F13 148 Earner employed in more than one employment.

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Textual Amendments
 F13 S. 148 repealed (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 13 para. 65

F14 149 Hybrid occupational pension schemes.

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Textual Amendments
 F14 S. 149 omitted (6.4.2012) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), arts. 1(2)(b), 6(3)

F15 150 Dissolution of Occupational Pensions Board.

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Textual Amendments

F15 S. 150 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 12

Minor and consequential amendments

151 Minor and consequential amendments related to sections 136 to 150.

Schedule 5 (which makes amendments related to sections 136 to 150) shall have effect.

Commencement Information

I14 S. 151 in force at 6.4.1996 for specified purposes by S.I. 1996/778, art. 2(5)(a), Sch. Pt. V

I15 S. 151 in force at 1.6.1996 for specified purposes by S.I. 1996/1412, art. 2(2), Sch. Pt. II

I16 S. 151 in force at 16.10.1996 for specified purposes by S.I. 1996/2637, art. 3

I17 S. 151 in force at 1.4.1997 for specified purposes by S.I. 1997/664, art. 2(2), Sch. Pt. I

I18 S. 151 in force at 6.4.1997 in so far as not already in force by S.I. 1997/664, art. 2(3), Sch. Pt. 3

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