



Pensions Act 2004

2004 CHAPTER 35

PART 9

MISCELLANEOUS AND SUPPLEMENTARY

Interpretation

318 General interpretation

(1) In this Act, unless the context otherwise requires—

“active member” has the meaning given by section 124(1) of the Pensions Act 1995 (c. 26);

“the Board” has the meaning given by section 107;

“contravention” includes failure to comply;

“direct payment arrangements”, in relation to a personal pension scheme, has the same meaning as in section 111A of the Pension Schemes Act 1993 (c. 48);

“earnings” has the meaning given by section 181(1) of the Pension Schemes Act 1993;

“employee” has the meaning given by section 181(1) of the Pension Schemes Act 1993;

“employer”—

(a) in relation to an occupational pension scheme, means the employer of persons in the description of employment to which the scheme in question relates (but see subsection (4)), and

(b) in relation to a personal pension scheme, where direct payment arrangements exist in respect of one or more members of the scheme who are employees, means an employer with whom those arrangements exist;

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));

Status: This is the original version (as it was originally enacted).

“managers”, in relation to an occupational or personal pension scheme (other than a scheme established under a trust), means the persons responsible for the management of the scheme;

“member”, in relation to an occupational pension scheme, means any active, deferred, pensioner or pension credit member within the meaning of section 124(1) of the Pensions Act 1995 (c. 26) (but see subsection (5));

“modifications” includes additions, omissions and amendments, and related expressions are to be construed accordingly;

“money purchase benefit” has the meaning given by section 181(1) of the Pension Schemes Act 1993 (c. 48);

“money purchase scheme” has the meaning given by section 181(1) of the Pension Schemes Act 1993;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“pension credit” has the meaning given by section 124(1) of the Pensions Act 1995;

“personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“the PPF Ombudsman” has the meaning given by section 209(1);

“prescribed” means prescribed by regulations;

“professional adviser”, in relation to an occupational pension scheme, has the meaning given by section 47 of the Pensions Act 1995;

“the register” has the meaning given by section 59(1);

“regulations” means regulations made by the Secretary of State;

“the Regulator” has the meaning given by section 1;

“the Tribunal” has the meaning given by section 102(1).

- (2) In this Act, unless the context otherwise requires, references to the scheme rules, in relation to an occupational pension scheme, are references to—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
 - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
 - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4 of the Pension Schemes Act 1993 (preservation of benefit under occupational pension schemes).
- (3) For the purposes of subsection (2)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security Act 1989 (c. 24) (equal treatment for men and women);
 - (ii) Chapters 2 to 5 of Part 4 of the Pension Schemes Act 1993 (c. 48) (certain protection for early leavers) or regulations made under any of those Chapters;
 - (iii) Part 4A of that Act (requirements relating to pension credit benefit) or regulations made under that Part;
 - (iv) section 110(1) of that Act (requirement as to resources for annual increase of guaranteed minimum pensions);

Status: This is the original version (as it was originally enacted).

- (v) Part 1 of the Pensions Act 1995 (c. 26) (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
 - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (c. 30) (pension debits: reduction of benefit);
 - (vii) any provision mentioned in section 306(2) of this Act;
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
- (i) paragraph 3 of Schedule 5 to the Social Security Act 1989 (c. 24);
 - (ii) section 129(1) of the Pension Schemes Act 1993;
 - (iii) section 117(1) of the Pensions Act 1995;
 - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
 - (v) section 306(1) of this Act.
- (4) Regulations may, in relation to occupational pension schemes, extend for the purposes of Parts 1, 2 and 4 to 7 and this Part the meaning of “employer” to include—
- (a) persons who have been the employer in relation to the scheme;
 - (b) such other persons as may be prescribed.
- (5) Regulations may for any purpose of any provision of this Act—
- (a) prescribe the persons who are to be regarded as members or prospective members of an occupational or personal pension scheme, and
 - (b) make provision as to the times at which and circumstances in which a person is to be treated as becoming, or as ceasing to be, such a member or prospective member.