



# Social Security Pensions Act 1975

## 1975 CHAPTER 60

An Act to provide for relating the rates of social security retirement pensions and certain other benefits to the earnings on which contributions have been paid; to enable employed earners to be contracted-out of full social security contributions and benefits where the requisite benefits are provided by an occupational pension scheme; to make provision for securing that men and women are afforded equal access to occupational pension schemes; and to make other amendments in the law relating to social security (including an amendment of Part II of the Social Security Act 1975 introducing a new non-contributory benefit called “mobility allowance”); and to make other provision about occupational pensions. [7th August 1975]

### Extent Information

**E1** Act extends to Great Britain subject to provisions in s. 68(3)(4)

### Modifications etc. (not altering text)

- C1** Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\)](#), [s. 3](#)
- C2** Act excluded (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), [ss. 55\(1\), 177\(4\)](#), [Sch. 5 para. 2\(4\)\(b\)](#) (with [s. 108\(5\)](#)).
- C3** Act modified (7.2.1994) by [1993 c. 48](#), [ss. 188, 189, 190](#), [Sch. 6 Pt. II para. 9](#); S.I. 1994/86, [art. 2](#)
- C4** Act: power to amend conferred (2.12.1999) by [1998 c. 47](#), [ss. 87\(6\)\(d\)](#)(with [s. 95](#)); S.I. 1999/3209, [art. 2](#), [Sch.](#)

## PART I

### CONTRIBUTIONS

1-5 ..... F1

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

**Textual Amendments**

**F1** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)

**PART II**

**BENEFITS**

**6–10** ..... **F2**

**Textual Amendments**

**F2** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)

**11** ..... **F3**

**Textual Amendments**

**F3** S. 11 repealed (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), Sch. 9

**12–16A** ..... **F4**

**Textual Amendments**

**F4** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)

**17** ..... **F5**

**Textual Amendments**

**F5** S. 17 repealed by Social Security Act 1979 (c. 18), Sch. 1 para. 19

**18–21** ..... **F6**

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**Textual Amendments**

**F6** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); [Sch. 1](#); [Sch. 4](#), paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

**22**

(1) .....	F7
(3) .....	F8
(4) .....	F7
(5) .....	F8
(6) .....	F9

**Textual Amendments**

**F7** S. 22(1)(2)(4) repealed (with effect from 6.4.1992) by [Disability Living Allowance and Disability Working Allowance Act 1991 \(c. 21\)](#), [Sch. 4](#)

**F8** S. 22(3)(5) repealed by [Social Security Act 1968 \(c. 50\)](#) Sch. 11

**F9** S. 22(6) repealed by [Social Security Act 1980 \(c. 30\)](#), [Sch. 5](#), Pt. II

**23–25** ..... F10

**Textual Amendments**

**F10** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); [Sch. 1](#); [Sch. 4](#), paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

**PART III**

CONTRACTING-OUT

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

**C5** Parts of Pt. III are modified, on transfers from contracted-out schemes, by reg. 3 of, and Sch. 3 to [S.I. 1985/1323](#).

*Preliminary*

**26 Contracting-out of full contributions and benefits.**

(1) This Part of this Act shall have effect for the purpose of reducing—

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- (a) the rates at which contributions are payable under Part I of [<sup>F11</sup>the Contributions and Benefits Act] by or in respect of an earner in employed earner's employment; and
- (b) the rate of any Category A or Category B retirement pension, widowed mother's allowance or widow's pension payable by virtue of contributions at such reduced rates,

where an occupational pension scheme provides [<sup>F12</sup>or falls to be treated as providing] for the earner and his widow to be entitled to [<sup>F13</sup>a guaranteed minimum pension] and the earner's employment is contracted-out by reference to the scheme.

[<sup>F14</sup>(1A) This Part of this Act shall also have effect, where an occupational pension scheme so provides or falls to be treated as so providing, for the purpose of making provision in relation—

- (a) to invalidity allowance under section 34 of the Contributions and Benefits Act;
- (b) to increases of Category A retirement pensions for invalidity under section 47 of that Act; and
- (c) to increases of unemployability supplement under paragraph 3 of Schedule 7 to that Act.]

(2) [<sup>F15</sup>“guaranteed minimum pension” means any such pension which is provided by an occupational pension scheme in accordance with the requirements of sections 33 and 36 below] to the extent to which its weekly rate is equal to the earner's or widow's guaranteed minimum as determined for the purposes of those sections respectively.

#### Textual Amendments

- F11** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 20\(1\)](#)
- F12** Words inserted by [Social Security Act 1986 \(c. 50\), Sch. 2, para. 2](#)
- F13** Words substituted by [Social Security Act 1986 \(c. 50\), Sch. 10, para. 12\(a\)](#)
- F14** [S. 26\(1A\)](#) inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 20\(2\)](#).
- F15** Words substituted by [Social Security Act 1986 \(c. 50\), Sch. 10, para. 12\(b\)](#)

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

- C6** [S. 26\(2\)](#) to be construed (with effect from 6.4.1988) as if reference to “widow” included reference to widower by virtue of [Social Security Act 1968 \(c. 50\), s. 9\(4\)\(a\)](#).
- C7** [S. 26\(2\)](#) modified (with effect from 27.7.1987), where certain transfers of guaranteed minimum pension rights have taken place, by [S.I. 1987/1099, Sch. 3A para. 1](#). Also modified, for transfer payments to present-and some past-salary related contracted-out schemes, by reg. 4(2) of [S.I. 1987/1118](#) with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise

### *Contracted-out rates of contributions and benefits*

#### **27 Contracted-out rates of Class 1 contributions.**

- (1) Where 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, the amount of a Class 1 contribution shall be the aggregate of—
  - (a) the normal percentage of so much of the earnings paid in that week in respect of the employment as does not exceed the current lower earnings limit; and

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- (b) the contracted-out percentage of so much of those earnings as exceeds that limit but does not exceed the current upper earnings limit <sup>F16</sup>and
  - (c) in the case of a secondary Class 1 contribution, the normal percentage of so much of those earnings as exceeds the current upper earnings limit.]
- (2) In subsection (1) above—
- “the normal percentage” means the percentage that would apply for the calculation of the amount of the contribution if the employment were not contracted-out employment;
  - “the contracted-out percentage” means—
- (a) in the case of a primary Class 1 contribution, a percentage less by <sup>F17</sup>2·0 than the normal percentage;
  - (b) in the case of a secondary Class 1 contribution, a percentage less by <sup>F17</sup>3·8 than the normal percentage.
- (3) In the case of earners paid otherwise than weekly the references in subsection (1) above to the current lower or upper earnings limit shall be construed as references to the prescribed equivalents.
- (4) <sup>F18</sup>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 6 weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment] shall be treated for the purpose of subsection (1) above 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.
- (5) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under <sup>F19</sup>section 19(4) of the Contributions and Benefits Act].
- (6) ..... <sup>F20</sup>

#### Textual Amendments

- F16** Words added by [Social Security Act 1985 \(c. 53\)](#) Sch. 5, para. 17.
- F17** Figures substituted by [Social Security \(Class 1 Contribution—Contracted-out Percentages\) Order 1987, art. 2. \(S.I. 1987/656\)](#). New figures of 1·8 and 3·0 are to be substituted, with effect from 6.4.1993, for 2·0 and 3·8 respectively by [S.I. 1992/795, art. 2](#)
- F18** Words substituted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 13
- F19** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), **Sch. 2**, para. 21
- F20** [S. 27\(6\)](#) repealed by [Social Security Act 1989 \(c. 24\)](#), **Sch. 9**. Repeal takes effect on 21.7.1989 by virtue of ss. 3 and 33(3)(a) and (g) [Social Security Act 1989](#).

## 28 Review and alteration of contracted-out rates of Class 1 contributions.

- (1) The Secretary of State may from time to time, and shall when required by subsection (3) below, lay before each House of Parliament—
- (a) a report by the Government Actuary <sup>F21</sup>or the deputy Government Actuary] on the contracted-out percentages for the time being applying under section 27

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- above and any changes in the factors affecting the cost to occupational pension schemes of providing guaranteed minimum pensions; and
- (b) a report by the Secretary of State stating whether he considers that, in view of the [<sup>F22</sup>report of the Government Actuary or Deputy Government Actuary,] there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.
- (2) The changes referred to in paragraph (a) of subsection (1) above are, in the case of the first report under that paragraph, changes since the passing of this Act and, in the case of a subsequent report, changes since the preparation of the last report.
- (3) The Secretary of State shall lay such reports as aforesaid as soon as may be after the third anniversary of the coming into force of this section and thereafter at intervals of not more than five years.
- (4) If in a report under subsection (1)(b) above the Secretary of State states that he considers that there should be an alteration in either or both of the contracted-out percentages, he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.
- (5) An order under subsection (4) above shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.
- (6) No alteration of the contracted-out percentages shall introduce any distinction on grounds of age or sex.
- [<sup>F23</sup>(7) A draft of an order making alterations in either or both of the contracted-out percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(2) of Schedule 3 to this Act as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.]

#### Textual Amendments

- F21** Words inserted by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 22\(a\)](#)
- F22** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 22\(b\)](#)
- F23** S. 28(7) inserted by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 18](#)

## 29 Contracted-out rates of benefit.

- (1) Where for any period a person is entitled both—
- (a) to a Category A or Category B retirement pension, a widowed mother's allowance [<sup>F24</sup>, a widow's pension or a widower's invalidity pension under [<sup>F25</sup>section 41 of the Contributions and Benefits Act]]; and
- (b) to one or more guaranteed minimum pensions,
- the weekly rate of the benefit mentioned in paragraph (a) above shall for that period be reduced by an amount equal to its [<sup>F26</sup>additional pension] or, if less, an amount equal to the weekly rate or aggregate weekly rates of the pension or pensions mentioned in paragraph (b) above.

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(2) For the purposes of this section [<sup>F27</sup>and sections [<sup>F28</sup>29A, 29B and 29C below]] a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—

[<sup>F29</sup>(a)] if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 39 below or

[<sup>F29</sup>(b)] if that pension had not been forfeited under any such provisions [<sup>F30</sup>or

[<sup>F29</sup>(c)] if as a result of a transfer payment or transfer under regulations made by virtue of section 38 below he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer is made and has not as a result of the transfer payment or transfer become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer is made][<sup>F29</sup>or

(d) if its commencement had not been postponed, as mentioned in section 33(3) below.]

[<sup>F31</sup>(2A) Subject to subsection (2B) below, where for any period minimum payments have been made in respect of an earner to an occupational pension scheme which, in relation to the earner's employment is a money purchase contracted-out scheme, then, for the purposes of this section and sections [<sup>F32</sup>29A, 29B and 29C below]—

(a) the earner shall be treated, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment; and

(b) in prescribed circumstances, in relation to any widow or widower of the earner—

(i) if the earner died after reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a) above; and

(ii) if the earner died before reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.

(2B) Where the earner is a married woman or widow, subsection (2A) above shall not have effect in relation to any period during which an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate is operative.

(2C) The power to prescribe a rate conferred by subsection (2A)(a) above includes power to prescribe a nil rate.]

(3) References in this section [<sup>F33</sup>and in sections 29A, 29B and 29C below] to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 35(6) below.

#### Textual Amendments

**F24** Words substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 14(a)

**F25** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 23(1)

**F26** Words substituted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), [s. 18\(1\)](#).

**F27** Words inserted (with effect from 1.5.1987) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 14(b)(i).



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- F28** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2 para. 23\(2\)](#)
- F29** Reference letters (a), (b) and (c), word “or” and paragraph (d) inserted (1.10.1989) by [Social Security Act 1989 \(c. 24\), Sch. 1, para. 11.](#)
- F30** Words added (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\), Sch. 10, para. 14\(b\)\(ii\).](#)
- F31** [S. 29\(2A\)–\(2C\)](#) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\), Sch. 2, para. 3.](#)
- F32** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2 para. 23\(2\)](#)
- F33** Words inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2 para. 23\(3\).](#)

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

- C8** Where minimum contributions have been paid to a personal pension scheme, subsections (1) and (2) above are modified (4.1.1988) by the [Social Security Act 1986 \(c. 50\), s. 4](#) and by [S.I. 1987/1113, regs. 2](#) and 3. Where minimum payments have been made to a money purchase contracted-out scheme, s. 29 is modified (6.4.1988) by [S.I. 1987/1113, regs. 4](#) and 5, under the powers in s. 29(2A) above.
- C9** [S. 29\(1\)](#) modified, in relation to certain persons entitled to widower's invalidity pension, by [Social Security Act 1986 \(c. 50\), s. 9\(5\).](#)
- C10** [S. 29\(2\)](#) modified, for transfer payments to present-and some past-salary related contracted-out schemes, by reg. 4(3) of [S.I. 1987/1118](#) with effect from 27.7.1987.for personal pension schemes and 6.4.1988 otherwise
- C11** [S. 29\(2\)](#) modified, where a personal pension protected rights premium is paid, by [Social Security Act 1986 \(c. 50\), S. 5\(9\)\(b\).](#)
- C12** [S. 29\(2A\)](#) is modified, where a personal pension protected rights scheme is paid, by [Social Security Act 1986 \(c. 50\), s. 5\(9\)\(b\).](#)

[<sup>F34</sup>29A

- (1) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to an invalidity pension under section 33 of the Contributions and Benefits Act; and
  - (c) the weekly rate of his invalidity pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 34 of that Act shall have effect as if the following subsection were substituted for subsection (5)—

“(5) In this section “the relevant amount” means an amount equal to the aggregate of—

- (a) an amount equal to the additional pension; and
- (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 29 of the Pensions Act.”

- (2) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to an invalidity pension under section 33 of the Contributions and Benefits Act; and
  - (c) the weekly rate of his invalidity pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,



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for that period the relevant amount shall be deducted from the appropriate weekly rate of invalidity allowance and he shall be entitled to invalidity allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.

- (3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 29 above.
- (4) Where subsection (2) above applies, section 34(7) of the Contributions and Benefits Act shall have effect as if for the words “subsection (4) above” there were substituted the words “section 29A(2) of the Pensions Act”.]

#### Textual Amendments

**F34** Ss. 29A, 29B and 29C inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2 para. 24.](#)

#### <sup>F35</sup>**29B Contracting-out and increases of Category A retirement pension for invalidity.**

- (1) Where for any period—
  - (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to a Category A retirement pension under section 44 of the Contributions and Benefits Act; and
  - (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act.

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

- “(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—
- (a) an amount equal to the additional pension; and
  - (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,
- reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 29 of the Pensions Act.”

- (2) Where for any period—
  - (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to a Category A retirement pension under section 44 of the Contributions and Benefits Act; and
  - (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that subsection only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.
- (3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions reduced

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by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 29 above.

#### Textual Amendments

**F35** Ss. 29A, 29B and 29C inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2 para. 24](#).

#### <sup>F36</sup>29C Contracting-out and increases of unemployability supplement.

- (1) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled—
    - (i) to an invalidity pension under section 33 of the Contributions and Benefits Act;
    - (ii) to a Category A retirement pension under section 44; or
    - (iii) to a Category B retirement pension under section 49; and
  - (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were inserted for sub-paragraph (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) an amount equal to the additional pension; and
- (b) an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 29 of the Pensions Act.”

- (2) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions; and
  - (b) he is also entitled to any of the pensions under the Contributions and Benefits Act mentioned in subsection (1)(b) above; and
  - (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under that paragraph and the beneficiary shall be entitled to an increase only if there is a balance and, if there is such a balance, only to an amount equal to it.

- (3) In subsection (2) above “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions.

#### Textual Amendments

**F36** Ss. 29A, 29B and 29C inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2 para. 24](#).

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### *Arrangements for contracting-out*

## **30 Contracted-out employment.**

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment is contracted-out employment in relation to him during any period in which he is under pensionable age and—
- (a) his service in the employment is for the time being service which qualifies him for [<sup>F37</sup>a guaranteed minimum pension provided by] an occupational pension scheme [<sup>F38</sup>or his employer makes minimum payments in respect of the earner's employment to a money purchase contracted-out scheme]; and
  - (b) the scheme is a contracted-out scheme in relation to that employment; and
  - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a "contracting-out certificate", that the employment is contracted-out employment by reference to the scheme.

[<sup>F39</sup>(1A) The minimum payment in respect of an earner for any tax week shall be the rebate percentage of so much of the earnings paid to or for the benefit of the earner as exceeds the lower earnings limit for the tax week but does not exceed the upper earnings limit for it; and in this subsection "rebate percentage" means the percentage arrived at by adding—

- (a) the percentage by which for the time being under section 27(2) above the contracted-out percentage of primary Class 1 contributions is less than the normal percentage; and
- (b) the percentage by which for the time being under that subsection the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.

(1B) The references to the upper and lower earnings limits in subsection (1A) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under [<sup>F40</sup>sections 6(1) and 8(3) of the Contributions and Benefits Act].

(1C) Regulations may make provision—

- (a) for the manner in which, and time at which or period within which, minimum payments are to be made;
- (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deductions for earnings;
- (c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
- (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
- (e) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid;
- (f) without prejudice to sub-paragraph (e) above, for enabling the Secretary of State, where he is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give

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directions for securing that minimum payments are payable as if that practice were not followed;

- (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
- (h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.]

(2) ..... F41

(3) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

(4) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.

(5) ..... F42

#### Textual Amendments

**F37** Words substituted (with effect from 1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 15

**F38** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2 para. 4\(a\)](#)

**F39** [S. 30\(1A\)–\(1C\)](#) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 4(b)

**F40** Words substituted by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 25

**F41** [S. 30\(2\)](#) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

**F42** [S. 30\(5\)](#) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 17](#)

### 31 Contracting-out certificates.

(1) Regulations shall provide for the issue by the Occupational Pensions Board to employers of contracting-out certificates specifying—

- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
- (b) the occupational pension schemes by reference to which those employments are to be so treated.

(2) Regulations shall also provide for the cancellation, variation or surrender of any contracting-out certificate, or the issue of an amended certificate, on any change of circumstances affecting the treatment of an employment as contracted-out employment.

(3) Subject to the provisions of this Part of this Act, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise; and subject to subsection (4) below an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

(4) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment; and if the Occupational Pensions Board consider that an employer is contravening this

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subsection in relation to any scheme they may refuse to give effect to any election made by him in relation to that scheme or cancel any contracting-out certificate held by him in respect of that scheme.

- (5) Regulations may make provision—
- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
  - (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
    - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
    - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
    - (iii) to the trustees and managers of the scheme and such other persons as may be prescribed;
  - (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii) above;
  - (d) for empowering the Occupational Pensions Board to refuse to give effect to an election made by an employer unless they are satisfied that he has complied with the requirements of the regulations;
  - (e) for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in paragraph (b)(ii) above or whether the requirements of the regulations as to consultation have been complied with.
- (6) Regulations may enable the Occupational Pensions Board to cancel or vary a contracting-out certificate where they have reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate and the employer does not show that it ought to be so treated.
- (7) Except in prescribed circumstances, no contracting-out certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (8) In this section “independent trade union” has the same meaning as in the <sup>M1</sup>Trade Union and Labour Relations Act 1974 and “industrial tribunal” means a tribunal established under section 12 of the <sup>M2</sup>Industrial Training Act 1964.
- (9) ..... <sup>F43</sup>

**Textual Amendments**

**F43** S. 31(9) repealed by [Employment Act 1980 \(c. 42\)](#), [Sch. 2](#)

**Marginal Citations**

**M1** 1974 c. 52.

**M2** 1964 c. 16.

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## 32 Contracted-out schemes.

- (1) An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate as a scheme by reference to which that employment is contracted-out employment; and references to the contracting-out of a scheme are references to its inclusion in a certificate as aforesaid.
- (2) Subject to the provisions of this section, an occupational pension scheme can be contracted-out in relation to an earner's employment only if—
- (a) it complies in all respects with sections 33 to 41 below in respect of [<sup>F44</sup>guaranteed minimum pensions] for the earner and his widow and of the other matters there mentioned or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations; and
  - (b) the rules of the scheme applying to the [<sup>F44</sup>guaranteed minimum pensions] are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.

[<sup>F45</sup>or it satisfies subsection (2A) below.]

[<sup>F46</sup>(2A) An occupational pension scheme satisfies this subsection only if—

- (a) the requirements imposed by or by virtue of Schedule 1 to the Social Security Act 1986, modified under sub-section (2B) below, are satisfied in its case;
- (b) it complies with section 40(1) below; and
- (c) the rules of the scheme applying to protected rights are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.

(2B) The modifications of Schedule 1 are—

- (a) that for the references to a personal pension scheme there shall be substituted references to an occupational pension scheme;
- (b) that for the references in paragraph 5 to minimum contributions there shall be substituted references to minimum payments and any payments by the Secretary of State under section 7 of the Social Security Act 1986;
- (c) that for paragraph 7(2) there shall be substituted—

“(2) The rules of the scheme may provide that a member's protected rights are his rights under the scheme which derive from the payment of minimum payments (within the meaning of the Social Security Pensions Act 1975) together with any payments by the Secretary of State to the scheme under section 7 of this Act in respect of the member and any rights of the member to money purchase benefits which derive from protected rights (within the meaning of the Social Security Pensions Act 1975) under another occupational pension scheme or protected rights under a personal pension scheme which have been the subject of a transfer payment and such other rights as may be prescribed.”

- (d) that in paragraph 9—

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- (i) for the reference to an occupational pension scheme there shall be substituted a reference to a personal pension scheme; . . . <sup>F47</sup>
    - (ii) for the reference to a personal pension protected rights premium there shall be substituted a reference to a contracted-out protected rights premium; and
    - [ for the references in sub-paragraphs (3)(a) and 7(a)(i) to the date on <sup>F48</sup>(iii) which the member attains pensionable age there shall be substituted a reference to a date not earlier than that on which he attains the age of 60 nor later than that on which he attains the age of 65; and]
  - (e) that paragraph 10 shall not apply to public service pension schemes.
- (2C) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or subsection (2A) above; and where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of the subsections as the subsection by virtue of which they desire the scheme to be contracted-out.
- (2D) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other, except in prescribed circumstances.]
- (3) Where by any provision of this Part of this Act the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued contracting-out of the scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out certificate.
- (4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the Occupational Pensions Board notwithstanding that the relevant scheme is one that they would otherwise treat as proper to be contracted-out in relation to all earners in that employment if the Board consider that there are circumstances . . . <sup>F49</sup> which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme.
- (5) Where in relation to an earner's employment there are in force two or more occupational pension schemes none of which can by itself be a contracted-out scheme, the Board may if they think fit treat them for contracting-out purposes as a single scheme.
- (6) It is hereby declared that nothing in this Part of this Act precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes.
- [<sup>F50</sup>(7) An occupational pension scheme which—
- (a) at any time before the coming into operation of the first regulations made under paragraph (a) of subsection (2) above did not satisfy that paragraph; but
  - (b) would have satisfied it if those regulations had then been in operation;
- shall, for the purpose of determining whether the scheme satisfied that paragraph, be treated as if those regulations had been in operation at that time.]

#### Textual Amendments

**F44** Words substituted (with effect from 1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 16(a).



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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- F45** Words inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 2**, para. 5(a)
- F46** S. 32(2A)–(2D) inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 2**, para. 5(b)
- F47** Word repealed (with effect from 13.7.1990) by Social Security Act 1990 (c. 27), **Sch. 7**
- F48** S. 32(2B)(d)(iii) inserted by Social Security Act 1990 (c. 27), **Sch. 4**, para. 6(1), with effect from 17.5.1990 by virtue of para. 6(2) Social Security Act 1990.
- F49** Words repealed by Social Security Act 1986 (c. 50), **Sch. 10**, para. 16(b)
- F50** S. 32(7) added by Social Security and Housing Benefits Act 1982 (c. 24), **Sch. 4**, para. 20

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

- C13** S. 32(2) has effect (with effect from 27.7.1987) in relation to personal pension schemes as modified by S.I. 1987/1116, **reg. 3(1)**
- C14** S. 32(2)(a) to be construed (with effect from 6.4.1988) as if reference to “widow” included reference to widower (and with consequential modification) by virtue of Social Security Act 1986 (c. 50), **s. 9(4)(b)**.

*Requirements for contracting-out*

**33 Requisite benefit for earner.**

- (1) Subject to the provisions of this Part of this Act, for an occupational pension scheme [<sup>F51</sup>which is not a money purchase contracted-out scheme] to be contracted-out in relation to an earner’s employment it must provide for him to be entitled to a pension under the scheme if he attains pensionable age and contain—
  - (a) .....<sup>F52</sup>
  - (b) a rule to the effect that if the earner has a guaranteed minimum under section 35 below the weekly rate of the pension will be not less than his guaranteed minimum under that section.

- [<sup>F53</sup>(1A) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of [<sup>F54</sup>section 19(4) of the Contributions and Benefits Act], subject to the provisions of this Part of the Act, for a scheme to be contracted-out in relation to her employment it must—
  - (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age [<sup>F55</sup>and does not have a guaranteed minimum under section 35 below]; and
  - (b) satisfy such other conditions as may be prescribed.]

- (2) Subject to subsections (3) . . .<sup>F56</sup> below, the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.

- (3) The scheme may provide for the commencement of the earner’s guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age but so that his consent is required—
  - (a) for any postponement by virtue of employment to which the scheme does not relate; and
  - (b) for any postponement after the expiration of five years from the date on which he attains pensionable age.

- (4) .....<sup>F57</sup>

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- (5) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner’s guaranteed minimum pension.
- (6) The benefits referred to in subsection (5) above are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—
  - (a) was for him non-participating employment under that legislation; and
  - (b) was not on its termination the subject of any payment in lieu of contributions;but subsection (5) excludes so much only of those benefits as (and no more than) had to be provided in order that the employment should for that period be treated as non-participating.
- (7) In this section “the former legislation” means Part III of the <sup>M3</sup>National Insurance Act 1965 and the previous corresponding enactments.

**Textual Amendments**

- F51** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(1)(a)
- F52** [S. 33\(1\)\(a\)](#) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)
- F53** [S. 33\(1A\)](#) inserted by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10 para. 17](#)
- F54** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#) Sch. 2, para. 26
- F55** Words inserted (*prosp.*) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 7(1)
- F56** Words repealed (with effect from 1.10.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 7](#)
- F57** [S. 33\(4\)](#) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

**Marginal Citations**

- M3** [1965 c. 51](#).

34 ..... <sup>F58</sup>

**Textual Amendments**

- F58** [S. 34](#) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)(and expressed to be repealed (7.2.1994) by [1993 c. 48](#), s. 188, [Sch. 5 Pt. I](#); [S.I. 1994/86](#), [art. 2](#))

**35 Earner’s guaranteed minimum.**

- (1) An earner has a guaranteed minimum in relation to the pension provided by a scheme in accordance with section 33 above if, in any tax week in a relevant year, earnings have been paid to or for the benefit of the earner in respect of contracted-out employment by reference to the scheme, being earnings in excess of the current lower earnings limit or the prescribed equivalent if he is paid otherwise than weekly.
- (2) Where an earner has a guaranteed minimum as aforesaid, that minimum shall, subject to subsection (6) below, be the weekly equivalent of an amount equal to the appropriate percentage of the total of his earnings factors for the relevant years so far as derived from [<sup>F59</sup>earnings such as are mentioned in subsection (1) above upon which primary Class 1 contributions have been paid or treated as paid].

[<sup>F60</sup>(2ZA) In determining the guaranteed minimum in a case where—

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- (a) earnings such as are mentioned in subsection (1) above have been paid to a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of [<sup>F61</sup>section 19(4) of the Contributions and Benefits Act], and
- (b) the tax week in which those earnings are paid falls in the tax year 1991-92 or any subsequent tax year,

the married woman or widow shall be treated for the purposes of this section as having such earnings factors derived from those earnings as she would have had if primary Class 1 contributions had been payable, and paid, upon them otherwise than at a reduced rate.]

[<sup>F62</sup>(2A) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) above and the Secretary of State is satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, he may for that purpose—

- (a) compute, in such manner as he thinks fit, an amount which shall be regarded as the amount of those earnings; or
- (b) take their amount to be such sum as he may specify in the particular case.]

[<sup>F63</sup>(3) In subsection (2) above— “the appropriate percentage” means—

- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-1988—
  - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978,  $1\frac{1}{4}$  per cent.;
  - (ii) in any other case

$$\frac{25}{N}$$

per cent.;

- (b) in respect of the earner's earnings for the tax year 1988-89 and for subsequent tax years—
  - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
  - (ii) in any other case

$$\frac{20}{N}$$

per cent.;

where N is the number of years in the earner's working life (assuming that he will attain pensionable age) which fall after 5th April 1978; and—

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“derived” means derived in accordance with the rules to be embodied in regulations.]

- (4) For the purposes of subsection (2) above the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52 . . . <sup>F64</sup>.
- (5) For the purposes of subsection (2) above the earner’s earnings factor for any relevant year (so far as derived as mentioned in that subsection) shall, subject to subsection (7) below, be taken to be that factor as increased by <sup>F65</sup>the same percentage as that described for the increase of earnings factors by <sup>F66</sup>the last order under <sup>F67</sup>section 148 of the Administration Act] to come into force] before the end of the final relevant year.
- (6) Where in accordance with section 33(3) above the commencement of an earner’s guaranteed minimum pension is postponed for any period and there are at least <sup>F68</sup>seven] complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by <sup>F68</sup>1/7th] per cent.—
  - (a) of the amount of that minimum apart from this subsection; or
  - (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.

In this subsection “week” means any period of seven consecutive days.

- <sup>F69</sup>(6A) Where an earner’s guaranteed minimum pension is increased under subsection (6) above, the increase of that part of it which is attributable to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.
- (6B) Where one or more orders have come into force under section 37A below during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the pension for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.]
- (7) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before <sup>F70</sup>the final relevant year shall be determined for the purposes of subsection (2) above by reference to the last order under <sup>F71</sup>section 148 of the Administration Act] to come into force before the end of the tax year in which the service in question is terminated and without reference to the last such order to come into force before the end of the final relevant year]; but in that event the scheme shall provide for the weekly equivalent mentioned in that subsection to be increased by at least—
  - (a) 5 per cent. compound for each relevant year after that year; or
  - (b) the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by <sup>F72</sup>the last order under the said section 21 to come into force] before the end of the final relevant year,whichever makes the lesser increase (so however that this subsection is not to be taken as preventing the scheme from providing increases above those alternative minima).
- (8) Subsection (7) above applies <sup>F73</sup>, except in such cases or classes of case as may be prescribed,] only so as to permit the same such provision to be made for all members of the scheme.

<sup>F74</sup>(8A) An occupational pension scheme which—

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- (a) at any time before the coming into operation of the first regulations made under subsection (8) above did not satisfy that subsection; but
- (b) would have satisfied it if those regulations had been in operation at that time.]
- (9) In this section “relevant year” means any tax year in the earner’s working life (not being earlier than the first tax year for which lower and upper earnings limits are specified under section 1 above) and “final relevant year” means the last tax year which is a relevant year in relation to the earner.

### Textual Amendments

- F59** Words substituted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), **Sch. 8**, para. 8
- F60** [S. 35\(2ZA\)](#) inserted (*prosp.*) by [Social Security Act 1990 \(c. 27\)](#), **Sch. 4**, para. 7(2)
- F61** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), **Sch. 2 para. 27(1)**
- F62** [S. 35\(2A\)](#) inserted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), **Sch. 6**, para. 5
- F63** [S. 35\(3\)](#) substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), **s. 9(1)**
- F64** Words repealed by [Social Security Act 1979 \(c. 18\)](#), **Sch. 3 para. 13**
- F65** Words inserted (with effect from 6.4.1979) by [Social Security Act 1988 \(c. 7\)](#), **Sch. 2**, para. 1(2) and (3)
- F66** Words substituted by [Social Security Act 1979 \(c. 18\)](#), **Sch. 3 para. 18(a)**
- F67** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), **Sch. 2**, para. 27(2)
- F68** Figure substituted by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\)](#), **s. 3(2)**
- F69** [S. 35\(6A\)\(6B\)](#) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), **s. 9(2)**
- F70** Words substituted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 3**, paras. 2 and 7 with effect from 6.4.1979, subject to para 2(2) [Social Security Act 1985](#).
- F71** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 60\)](#), **Sch. 2**, para. 27(2)
- F72** Words substituted by [Social Security Act 1979 \(c. 18\)](#), **Sch. 3 para. 18(b)**
- F73** Words inserted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 3**, Pt. II, para 8
- F74** [S. 35\(8A\)](#) inserted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 3**, Pt. II, para 8

### Modifications etc. (not altering text)

- C15** [S. 35\(1\)](#) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary schemes, by [S.I. 1985/1323](#), **Sch. 3**, para. 3, with effect from 23.9.1985, and where such rights have been transferred from appropriate policies, by [S.I. 1985/1323](#), **Sch. 3A**, para. 2. with effect from 27.7.1987
- C16** [S. 35\(1\)](#) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(4) of [S.I. 1987/1118](#) with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise
- C17** [S. 35\(5\)](#) modified, for certain schemes ceasing to be contracted-out, by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\)](#), **s. 21**
- C18** [S. 35\(5\)](#) modified, for certain transfers of guaranteed minimum pension rights, by [S.I. 1984/380](#), **reg. 44(a)**
- C19** [S. 35\(5\)](#) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes where minimum contributions have been paid, by reg. 4(5) of [S.I. 1987/1118](#) with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise
- C20** [S. 35\(7\)](#) modified, for certain transfers of guaranteed minimum pension rights, by [S.I. 1984/380](#), **reg. 44(b)**

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- C21** S. 35(7) modified, for payments transferring protected pension rights to schemes which are or were salary related contracted-out schemes, by reg. 4(6) of S.I. 1987/1118 with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise
- C22** On 1.7.1992, the said s. 21 was repealed and re-enacted in s. 148 of the [Social Security Administration Act 1992 \(c. 5\)](#)
- C23** S. 35(8) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, [Sch. 3, para. 4](#), with effect from 23.9.1985, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, [Sch. 3A, para. 3](#), with effect from 27.7.1987
- C24** S. 35(8) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(7) of S.I. 1987/1118 with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise

### 36 Requisite benefit for widow.

[<sup>F75</sup>(1) Subject to the provisions of this Part of this Act, for an occupational pension scheme [<sup>F76</sup>which is not a money purchase contracted-out scheme] to be contracted-out in relation to an earner's employment it must provide, in the event of the earner dying (whether before or after attaining pensionable age) and leaving a widow or widower, for the widow or widower to be entitled to a guaranteed minimum pension under the scheme.

(1A) A scheme need not provide for widowers of earners who die before 6th April 1989 to be entitled to guaranteed minimum pensions.]

(2) ..... <sup>F77</sup>

[<sup>F78</sup>(3) To comply with this section the scheme must also contain a rule to the effect that—

(a) if the earner is a man who had a guaranteed minimum under section 35 above, the weekly rate of the widow's pension will be not less than her guaranteed minimum, which shall be half that of the earner.

(b) if the earner is a woman who had such a guaranteed minimum, the weekly rate of the widower's pension will be not less than his guaranteed minimum, which shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.]

(4) ..... <sup>F77</sup>

(6) ..... <sup>F79</sup>the scheme must provide for the widow's pension to be payable for any period for which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her by virtue of the earner's contributions or for which a Category B retirement pension would be so payable but for [<sup>F80</sup>section 43(1) of the Contributions and Benefits Act].

(7) ..... <sup>F77</sup>

[<sup>F81</sup>(7A) The scheme must provide for the widower's pension to be payable in prescribed circumstances and for the prescribed period.

(7B) The trustees or managers of the scheme shall supply to the Secretary of State such information as he may require relating to the payment of pensions under the scheme to widowers.]

(8) The widow's guaranteed minimum pension must be payable to her; . . . <sup>F82</sup>

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

(9) ..... F77

#### Textual Amendments

- F75** S. 36(1) and (1A) substituted for s. 36(1) (6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [s. 9\(3\)\(a\)](#)
- F76** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2 para. 6\(1\)\(b\)](#)
- F77** S. 36(2),(4),(5),(7),(9) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)
- F78** S. 36(3) substituted (6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [s. 9\(3\)\(b\)](#)
- F79** Words repealed (1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)
- F80** Words substituted (with effect from 1.7.1992) by Social Security (Consequential Provisions) Act 1992, (c. 6), Sch. 2, para. 28
- F81** S. 36(7A) and (7B) inserted by [Social Security Act 1986 \(c. 50\)](#), [s. 9\(3\)\(c\)](#)
- F82** Words repealed (with effect from 1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

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

- C25** S. 36(3): power to amend conferred (1.7.1992) by [Social Security Administration Act 1992 \(c. 5\)](#), [ss. 150\(1\)\(e\)\(i\)](#), 192(4).
- C26** S. 36(3) amended (12.4.1993) by [S.I. 1993/349](#), [arts. 1\(2\)\(d\)](#), 5(2)
- C27** S. 36(8) to be construed (with effect from 6.4.1988) as if reference to “widow” included reference to widower (and with consequent modification) by virtue of [Social Security Act 1986 \(c. 50\)](#), [s. 9\(4\)](#)

37 ..... F83

#### Textual Amendments

- F83** S. 37 repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#) (and expressed to be repealed (7.2.1994) by [1993 c. 48](#), [s. 188](#), [Sch. 5 Pt. I](#); [S.I. 1994/86](#), [art. 2](#))

### <sup>F84F85</sup> 37 Annual increases of guaranteed minimum pensions.

- (1) The Secretary of State shall in the tax year 1989-90 review the general level of prices obtaining in Great Britain for a period of twelve months commencing in the previous tax year.
- (2) The Secretary of State shall in each subsequent tax year review the general level of prices obtaining in Great Britain for the period of twelve months commencing at the end of the period last reviewed under this section.
- (3) Where it appears to the Secretary of State that the general level of prices is greater at the end of that period, he shall lay before Parliament the draft of an order specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years for—
  - (a) earners who have attained pensionable age; and
  - (b) widows and widowers.
- (4) The percentage shall be—
  - (a) the percentage by which the general level of prices is greater at the end of the period under review than it was at the beginning of that period; or



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- (b) 3 per cent.,  
whichever is less.
- (5) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.
- (6) An order under this section shall be so framed as to bring the alterations to which it relates into force on the first day of the tax year next following the making of the order.
- (7) Where the benefits mentioned in [F86sections 29(1), 29A(1) and (2), 29B(1) and (2) and 29C(1) and (2) above] are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of those subsections as not taking effect until the day on which the benefits mentioned in them are next increased.
- (8) Except as permitted by subsection (13), (14) or (15) below, the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of this section out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—
- (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the following year; or
- (b) the payment is to a person as the widow or widower of an earner who died before attaining pensionable age in respect of the tax year in which the person became a widow or widower and the increase is the one required to be made in the next following tax year.
- (9) Subsection (8) above overrides any provision of a scheme to the extent that it conflicts with it.
- (10) The Occupational Pensions Board may at any time, and shall if requested by the trustees and managers of a scheme, advise on any question whether or not subsection (8) above overrides any provision of the scheme.
- (11) On an application made to them in respect of a scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Board shall issue a determination on any such question as is mentioned in subsection (10) above.
- (12) The persons competent to make an application under subsection (11) above in respect of a scheme are—
- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
- (c) any person who was an employer of persons in service in an employment to which the scheme applies;
- (d) any member or prospective member of the scheme; and
- (e) such other persons as may be prescribed, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of that category.
- (13) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme make an increase in the rate of pensions currently payable to the members

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of the scheme who have attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under this section in the tax year 1990-1991.

- (14) Where the trustees or managers of such a scheme make an increase otherwise than in pursuance of this section in a tax year subsequent to 1989-90, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under this section in the next following tax year.
- (15) Where in any tax year subsequent to 1989-90 the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of this section, they may deduct the part of the increase made otherwise than in pursuance of this section from any increase which, but for this subsection, they would be required to make under this section in the next following year.
- (16) Where by virtue of subsection (13), (14) or (15) above guaranteed minimum pensions are not required to be increased in pursuance of this section, their amount shall be calculated for any purpose as if they had been so increased.
- (17) Where by virtue of any of those subsections guaranteed minimum pensions are required to be increased in pursuance of this section by an amount less than they otherwise would be, their amount shall be calculated for any purpose as if they had been increased by that full amount.]

#### Textual Amendments

- F84** S. 37A inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\), s. 9\(7\)](#)
- F85** S. 37A modified (with effect from 1.7.1992) by [Social Security Administration Act 1992 \(c. 5\), ss. 151\(4\)\(a\), 192\(4\)](#).
- F86** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 29](#)

### 38 Transfer of accrued rights.

- <sup>F87</sup> [Regulations may prescribe circumstances in which and conditions subject to which—
- <sup>F88</sup> (1) (a) there may be made by one occupational pension scheme to another or by an occupational pension scheme to a personal pension scheme a transfer of or a transfer payment in respect of—
- (i) an earner's accrued rights to guaranteed minimum pensions under a contracted-out scheme;
  - (ii) an earner's accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
  - (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them;
- (b) there may be made to an occupational pension scheme or a personal pension scheme a transfer of or a transfer payment in respect of an earner's accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 52C below.]

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- (1A) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.
- (1B) Regulations under subsection (1) above may provide that any provision of this Part of this Act shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.
- (1C) Regulations under subsection (1) above shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.
- (1D) The power conferred by subsection (1) above is without prejudice to the generality of section 166(2) of the principal Act.]

(3) In this Part of this Act—

“accrued rights”, in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for him and his widow in accordance with sections 33 and 36 above, and references to an earner’s accrued rights to guaranteed minimum pensions shall be construed accordingly;

F89

(4) ..... F90

**Textual Amendments**

- F87** S. 38(1)–(1D) substituted for subsections (1) and (2) by [Health and Social Security Act 1984 \(c. 48\)](#), s. [19\(1\)](#)
- F88** S. 38(1) substituted by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 18
- F89** Definition repealed by [Health and Social Security Act 1984 \(c. 48\)](#), [Sch. 8](#), Pt. II
- F90** S. 38(4) repealed by [Health and Social Security Act 1984 \(c. 48\)](#), [Sch. 8 Pt. II](#)

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

- C28** S. 38(3) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary schemes, by [S.I. 1985/1323](#), [Sch. 3](#), para. 5, with effect from 23.9.1985, and, where such rights have been transferred from appropriate policies, by [S.I. 1985/1323](#), [Sch. 3A](#), para. 4, with effect from 27.7.1987
- C29** Definition to be construed (with effect from 6.4.1988) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\)](#), s. [9\(4\)](#)

**39 Commutation, surrender and forfeiture.**

- (1) Where the annual rate of a pension required to be provided by a scheme in accordance with section 33 or 36 above would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension.
- (2) ..... F91
- (4) Neither section 33 nor section 36 above shall preclude a scheme from providing—
  - (a) ..... F92

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- (b) for the earner's or widow's guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

#### Textual Amendments

**F91** S. 39(2)(3) repealed (with effect from 1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

**F92** S. 39(4)(a) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

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

**C30** S. 39(4)(b) to be construed (with effect from 6.4.1988) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\)](#), [s. 9\(4\)](#)

## 40 Financing and assurance of benefits.

- (1) For an occupational pension scheme to be contracted out the resources of the scheme must be derived in whole or in part from—
- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
    - (i) under an actual or contingent legal obligation; or
    - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
  - (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.
- (2) For an occupational pension scheme, other than a public service pension scheme [<sup>F93</sup>or a money purchase contracted-out scheme], to be contracted-out the Occupational Pensions Board must be satisfied [<sup>F94</sup>, except in the case mentioned in section 52D below,] that the scheme complies with—
- (a) regulations prescribing the means by which guaranteed minimum pensions under contracted-out schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means); and
  - (b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;
- and generally as to the arrangements in force or to be in force from time to time for securing those pensions.
- (3) For an occupational pension scheme [<sup>F95</sup>which is not a money purchase contracted-out scheme] to be contracted-out it must contain a rule whereby any liabilities of the scheme in respect of—
- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
  - (b) any such benefits as are excluded by section 33(5) above from earners' guaranteed minimum pensions;
  - (c) pensions and other benefits (whether or not within paragraph (a) or (b) above) in respect of which entitlement to payment has already arisen; and
  - (d) state scheme premiums,

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are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect [<sup>F96</sup>except that the rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which he will be entitled on ceasing to be in employment or to which the earner's widow or widower or any dependant of the earner's will be entitled on the earner's death].

This does not apply to public service pension schemes, nor to schemes falling within any category or description prescribed as being exempt from the requirements of this subsection.

- (4) For an occupational pension scheme [<sup>F95</sup>which is not a money purchase contracted-out scheme] to be contracted-out it must, if it provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, so provide that there shall be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

#### Textual Amendments

**F93** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(3)(a)

**F94** Words inserted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 20(a)

**F95** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(1)(c)

**F96** Words inserted by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\)](#), [s. 22\(8\)](#)

#### 41 Sufficiency of resources.

- (1) For an occupational pension scheme, other than a public service scheme [<sup>F97</sup>or a money purchase contracted-out scheme], to be contracted-out the Occupational Pensions Board must be satisfied [<sup>F98</sup>, except in the case mentioned in section 52D(4) below.] that the resources of the scheme are sufficient—
- for meeting from time to time all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, having regard to the expected extent of the scheme's resources and its other liabilities at any time when claims may be expected to arise; and
  - for paying state scheme premiums in respect of all persons at any time entitled to, or having accrued rights to, guaranteed minimum pensions under the scheme; and
  - for meeting in full, in the event of an immediate winding up, the liabilities accorded priority in accordance with section 40(3) above and the expenses of administration so far as those expenses are payable out of the resources of the scheme.

[<sup>F99</sup>(1A) Regulations may provide for subsection (1) above to have effect, in prescribed cases, with the omission of paragraphs (b) and (c) or either of them or with the substitution for both or either of them of provisions specified in the regulations.]

- (2) Where contracting-out or continued contracting-out depends on the Board being satisfied as mentioned in subsection (1) above, the scheme may be contracted-out or continue to be contracted-out, as the case may be, in relation to any employment subject to such conditions as the Board think fit to impose for securing—

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- (a) that the board are kept informed as to any matters affecting the security of the minimum pensions guaranteed under the scheme;
- (b) that the resources of the scheme are brought to and maintained at a level satisfactory to the Board;

and non-compliance with any condition imposed by the Board under this subsection shall be grounds on which the Board may cancel a contracting-out certificate issued in respect of any employment within the application of the scheme.

- (3) Conditions imposed by the Board for the purpose mentioned in subsection (2)(b) above may require steps to be taken, at the instance of the Board, to increase the scheme's resources at any time after contracting-out, including a time when the scheme has ceased to be contracted-out.

- (4) ..... <sup>F100</sup>

- (5) In considering a scheme by reference to the considerations of subsection (1) above, the Board shall have regard to any investments held for the purposes of the scheme; and the Board may by reference to those considerations make it a condition of contracting-out or continued contracting-out that—

- (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;
- (b) there shall be realised, before the expiration of a specified period, the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed;

and non-compliance with any such condition shall be a ground on which the Board may withhold or cancel a contracting-out certificate in respect of any employment within the application of the scheme.

#### Textual Amendments

- F97** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(3)(b)
- F98** Words inserted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 20(b)
- F99** [S. 41\(1A\)](#) substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 21
- F100** [S. 41\(4\)](#) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 19

#### <sup>F101</sup> *Protection of pensions*

#### Textual Amendments

- F101** [Ss. 41A–41E](#) inserted by [Health and Social Security Act 1984 \(c. 48\)](#), [Sch. 6](#)

### 41A Earners' pensions.

- (1) If—

- (a) there is an interval between—

- (i) the date on which an earner ceases to be in employment which is contracted-out by reference to an occupational pension scheme <sup>F102</sup>which is not a money purchase contracted-out scheme] (“the termination of employment date”); and

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- (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
- (b) the relevant sum exceeds his guaranteed minimum on the day after the termination of employment date; and
- (c) on the commencement of payment date or at any time thereafter his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the termination of employment date, the weekly rate on the [<sup>F103</sup> commencement of payment date] and at any time thereafter of the pension payable to him under the scheme shall be an amount not less
  - [<sup>F104</sup>(i) in a case where by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 a pension is provided by way of complete substitute for short service benefit, than the weekly rate of that pension; and
  - (ii) in any other case, than the relevant aggregate.]

(1A) ..... <sup>F105</sup>

[<sup>F106</sup>(1C) In subsection (1) above “the relevant aggregate” means the aggregate of the following—

- (a) the relevant sum;
- (b) the excess mentioned in subsection (1)(c) above; . . . <sup>F107</sup>
- (c) any amount which is an appropriate addition at the time in question][<sup>F108</sup>and
- (d) where the scheme provides that part of the earner’s pension shall accrue after the termination of employment date by reason of employment after that date, the later earnings addition.]

(2) In subsection [<sup>F109</sup>(1C)] above “appropriate addition” means—

- (a) where a scheme provides that part of an earner’s pension shall accrue after the termination of employment date by reason of employment after that date, an amount equal to the part which has so accrued; and
- (b) where a scheme provides that an earner’s pension which has accrued before that date shall be enhanced after it if payment of the pension is postponed, the amount by which the excess of the pension on the day after the termination of employment date over the earner’s guaranteed minimum on the day after the termination of employment date has been enhanced by reason of the postponement.

[<sup>F110</sup>(2A) In this section “the later earnings addition” means the amount (if any) by which (R2—G2) exceeds (R1—G1), where—

- R1 is the relevant sum;
- G1 is the earner’s guaranteed minimum on the day after his termination of employment date;
- R2 is the amount that would have been the relevant sum, had the weekly rate of the benefit which determines that sum been calculated by reference to the earner’s later earnings level; and
- G2 is that amount which bears to R2 the proportion which G1 bears to R1.

(2B) For the purposes of subsection (2A) above, the earner’s “later earnings level” is the level of earnings by reference to which the weekly rate of the benefit which determines the relevant sum would have been calculated, had the termination of employment date fallen on the earlier of—

- (a) the commencement of payment date, or



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- (b) the date on which the earner ceased to be in pensionable service under the scheme.]
- (3) Subject to subsections (6) to (8) below, in this section “the relevant sum” means—
  - (a) if the earner reaches normal pensionable age on or before the termination of employment date, an amount equal to the weekly rate of his pension on the day after the termination of employment date; and
  - (b) if he reaches normal pension age after the termination of employment date, an amount equal to the weekly rate of—
    - (i) any short service benefit which has accrued to him on the termination of employment date; or
    - (ii) where no short service benefit has then accrued to him, any other benefit to which this paragraph applies and which has then accrued to him.
- (4) The benefit other than short service benefit to which subsection (3)(b) above applies is benefit—
  - (a) which would have been provided, as either the whole or part of the earner’s short service benefit; or
  - (b) of which the earner’s short service benefit would have formed part,
 if paragraph 6(1) of Schedule 16 to the Social Security Act 1973 had effect with the substitution—
  - (i) ..... <sup>F111</sup>
  - (ii) in paragraph (b), of a reference to the service which the earner had on that date for the reference to [<sup>F112</sup>2] years’ qualifying service.
- (5) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if paragraph 6(1) of Schedule 16 to the Social Security Act 1973 had effect as mentioned in subsection (4) above.
- (6) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before the commencement of this section they are to be disregarded for the purposes of [<sup>F113</sup>subsections (1)(c) and (1C)(b)] above.
- (7) If any part of the earner’s pension is postponed beyond the termination of employment date, the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the termination of employment date if there had been no such postponement.
- (8) If—
  - (a) an earner’s employment ceases to be contracted-out by reference to an occupational pension scheme but the scheme continues to apply to it; or
  - (b) an earner transfers from employment which is contracted-out by reference to an occupational pension scheme to employment to which the scheme applies but which is not contracted-out by reference to it,
 the amount of any short service or other benefit which has accrued to the earner shall be computed for the purposes of subsection (3)(b) above as it would be computed if he had ceased on the termination of employment date to be in employment to which the scheme applies.
- (9) An earner shall be treated for the purpose of this section as if benefit under a scheme had accrued to him—

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- (a) if—
- (i) one of the events mentioned in subsection (8) above occurs before he has attained the age at which, if he had attained it, that benefit would have accrued to him; and
  - (ii) he continues to be in employment to which the scheme applies until he attains that age; or
- (b) if—
- (i) one of those events occurs before he has a particular period of service; and
  - (ii) that benefit would have accrued to him if he had that period; and
  - (iii) he continues to be in employment to which the scheme applies until he has it.
- (10) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.
- (11) In this section, [<sup>F114</sup>“pensionable service” and “short service benefit” are] to be construed in accordance with Schedule 16 to the Social Security Act 1973.

#### Textual Amendments

- F102** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(1)(d)
- F103** Words substituted (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 8(8)
- F104** Words substituted by [Social Security Act 1985 \(c. 53\)](#), [s. 6\(1\)](#)
- F105** [S. 41A\(1A\)](#) and (1B) repealed (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 8(8) and [Sch. 7](#)
- F106** [S. 41A\(1C\)](#) inserted by [Social Security Act 1985 \(c. 53\)](#), [s. 6\(2\)](#)
- F107** Word repealed (with effect from 21.7.1989) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 9](#)
- F108** Word and [s. 41A\(1C\)\(d\)](#) added by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 8(2), with effect from 21.7.1989 by virtue of para. 8(1) [Social Security Act 1990](#), and subject to savings in para. 8(10).
- F109** Reference substituted by [Social Security Act 1985](#), [Sch. 5](#), para. 23(a)
- F110** [S. 41A\(2A\)](#) and (2B) added by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 8(3), with effect from 21.7.1989 by virtue of para. 8(1) [Social Security Act 1990](#), and subject to savings in para. 8(10).
- F111** [S. 41A\(4\)\(i\)](#) repealed by [Social Security Act 1985 \(c. 53\)](#), [Sch. 6](#)
- F112** Figure substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 20
- F113** Words substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 23(b)
- F114** Words substituted by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 8(4), with effect from 21.7.1989 by virtue of para. 8(1) of [Social Security Act 1990](#), and subject to savings in para. 8(10).

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

- C31** [S. 41A\(1\)](#) modified by [S.I. 1991/166](#), [reg. 3\(2\)\(a\)](#)
- C32** [S. 41A\(3\)](#) modified by [S.I. 1991/166](#), [regs. 2\(2\)](#), [3\(2\)\(b\)](#)
- C33** [S. 41A\(6\)](#) modified by [S.I. 1991/166](#), [reg. 7\(2\)](#)

#### 41B

- (1) If—
- (a) there is an interval between the earner’s termination of employment date and whichever of the following is the earlier—
    - (i) the date of his death;
    - (ii) his commencement of payment date; and

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- (b) the relevant sum exceeds one half of the earner’s guaranteed minimum on the day after the termination of employment date; and
- (c) at any time when a pension under the occupational pension scheme is required to be paid to his widow her guaranteed minimum pension under the scheme exceeds one half of his guaranteed minimum on the day after the termination of employment date,

the weekly rate of the pension to be paid to her at the time shall be an amount not less

- [<sup>F115</sup>(i) in a case where by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 a pension is provided by way of complete substitute for a widow’s pension, than the weekly rate of pension so provided; and
- (ii) in any other case, than the relevant aggregate.]

[<sup>F116</sup>(1A) In subsection (1) above “the relevant aggregate” means the aggregate of the following—

- (a) the relevant sum;
- (b) the excess mentioned in subsection (1)(c) above; . . . <sup>F117</sup>
- (c) any amount which is an appropriate addition at the time in question][<sup>F118</sup>and
- (d) where the scheme provides that part of the widow’s pension shall accrue after the termination of employment date by reason of the earner’s employment after that date, the later earnings addition.]

(2) In subsection [<sup>F119</sup>(1A)] above “appropriate addition” means—

- (a) where a scheme provides that a widow’s pension shall accrue after the termination of employment date by reason of the earner’s employment after that date, an amount equal to the part which has so accrued; and
- (b) where a scheme provides that a widow’s pension which has accrued before that date shall be enhanced after it if payment of the earner’s pension is postponed, the amount by which the excess of the widow’s pension on the day after the termination of employment date over one half of the earner’s guaranteed minimum on the day after the termination of employment date has been enhanced by reason of the postponement.

(3) Subject to subsection (5) below, in this section “the relevant sum” means an amount equal to the weekly rate at which, on the [<sup>F120</sup>prescribed assumptions], a pension would have commenced to be paid to the widow if she had satisfied the conditions for entitlement to a pension which are specified in the scheme.

[<sup>F121</sup>(3A) In this section “the later earnings addition” means the amount (if any) by which (R2—G2) exceeds (R1—G1), where—

R1 is the relevant sum;

G1 is one half of the earner’s guaranteed minimum on the day after his termination of employment date;

R2 is the amount that would have been the relevant sum, had the weekly rate of the pension which determines that sum been calculated by reference to the earner’s later earnings level; and

G2 is that amount which bears to R2 the proportion which G1 bears to R1.

(3B) For the purposes of subsection (3A) above, the earner’s “later earnings level” is the level of earnings by reference to which the weekly rate of the pension which determines the relevant sum would have been calculated, had the termination of employment date fallen on the earlier of—

- (a) the earner’s commencement of payment date, or

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(b) the date on which the earner ceased to be in pensionable service under the scheme.]

(4) .....<sup>F122</sup>

(5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before the commencement of this section they are to be disregarded for the purposes of [<sup>F123</sup>subsections (1)(c) and (1A)(b)] above.

[<sup>F124</sup>(6) In this section “pensionable service” shall be construed in accordance with Schedule 16 of the Social Security Act 1973.]

#### Textual Amendments

- F115** Words substituted by [Social Security Act 1985 \(c. 53\), s. 6\(3\)](#)
- F116** [S. 41B\(1A\)](#) inserted by [Social Security Act 1985 \(c. 53\), s. 6\(4\)](#)
- F117** Word repealed (with effect from 21.7.1989) by [Social Security Act 1989 \(c. 24\), Sch. 9](#)
- F118** Word and [S. 41B\(1A\)\(d\)](#) added by [Social Security Act 1990 \(c. 27\), Sch. 4, para. 8\(5\)](#), with effect from 21.7.1989 by virtue of para. 8(1) Social Security Act 1990, and subject to savings in para. 8(10).
- F119** Reference substituted by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 24](#)
- F120** Words substituted by [Social Security Act 1985 \(c. 53\), s. 6\(5\)](#) and (6)
- F121** [S. 41B\(3A\)](#) and (3B) inserted by [Social Security Act 1990 \(c. 27\), Sch. 4, para. 8\(6\)](#), with effect from 21.7.1989 by virtue of para. 8(1) *ibid.*, and subject to savings in para. 8(10).
- F122** [S. 41B\(4\)](#) repealed by [Social Security Act 1985 \(c. 53\), Sch. 6](#)
- F123** Words substituted by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 24](#)
- F124** [S. 41B\(6\)](#) inserted by [Social Security Act 1990 \(c. 27\), Sch. 4, para. 8\(7\)](#), with effect from 21.7.1989 by virtue of para. 8(1) Social Security Act 1990, and subject to savings in para. 8(10).

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

- C34** [S. 41B](#) modified by [S.I. 1991/166, reg. 4\(2\)](#)
- C35** [S. 41B\(1\)\(c\)](#) (but not [s. 41B\(1\)\(c\)\(i\)](#)), (2) and (3) to be construed (6.4.1988) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\), s. 9\(4\)\(f\)](#)
- C36** [S. 41B\(1\)\(c\)\(i\)](#) to be construed (with effect from 21.7.1989) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\), s. 9\(4\)\(f\)](#)
- C37** [S. 41B\(3\)](#) modified by [S.I. 1991/166, reg. 2\(2\)](#)
- C38** [S. 41B\(5\)](#) modified by [S.I. 1991/166, reg. 7\(2\)](#)

#### 41C

- (1) Subject to subsection (2) below, sections 41A and 41B above override any provision of a scheme to the extent that it conflicts with them.
- (2) Sections 41A and 41B do not override a protected provision of a scheme.
- (3) In subsection (2) above “protected provision” means—
  - (a) any provision contained in a scheme by virtue of—
    - (i) paragraph 9(2), 15(2), (3) or (4), 16(2), (3) or (4), 17(2) or 18 of Schedule 16 to the Social Security Act 1973; [<sup>F125</sup>and]
    - (ii) .....<sup>F126</sup>
  - (b) any provision of a scheme to the extent that it deals with priorities on a winding-up; and

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- (c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 38(1) above [F127] and
  - (d) any provision of a scheme to the extent that it deals with [F128] the commutation, suspension or forfeiture [F129] of the whole or part of a pension [F129] and
  - (e) any provision of a scheme whereby, as respects so much of a widow's or widower's pension as exceeds the guaranteed minimum pension—
    - (i) no pension, or a pension at a reduced rate, is payable if the earner and the widow or widower married not more than six months before the earner's death;
    - (ii) the whole or any part of the pension is not paid to the widow or widower, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
    - (iii) no pension, or a pension at a reduced rate, is payable to the widow or widower (or, where a provision such as is mentioned in subparagraph (ii) above operates, to another dependant of deceased earner) who was more than ten years younger than the deceased earner.]
- (4) In making any calculation for the purposes of section 41A or 41B above—
- (a) any commutation, forfeiture or surrender of the whole or part of a pension;
  - (b) any charge or lien on the whole or part of a pension; and
  - (c) any set-off against the whole or part of a pension,
- shall be disregarded.
- [F130](4A) In calculating an earner's guaranteed minimum for the purposes of sections 41A and 41B above his earnings factor shall be taken to be that factor as increased, except as provided by subsection (4B) below, by the last order under [F131] section 148 of the Administration Act] to come into force before the end of the tax year in which termination of employment date falls.
- (4B) If an earner's termination of employment date falls in the tax year in which he attains pensionable age, subsection (4A) above shall have effect in relation to him as if for the words from "tax year" onwards there were substituted the word "final relevant year".
- (4C) In subsection (4B) above "final relevant year" has the same meaning as in section 35 above.]
- (5) Any reference in section 41A and 41B above to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.
- (6) Sections 41A and 41B above do not apply to a pension to which an earner or his widow is entitled in respect of employment if before the commencement of this section—
- (a) he left the employment, or left it for the last time; or
  - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him.
- (7) The Secretary of State may by regulations direct that sections 41A and 41B above and this section shall have effect, in such cases as he may there specify.

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- (8) In subsection (7) above “modification” includes, without prejudice to the generality of that subsection, addition, omission and amendment.

#### Textual Amendments

- F125** Word substituted by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 9\(1\)\(a\)](#) and Sch. 7, with effect from 1.11.1986 by virtue of para. 9(4) of Sch. 4 Social Security Act 1990.
- F126** [S. 41C\(3\)\(a\)\(ii\)](#) repealed by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 9\(1\)\(a\)](#) and Sch. 7, with effect from 1.1.1986 by virtue of para. 9(4) of Sch. 4 Social Security Act 1990.
- F127** Word and s. 41C(3)(d) added by [Social Security Act 1989 \(c. 24\)](#), [Sch. 6, para. 8\(1\)\(b\)](#) as from 1.11.1986 (by paragraph 8(2) Social Security Act 1989.)
- F128** Words substituted by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 9\(1\)\(b\)](#) with effect from 1.11.1986 by virtue of para. 9(4) Social Security Act 1990.
- F129** Word and s. 41C(3)(e) inserted (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 9\(2\)](#)
- F130** [S. 41C\(4A\)–\(4C\)](#) inserted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 3, paras. 3 and 7](#) with effect from 1.1.1985
- F131** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2, para. 30](#)

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

- C39** [S. 41C](#) modified by [S.I. 1991/166, reg. 6\(2\)](#)

#### 41D

The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether . . . <sup>F132</sup> any provision of section 41A or 41B above (including, without prejudice to section 20(2) of the Interpretation Act 1978, any such provision as modified by regulations under section 41C(7) above) does or does not override any provisions of the scheme.

#### Textual Amendments

- F132** Words repealed by [Social Security Act 1985 \(c. 53\)](#), [Sch. 6](#)

#### 41E

- (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme [<sup>F133</sup>or a money purchase contracted-out scheme]) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in section 41D above.
- (2) The persons competent to make an application under this section in respect of a scheme are—
- the trustees or managers of the scheme;
  - any person other than the trustees or managers who has power to alter any of the rules of the scheme;
  - any person who is an employer of persons in service in an employment to which the scheme applies;
  - any member or prospective member of the scheme;

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- (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.

#### Textual Amendments

**F133** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(3)(c)

#### *State scheme premiums*

### 42 Premium on termination of contracted-out employment.

- (1) This section has effect as to the cases in which [<sup>F134</sup>the prescribed person] may pay a state scheme premium where—

- (a) the earner’s service in contracted-out employment by reference to an occupational pension scheme [<sup>F135</sup>which is not a money purchase contracted-out scheme] is terminated before he attains the scheme’s normal pension age or (if earlier) the end of the tax year preceding that in which he attains pensionable age; and
- (b) he has served for less than [<sup>F136</sup>two] years in contracted-out employment by reference to the scheme;

and a premium under this section may be referred to as a “contributions equivalent premium”.

- (2) If—

- (a) the earner’s service is terminated in any way except by his death or by the scheme’s ceasing to be contracted-out; and
- (b) his period of service is not one in respect of which the scheme conforms to the appropriate extent with the preservation requirements of Part II of the <sup>M4</sup>Social Security Act 1973,

[<sup>F137</sup>the prescribed person] may elect to pay a contributions equivalent premium with a view to extinguishing the earner’s accrued rights to guaranteed minimum pensions under the scheme.

- (3) If the earner’s service is terminated by his death and he dies leaving a widow, [<sup>F137</sup>the prescribed person] may elect to pay a contributions equivalent premium with a view to extinguishing any such accrued rights in respect of the widow.

#### Textual Amendments

**F134** Words substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 25

**F135** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(1)(f)

**F136** Word substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#) Sch. 10, para. 21

**F137** Words substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 25

#### Marginal Citations

**M4** 1973 c. 38.



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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

#### **43 Premium under section 42: additional provisions.**

(1) The amount of a contributions equivalent premium shall be the equivalent, as certified by the Secretary of State, of the amount by which the Class 1 contributions payable in respect of the earner's employment in contracted-out employment by reference to the scheme have fallen short of what would have been payable if the employment had not been contracted-out; and in certifying any amount under this section the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.

[<sup>F138</sup>(1A) Where an earner's earnings paid in any period—

- (a) exceeded the lower earnings limit; but
- (b) were not such as that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,

it shall be assumed for the purposes of subsection (1) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.]

[<sup>F139</sup>(1B) Where the amount of a person's earnings for any period (whether before or after the passing of this Act is relevant for any purpose of subsection (1) or (1A) above and the Secretary of State is satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, he may for that purpose—

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

(1C) Where—

- (a) the Secretary of State subsequently ascertains the amount of those earnings, and
- (b) it appears to him that the amount of the premium would have been different if he had not made the calculation of the basis described in subsection (1A) above,

he shall refund to the prescribed person the amount by which it would have been less or, as the case may be, the prescribed person shall pay to the Secretary of State the amount by which it would have been more.]

(2) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the references in section 42(1), and in subsection (1) above, to contracted-out employment 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>F140</sup>(2A) [<sup>F141</sup>Subject to subsection (2B) below] for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

- [<sup>F142</sup>(a) under the rules of a scheme applying to him in the earlier period of service—
  - (i) there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; or
  - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service;]<sup>F143</sup> and]

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- (b) in consequence of [<sup>F144</sup>[<sup>F145</sup>the transfer of] his accrued rights to the second scheme], there are (or were) allowed to him transfer credits under the rules of that other scheme.

except that, for any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.]

- [<sup>F146</sup>(2B) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.]

- (3) For the purposes of section 42(2), a scheme conforms to the appropriate extent with the preservation requirements of Part II of the <sup>M5</sup>Social Security Act 1973 if—

- (a) it entitles the earner to short service benefit within the meaning of those requirements; or  
(b) it makes any provision which under those 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).

- (4) Except in such cases as may be prescribed, [<sup>F147</sup>the prescribed person] shall not, in making or abstaining from making elections under section 42(2) or (3), discriminate between different earners on any grounds other than their respective lengths of relevant service; and if the Occupational Pensions Board consider that [<sup>F147</sup>the prescribed person] is contravening this subsection, they may cancel any contracting-out certificate held by [<sup>F147</sup>the earner's employer] in respect of the scheme in question.

- (5) In subsection (4) above “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.

- (6) An election by [<sup>F147</sup>the prescribed person] under section 42(2) or (3) must be made within the prescribed period in the prescribed manner; and where [<sup>F147</sup>the prescribed person] elects to pay a premium in respect of an earner, he shall pay it to the Secretary of State within the prescribed period.

- (7) Payment of a premium under section 42(2) shall operate to extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme; and payment of a premium under section 42(3) shall operate to extinguish any right to guaranteed minimum pension in respect of the widow.

- (8) Subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of section 42 as terminated immediately before the death.

#### Textual Amendments

**F138** S. 43(1A) inserted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 5**, para. 26

**F139** S. 43(1B) and (1C) inserted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), **Sch. 6**, para. 9(1)

**F140** S. 43(2A) inserted by [Health and Social Security Act 1984 \(c. 48\)](#), **Sch. 7**, para. 4

**F141** Words inserted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), **Sch. 6**, para. 9(2)

**F142** S. 43(2A)(a) substituted by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 22(a)

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- F143** Word inserted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 7](#), para. 21
- F144** Words substituted by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 22(b)
- F145** Words substituted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 7](#), para. 21
- F146** [S. 43\(2B\)](#) inserted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 6](#), para. 9(2)
- F147** Words substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 25

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

- C40** [S. 43\(1A\)](#) shall not apply to any period after the end of the tax year 1986/87 ([Social Security Act 1986 \(c. 50\)](#), [Sch. 8 para. 9](#).)

**Marginal Citations**

- M5** [1973 c. 38](#).

**44 Premium on termination of contracted-out scheme.**

- (1) In the case of an occupational pension scheme [<sup>F148</sup>which is not a money purchase contracted-out scheme] which is [<sup>F149</sup>or has been] contracted-out, the Occupational Pensions Board may, for the event of [<sup>F149</sup>, or in connection with,] its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—
- (a) of earners' accrued rights to guaranteed minimum pensions under the scheme;
  - (b) of the liability for the payment of guaranteed minimum pensions thereunder in respect of persons who have then become entitled to receive them.
- [<sup>F150</sup>(1A) Regulations may provide that any provision of this Part of this Act shall have effect where the Occupational Pensions Board have approved arrangements under subsection (1) above subject to such modifications as may be specified in the regulations.
- (1B) 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 force.]
- [<sup>F151</sup>(1C) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—
- (a) have withdrawn their approval of previously approved arrangements relating to it; or
  - (b) have declined to approve arrangements relating to it,
- the Board may issue a certificate to that effect.
- (1D) A certificate issued under subsection (1C)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.]
- (2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) then—
- (a) in respect of each earner whose accrued rights to guaranteed minimum pensions under the scheme are not subject to approved arrangements [<sup>F152</sup>and have not been disposed of so as to discharge the trustees or managers of the scheme under [<sup>F153</sup>section 52C of or] paragraph 16 of Schedule 1A to this Act]; and

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

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- (b) in respect of each person who has then become entitled to receive a guaranteed minimum pension under the scheme and whose guaranteed minimum pension rights are not [<sup>F154</sup>subject to approved arrangements], a state scheme premium shall be payable by the prescribed person.
- (3) A premium under subsection (2)(a) above may be referred to as an “accrued rights premium”; and a premium under subsection (2)(b) may be referred to as a “pensioner’s rights premium”; and in each case the premium shall be paid within the prescribed period to the Secretary of State.
- (4) For the purposes of subsection (2) above, an earner’s accrued rights or, as the case may be, a person’s guaranteed minimum pension rights are subject to approved arrangements if (either before or after the scheme ceased to be contracted-out) the Occupational Pensions Board have approved arrangements under subsection (1) above which operate as respects him and the rights in question, and have not since withdrawn their approval.
- (5) [<sup>F155</sup>Subject to subsection (5A) below, the amount]—
- (a) of an accrued rights premium shall be the cost (as certified by the Secretary of State) of providing guaranteed minimum pensions for the earner and his widow in accordance with his accrued rights under the scheme; and
  - (b) of a pensioner’s rights premium shall be the cost (as so certified) of providing or continuing to provide any guaranteed minimum pension thereunder, whether for the earner (or former earner) or for his widow.
- [<sup>F156</sup>(5A) Where, in calculating the costs referred to in subsection (5) above, the Secretary of State cannot readily ascertain the amount of any earnings in a tax week, he may for the purpose of calculating those costs—
- (a) compute, in such manner as he thinks fit, an amount which shall be regarded as the amount of those earnings, or
  - (b) take their amount to be such sum as he may specify in the particular case, and he may certify the costs accordingly.]

[<sup>F157</sup>(5B) Where—

    - (a) the Secretary of State subsequently ascertains the amount of those earnings; and
    - (b) it appears to him that the amount of the premium would have been [<sup>F158</sup>different] if he had not made the calculation on the basis described in subsection (5A) above,

he shall refund to the prescribed person the amount by which it would have been less [<sup>F159</sup>or, as the case may be, the prescribed person shall pay to the Secretary of State the amount by which it would have been more.]]

[<sup>F160</sup>(6) In determining the amount of any state scheme premium payable under this section where 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, the costs referred to in subsection (5)(a) and (b) above shall, unless the person liable for the premium elects in the prescribed manner that this subsection shall not apply, be calculated as follows—

    - [<sup>F161</sup>(a) any relevant earnings factor shall be taken to be that factor as increased by the last order under [<sup>F162</sup>section 148 of the Administration Act] to come into force before those five tax years; and]

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- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this subsection referred to as “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;
- and in this subsection “relevant year” and “final relevant year” have the same meanings as in section 35 above and references to the earner shall be construed as references to the earner in respect of whom or, as the case may be, in respect of whose widow the premium in question has become payable.]
- (7) In calculating those costs, the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be contracted-out) is applicable in accordance with the regulations prescribing the tables.
- (8) In certifying any amount under subsection (5) above, the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (9) Payment of an accrued rights premium shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the scheme; and payment of a pensioner’s rights premium shall extinguish any right to receive guaranteed minimum pensions thereunder, whether for the earner (or former earner) or for his widow.
- [<sup>F163</sup>(10) Any reference to earners in this section includes, in relation to any particular time, not only a reference to earners who are in employment at that time but also a reference to earners who are not in employment at that time but who have been in employment before it or will be in employment after it.]

#### Textual Amendments

- F148** Words inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 10**, para. 6(1)(f)
- F149** Words inserted by Social Security Act 1986 (c. 50), **Sch. 10**, para. 23(1)
- F150** S. 44(1A)(1B) inserted by Health and Social Security Act 1984 (c. 48), **s. 19(2)(a)**
- F151** S. 44(1C)(1D) inserted by Social Security Act 1986 (c. 50), **Sch. 10**, para. 23(2)
- F152** Words inserted by Social Security Act 1985 (c. 53), **Sch. 5**, para. 27(a)
- F153** Words inserted by Social Security Act 1986 (c. 50), **Sch. 10**, para. 23(3)
- F154** Words substituted by Social Security Act 1985 (c. 53), **Sch. 5**, para. 27(b)
- F155** Words substituted by Social Security Act 1986 (c. 50), **Sch. 10**, para. 23(4)
- F156** S. 44(5A) substituted (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), **Sch. 6**, para. 10(1)
- F157** S. 44(5B) inserted by Social Security Act 1986 (c. 50), **Sch. 10**, para. 23(5)
- F158** Word substituted (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), **Sch. 6**, para. 10(2)(a)
- F159** Words added (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), **Sch. 6**, para. 10(2)(b).
- F160** S. 44(6) substituted by Social Security Act 1980 (c. 30), **s. 3(8)**
- F161** S. 44(6)(a) substituted by Social Security Act 1985 (c. 53), **Sch. 3**, paras. 4 and 7 with effect from 6.4.1979
- F162** Words substituted (with effect from 1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), **Sch. 2**, para 31
- F163** S. 44(10) inserted by Health and Social Security Act 1984 (c. 48), **s. 19(2)(b)**

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

- C41** S. 44(1)(b) to be construed (with effect from 6.4.1988) as if reference to a person entitled to receive a guaranteed minimum pension includes earner's widower by virtue of, and only in cases prescribed under, [Social Security Act 1986 \(c. 50\), s. 9\(6\)](#); construction amplified in [S.I. 1984/380, reg. 33D](#).
- C42** S. 44(2)(b) to be construed (with effect from 6.4.1988) as if reference to a person entitled to receive a guaranteed minimum pension includes earner's widower by virtue of, and only in cases prescribed under, [Social Security Act 1986 \(c. 50\), s.9\(6\)](#); construction amplified in [S.I. 1984/380, reg. 33D](#)
- C43** References in s. 44(5) to “widow” to be construed (with effect from 6.4.1988) as including references to earner's widower by virtue of, and only cases prescribed under, [Social Security Act 1986 \(c. 50\), s. 9\(6\)](#)
- C44** Power to modify s. 44(6) conferred by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\), s. 22\(13\)](#)
- C45** S. 44(6) modified, in cases of limited revaluation in respect of certain schemes ceasing to contract out, by [S.I. 1984/380, reg. 47](#)
- C46** S. 44(6)(a) modified, for certain transfers of guaranteed minimum pension rights, by [S.I. 1984/380, reg. 44\(d\)](#)
- C47** S. 44(6)(a) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes where minimum contributions have been paid, by reg. 4(8)(a) of [S.I. 1987/1118](#) with effect from 27.7.1987. for personal pension schemes and 6.4.1988 otherwise
- C48** S. 44(9) to be construed (with effect from 6.4.1988) as if reference to “widow” included reference to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\), s.9\(4\)\(g\)](#).

#### **[<sup>F164</sup>44ZA] Money purchase schemes; contracted-out protected rights premium.**

- (1) In the case of a scheme which is or has been a money purchase contracted-out scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.
- (2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—
  - (a) have withdrawn their approval of previously approved arrangements relating to it; or
  - (b) have declined to approve arrangements relating to it,
 the Board may issue a certificate to that effect.
- (3) A certificate issued under subsection (2)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.
- (4) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances—
  - (a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements and have not been disposed of so as to discharge the trustees or managers of the scheme under section 52C of or paragraph 16 of Schedule 1A to this Act; and
  - (b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements

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- (5) A premium under subsection (4) above may be referred to as a “contracted-out protected rights premium”.
- (6) A contracted-out protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Secretary of State.
- (7) The amount of a contracted-out protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.
- (8) Where a contracted-out protected rights premium is paid in respect of a person—
  - (a) the rights whose cash equivalent is included in the premium shall be extinguished; and
  - (b) section 29(2) and (2A) above and section 4 of the Social Security Act 1986 shall have effect in relation to that person and a widow or widower of that person as if any guaranteed minimum pension to which that person or any such widow or widower is treated as entitled under those provisions and which derives from the minimum payments, minimum contributions (within the meaning of the Social Security Act 1986) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.
- (9) In subsection (8) above “the appropriate percentage” means, subject to the following provisions of this section,

$$\frac{X}{Y} \times 100$$

where—

- (a) X = the amount of the premium together with, if the person in respect of whom it fails to be paid gives notice to the prescribed person within the prescribed period—
    - (i) the cash equivalent, calculated and verified in the prescribed manner, and paid to the Secretary of State within the prescribed period, of any other rights which he has under the scheme and specifies in the notice; and
    - (ii) the amount of any voluntary contribution paid to the Secretary of State within the prescribed period by, or in respect of, the person concerned; and
  - (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in subsection (8) above.
- (10) If the appropriate percentage, as calculated under subsection (9) above would fall between two whole numbers, it is to be taken to be the lower number.
  - (11) If it would be over 100, it is to be taken to be 100.
  - (12) The remainder after the reduction for which subsection (8) above provides—
    - (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence; and

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- (b) if it would be less than a prescribed amount, is to be treated as nil.
- (13) The power to make regulations conferred by subsections (7) and (9) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons;
  - (b) by persons with prescribed professional qualifications or experience; or
  - (c) by persons approved by the Secretary of State,
- and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.
- (14) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Secretary of State, and in calculating and certifying it the Secretary of State—
- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables; and
  - (b) may make such adjustments as he thinks necessary for avoiding fractional amounts.]

#### Textual Amendments

**F164** S. 44ZA inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2, para. 7](#)

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

**C49** S. 44ZA(4)(a)(b)(7) modified (with effect from 6.4.1988), in certain cases where part of a premium is treated as having been paid, by reg. 23A (10)(b) of [S.I. 1984/380](#)

**C50** S. 44ZA(8)(9)(a) modified (with effect from 6.4.1988), where part of a premium is treated as having been paid, by reg. 23A(10)(a) of [S.I. 1984/380](#)

#### [<sup>F165</sup> 44A Transfer premiums.

- (1) The Secretary of State may by regulations provide that, in such cases and subject to such conditions as may be prescribed, if—
- (a) an earner in employment to which an occupational pension scheme [<sup>F166</sup>which is not a money purchase contracted-out scheme] applies has ceased, whether before or after the commencement of this section, to be in that employment before attaining normal pension age; and
  - (b) there has been a transfer from that scheme to another scheme of his accrued rights . . . <sup>F167</sup> other than his accrued rights to his and his widow's guaranteed minimum pensions; and
- [<sup>F168</sup>(c) the scheme to which his accrued rights are transferred is neither a contracted-out scheme nor one which was formerly contracted-out and in respect of which the Occupational Pensions Board have duties under section 49 below at the time of the transfer; and]
- (d) no accrued rights premium is payable in respect of the earner; and
  - (e) the circumstances in which by virtue of section 42(1)(a) and (b) above a contributions equivalent premium is payable do not exist,
- a state scheme premium may be paid to the Secretary of State by the prescribed person within a prescribed time after the prescribed event.



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- (2) A premium under subsection (1) above may be referred to as a “transfer premium”.
- (3) The amount of a transfer premium shall be determined in the manner in which the amount of an accrued rights premium falls to be determined under section 44 above, except that—
  - (a) subsection (6) shall be disregarded; and
  - (b) the Secretary of State shall apply the actuarial table prescribed for the purpose of calculating the amount of an accrued rights premium in such manner as may be prescribed.
- (4) Payment of a transfer premium shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the scheme from which his other accrued rights . . . <sup>F169</sup> have been transferred.]

#### Textual Amendments

**F165** S. 44A inserted by Social Security Act 1985 (c. 53), Sch. 1, para. 1

**F166** Words inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), Sch. 2, para. 6(1)(g)

**F167** Words repealed by Social Security Act 1986 (c. 50), Sch. 11

**F168** S. 44A(1)(c) substituted (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), Sch. 6, para. 11.

**F169** Words repealed by Social Security Act 1986 (c. 50), Sch. 11.

#### 45 Premium where guaranteed minimum pension excluded from full revaluation.

- (1) Where an earner’s service in contracted-out employment by reference to an occupational pension scheme [<sup>F170</sup>which is not a money purchase contracted-out scheme] is terminated before he attains [<sup>F171</sup>pensionable age] and the weekly rate of the guaranteed minimum pensions to which he has accrued rights under the scheme will fall to be determined in accordance with provisions included in the scheme by virtue of section 35(7) above, then, unless either—
  - (a) a state scheme premium is payable in respect of him under section 42 or 44 above, or
  - (b) those provisions conform with such additional requirements as may be prescribed,[<sup>F172</sup>the prescribed person] shall in respect of the earner pay a state scheme premium (which may be referred to as a “limited revaluation premium”).
- (2) Such a premium shall be paid to the Secretary of State within the prescribed period; and its amount shall be the difference, as certified by the Secretary of State, between the cost of providing the guaranteed minimum pensions in accordance with the provisions included in the scheme by virtue of the said section 35(7) and what would have been the cost of providing them if no such provision had been included.
- (3) Where a state scheme premium is payable in respect of an earner under this section, and the case is one in which his service in contracted-out employment is terminated in consequence of the relevant scheme ceasing to be contracted-out, the costs referred to in subsection (2) above shall, [<sup>F173</sup> . . . <sup>F174</sup>be calculated as follows—
  - <sup>F175</sup>(a) [<sup>F176</sup>any earnings factor shall be taken to be that factor as increased by the last order under section 148 of the Administration Act]to come into force before

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- the five tax years ending with the tax year in which the scheme ceases to be contracted-out; and]
- (b) any relevant earnings factor derived from [<sup>F177</sup>earnings upon which primary Class 1 contributions have been paid or treated as paid] in respect of any year (hereafter in this subsection referred to as “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 constitutes or begins before the relevant contributions year][<sup>F178</sup>but this subsection shall not apply in any case where its application would result in the amount of the premium being greater than it would have been apart from this subsection.]
- (4) In calculating the costs referred to in subsection (2) above the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the time when the earner’s service in contracted-out employment is terminated) is applicable in accordance with the regulations prescribing the tables; and—
- (a) the tables shall be so framed as to embody the assumption that the increase of weekly equivalent required by section 35(7) is 5 per cent. compound for each relevant year after that in which the earner’s service is terminated; and
- (b) that assumption shall prevail over any different provision made by the scheme.
- (5) In certifying any amount under subsection (2) above the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.
- (6) References in this section to the termination of an earner’s employment do not include references to its termination by his death; and, subject to regulations made under paragraph 1 of Schedule 2 to this Act, an employment which is terminated by the death of the employer shall be treated for the purposes of this section as terminated immediately before the death.

#### Textual Amendments

- F170** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), **Sch. 2**, para. 6(1)(h)
- F171** Words substituted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 5**, para. 25
- F172** Words substituted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 5**, para. 25
- F173** Words substituted by [Social Security Act 1980 \(c. 30\)](#), **s. 3(9)**
- F174** Words repealed (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), **Sch. 6**, para. 12(a) and Sch. 9
- F175** [S. 45\(3\)\(a\)](#) substituted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 3**, paras. 5 and 7 with effect from 6.4.1979
- F176** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), **Sch. 2**, para. 30
- F177** Words substituted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), **Sch. 8**, para. 10
- F178** Words added (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), **Sch. 6**, para. 12(b)

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

- C51** [S. 45\(1\)](#) extended to certain transfers of guaranteed minimum pension rights by [S.I. 1984/380](#), **reg. 44(e)**
- C52** [S. 45\(1\)](#) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by [S.I. 1985/1323](#), **Sch. 3**, para. 6(a)–(d), with effect from 23.9.1985
- C53** [S. 45\(1\)](#) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(9) of [S.I. 1987/1118](#) with effect from 27.7.1987 for personal pension schemes and 6.4.1988 otherwise

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- C54** S. 45(3) modified, for certain transfers of guaranteed minimum pension rights by S.I. 1984/380, **reg. 44(e)**
- C55** S. 45(3) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, **Sch. 3, para. 6(a)** and (e), with effect from 23.8.1985
- C56** S. 45(3)(a) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes where minimum contributions have been paid, by reg. 4(8)(b) of S.I. 1987/1118 with effect from 27.7.1987 for personal pension schemes and 6.4.88 otherwise

46 ..... <sup>F179</sup>

#### Textual Amendments

- F179** S. 46 repealed by Social Security Act 1986 (c. 50), **Sch. 11** (and expressed to be repealed (7.2.1994) by 1993 c. 48, s. 188, **Sch. 5 Pt. I**; S.I. 1994/86, **art. 2**)

#### 47 Deduction of premium from refund of contributions.

- (1) Where an earner's service in contracted-out employment is terminated and—
  - (a) 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 for the purposes of the relevant scheme towards the provision of benefits under the scheme; and
  - (b) a [<sup>F180</sup>contributions equivalent premium] falls to be paid by any person in respect of him under this Part of this Act,

then, subject to the provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover the certified amount (and on paying any part of it to recover a proportionate part of the certified amount) from the person liable for the refund.

- (2) For the purposes of this section the certified amount in relation to a premium paid in respect of any person who is or was an earner or whose husband was an earner shall be such amount as may be certified by the Secretary of State as the amount by which the primary Class 1 contributions payable in respect of the earner's employment in—
  - (a) contracted-out employment by reference to the relevant scheme; and
  - (b) employment in any period of linked qualifying service which was contracted-out employment by reference to another scheme,

have fallen short of what would have been payable if the employment or employments had not been contracted-out; and in certifying any amount under this subsection the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.

[<sup>F181</sup>(2A) Where an earner's earnings paid in any period—

- (a) exceeded the lower earnings limit; but
- (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,

it shall be assumed for the purposes of subsection (2) above that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them.]

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- (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 certified amount 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) The amount which may be recovered under this section in respect of any premium shall be increased by such amount as may be prescribed where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods are periods 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.
- (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 any 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, and any provision so made shall have effect notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where an earner's service in contracted-out employment is terminated and—
- (a) 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 relevant scheme in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme; and
  - (b) a [<sup>F180</sup>contributions equivalent premium] falls to be paid in respect of him and the period taken into account in arriving at the certified amount includes the period of the previous contracted-out employment,
- then in respect of that premium the person liable for it 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 the foregoing provisions of this section where a state scheme premium and a refund fall to be made on the termination of service in the employment in respect of which the refund is made; and subsection (7) above shall apply accordingly.
- (9) Notwithstanding any contract to the contrary, a person shall not be entitled to recover any part of a state scheme premium from any earner in respect of whom it is payable or, except in accordance with this section, 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>F182</sup>(9A) Nothing in subsection (9) above affects—

- (a) the right of the trustees or managers of a scheme, in a case where an accrued rights premium or a pensioner's rights premium has been paid, to reduce the pension of the person in respect of whom the premium has been paid by the amount of his guaranteed minimum pension;
- (b) the right of trustees or managers, in a case where a limited revaluation premium has been paid, to recoup it—

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- (i) out of the resources of the scheme, in so far as they derive from contributions; or
  - (ii) in prescribed cases, out of payments made to them in respect of an earner's transfer to their scheme from some other scheme;
  - (c) the right of trustees or managers, in a case where a state scheme premium has been paid, to make the deduction for which paragraph 13(6) of Schedule 1A to this Act provides when they calculate the cash equivalent to which the earner in respect of whom the premium has been paid has a right under Part II of that Schedule.]
- (10) The foregoing provisions of this section shall apply in relation to such a refund as is referred to in subsection (1)(a) above which becomes payable after the termination of an earner's service in contracted-out employment as they apply to such a refund becoming payable on the termination of an earner's service in such employment; and where he (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, those provisions shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(a) above.
- (11) For the purposes of subsection (10) above, 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 subsection (10) above.
- (12) In this section, "the relevant scheme" in relation to any employment means the contracted-out scheme by reference to which that employment is or was contracted-out employment in relation to the earner concerned.

#### Textual Amendments

**F180** Words substituted by [Social Security \(Miscellaneous Provisions\) Act 1977 \(c. 5\), s. 22\(14\)](#)

**F181** [S. 47\(2A\)](#) inserted by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 29](#)

**F182** [S. 47\(9A\)](#) inserted by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 30](#)

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

**C57** [S. 47\(2A\)](#) shall not apply to any period after the end of the tax year 1986-87 ([Social Security Act 1986 \(c. 50\), Sch. 8, para. 9](#))

### Supplementary

#### 48 Guaranteed minimum pensions to be inalienable.

- (1) Where a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme [<sup>F183</sup> or to payments giving effect to protected rights under such a scheme] and the person's entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme—

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- (a) every assignment of or charge on that pension [<sup>F183</sup>or those payments]; and
  - (b) every agreement to assign or charge that pension [<sup>F183</sup>or those payments],
- shall be void.

[<sup>F184</sup>(1A) In subsection (1) above, the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 52C(4)(b) below.]

(2) Subsection (1) above has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

(3) On the bankruptcy of a person who is entitled or prospectively entitled as mentioned in subsection (1) above, [<sup>F185</sup>nothing whose assignment is or would be made void by that subsection shall] pass to any trustee or other person acting on behalf of his creditors.

(4) In the application of this section to Scotland—

- (a) references to assignment shall be construed as references to assignation and “assign” shall be construed accordingly; and
- (b) the reference to a person’s bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the <sup>M6</sup>Bankruptcy (Scotland) Act 1913 or section 15 of the <sup>M7</sup>Solicitors (Scotland) Act 1958.

#### Textual Amendments

**F183** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 8(a)

**F184** [S. 48\(1A\)](#) inserted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 31

**F185** Words substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 8(b)

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

**C58** [S. 48](#) modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by [S.I. 1985/1323](#), [Sch. 3](#), para. 8, with effect from 23.9.1985, and where such rights have been transferred from appropriate policies, by [S.I. 1985/1323](#), [Sch. 3A](#), para. 5, with effect from 27.7.1987

**C59** [Bankruptcy \(Scotland\) Act 1913 \(c. 20\)](#) was repealed (with effect from 29.12.1986) by [Bankruptcy \(Scotland\) Act 1985 \(c. 66\)](#)

**C60** The reference to s. 15 of [Solicitors \(Scotland\) Act 1958](#) is to be construed, by virtue of [Solicitors \(Scotland\) Act 1980 \(c. 46\)](#), [Sch. 6](#), para. 2, as a reference to s. 41 of the latter Act

#### Marginal Citations

**M6** 1913 c. 20.

**M7** 1958 c. 28.

## 49 Supervision of schemes which have ceased to be contracted-out.

(1) The provisions of this section shall apply in respect of any occupational pension scheme, other than a public service scheme, where—

- (a) the scheme has ceased to be a contracted-out scheme otherwise than by being wound up; and

[<sup>F186</sup>(b) there has not been a payment—

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- (i) under section 44 above in respect of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme; or
- (ii) of a premium under section 44ZA above in respect of each person (not being a person in respect of whom a premium is not payable by virtue of regulation 18(2A) of the Occupational Pension Schemes (Contracting-out) Regulations 1984) who has protected rights under it or is entitled to any benefit giving effect to protected rights under it or is entitled to any benefit giving effect to protected rights under it;]

and those provisions shall continue to apply so long as there is any such person [<sup>F187</sup>(not being a person in respect of whom a premium is not payable by virtue of regulation 18(2A) of the Occupational Pension Schemes (Contracting-out) Regulations 1984)].

#### Textual Amendments

**F186** S. 49(1)(b) substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 9(a)

**F187** Words inserted (with effect from 6.4.1988) by [The Personal and Occupational Pensions Schemes \(Modification of Enactments\) Regulations 1987 \(S.I. 1987/1116\)](#), [reg. 5\(2\)](#)

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

**C61** S. 49(1) to be construed (with effect from 6.4.1988) as if reference to a person entitled to receive a guaranteed minimum pension includes earner's widower by virtue of, and only in cases prescribed under, [Social Security Act 1986 \(c. 50\)](#), [s. 9\(6\)](#); construction amplified in [S.I. 1984/380](#), [reg. 33D](#)

**C62** S. 49(1) has effect (with effect from 27.7.1987) in relation to personal pension schemes subject to the modifications in para. 1 of Sch. 2 of [S.I. 1987/1116](#); as so modified, s. 49(1) is set out below

**C63** The reference to s. 15 of Solicitors (Scotland) Act 1958 is to be construed, by virtue of [Solicitors \(Scotland\) Act 1980 \(c. 46\)](#), [Sch. 6](#), para. 2, as a reference to s. 41 of the latter Act

[<sup>F188</sup>**49** (1) The provisions of this section shall apply in respect of any personal pension scheme, where—

- (a) the scheme has ceased to be an appropriate scheme otherwise than by being wound up; and
- (b) there has not been a payment of a premium under section 5 of the Social Security Act 1986 in respect of each person (not being a person in respect of whom a premium is not payable by virtue of regulation 3 of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987) who has protected rights under it or is entitled to any benefit giving effect to protected rights under it;

and those provisions shall continue to apply so long as there is any such person (not being a person in respect of whom a premium is not payable by virtue of regulation 3 of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987).]

(2) The Occupational Pensions Board shall be under a duty to satisfy themselves from time to time as to—

- (a) the matters in respect of which they are required to be satisfied for contracting-out purposes under sections 40(2) and 41(1) above [<sup>F189</sup>or, by virtue of



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subsections (2A) and (2B) of section 32 above, paragraph 10(1) of Schedule 1 to the Social Security Act 1986]; and

- (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of the said section 41(1));

and where the scheme was contracted-out subject to such conditions as are referred to in section 41(2) and (5) above those conditions shall continue to be binding notwithstanding that there is no contracting-out certificate in force.

[<sup>F190</sup>(2A) Where in the case of any scheme the Board have issued a certificate under subsection (1C) of section 44 above which has not been cancelled under subsection (1D) of that section, or a certificate under subsection (2) of section 44ZA above which has not been cancelled under subsection (3) of that section, the Board shall not be under the duty which would otherwise be imposed on them by subsection (2) above in relation to that scheme.]

(3) ..... <sup>F191</sup>

(4) In so far as the Board are not satisfied as mentioned in subsection (2)(b) above, they may by order modify the scheme's rules or by order direct the scheme's trustees or managers to take such steps as the order may specify, in either case with a view to ensuring that the guaranteed minimum pensions under the scheme are adequately secured to its beneficiaries, both present and future.

(5) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections [<sup>F192</sup>32] to 41 above, the Board may take such steps as they think expedient with a view to remedying or preventing the breach; and for this purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person as an actual or prospective beneficiary under the scheme, or as one of its trustees or managers, or as being otherwise concerned with the scheme or its benefits, and may assume the conduct of proceedings for enforcement brought by any such person.

(6) Where the Board are satisfied that the guaranteed minimum pensions under the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—

- (a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or  
(b) direct the trustees or managers to take such steps for the winding-up of the scheme as the order may specify;

and, on a winding-up in pursuance of an order of theirs under this subsection, the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under subsection (5) above in relation to other rules.

(7) ..... <sup>F191</sup>

#### Textual Amendments

**F188** S. 49(1) has effect (with effect from 27.7.1987) in relation to personal pension schemes subject to the modifications in para. 1 of Sch. 2 of S.I. 1987/1116; as so modified, s. 49(1) is set out above

**F189** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 9(b)

**F190** S. 49(2A) inserted (with effect from 1.11.1986) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 24

**F191** S. 49(3)(7) repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 19

**F192** “32” substituted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 9(b)



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

- C64** S. 49(2)(2A) has effect (with effect from 27.7.1987) in relation to personal pension schemes subject to the modifications in paras. 2 and 3 of Sch. 2 to S.I. 1987/1116
- C65** S. 49(5) has effect (with effect from 27.7.1987) in relation to personal pension schemes subject to the substitution of “Schedule 1 to the Social Security Act 1986” for the words from “sections” to “above”; S.I. 1987/1116, reg. 3(2), Sch. 2 para. 4
- C66** Reference to guaranteed minimum pensions to be construed (with effect from 6.4.88) as including reference to guaranteed minimum pension of earner's widower by virtue of, and only in cases prescribed under, Social Security Act 1986 (c. 50), s. 9(6)

## **50 Alteration of rules of contracted-out schemes.**

- (1) Where in respect of any employment a contracting out certificate has been issued, no alteration of the rules of the relevant contracted-out scheme shall be made so as to affect any of the matters dealt with in this Part of this Act without the consent of the Occupational Pensions Board [<sup>F193</sup>unless it is an alteration to which this subsection does not apply]; and subject to subsection (2) below any [<sup>F194</sup>alteration to which this subsection applies] made without that consent shall be void.

[<sup>F195</sup>(1A) Subsection (1) above does not apply—

- (a) to an alteration consequential on a provision of the Health and Social Security Act 1984, the Social Security Act 1985 or the Social Security Act 1986; or
- (b) to an alteration of a prescribed description.]
- (2) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (3) This section shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme [<sup>F196</sup>or any person has protected rights under it or is entitled to any benefit giving protected rights under it].

#### **Textual Amendments**

- F193** Words inserted by Social Security Act 1986 (c. 50), Sch. 10, para. 25(a)
- F194** Words substituted by Social Security Act 1986 (c. 50), Sch. 10, para. 25(a)
- F195** S. 50(1A) inserted by Social Security Act 1986 (c. 50), Sch. 10, para. 25(b)
- F196** Words added (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), Sch. 2, para. 10

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

- C67** S. 50 has effect (with effect from 27.7.1987) in relation to personal pension schemes subject to the modifications in reg. 3(4)-(7) of S.I. 1987/1116
- C68** S. 50(1)(2) applied by Social Security Act 1980 (c. 30), s. 3(10)
- C69** S. 50(3) to be construed (with effect from 6.4.1988) as if reference to a person entitled to receive a guaranteed minimum pension includes earner's widower by virtue of, and only in cases prescribed under, Social Security Act 1986 (c. 50), s. 9(6); construction amplified in S.I. 1984/380, reg. 33D

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## 51 Information as to guaranteed minimum pensions.

The Secretary of State may from time to time furnish the trustees or managers of an occupational pension scheme [<sup>F197</sup>which is not a money purchase contracted-out scheme] and such other persons as may be prescribed with information as to the amount of the guaranteed minimum pension to which it appears to him that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

### Textual Amendments

**F197** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 6(1)(j)

## [<sup>F198</sup>51A Refusal and cancellation of contracting-out certificates.

- (1) This subsection applies in any case where—
  - (a) a contracting-out certificate (the “first certificate”) has been surrendered by an employer or cancelled by the Occupational Pensions Board; and
  - (b) at any time before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, that or any connected employer, with a view to the issue of a further contracting-out certificate, makes an election in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate.
- (2) This subsection applies in any case where—
  - (a) a contracting-out certificate (the “first certificate”) has been surrendered by an employer or cancelled by the Board;
  - (b) a further contracting-out certificate has been issued, after the surrender or cancellation of the first certificate but before the expiry of the period of twelve months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 31(1)(a) of this Act in the first certificate; and
  - (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further contracting-out certificate was issued they would have been prevented by subsection (4) below from issuing it.
- (3) Subsections (1) and (2) above apply whether or not the occupational pension scheme by reference to which the employment concerned with contracted-out employment by virtue of the first certificate is the same as the scheme by reference to which the employment—
  - (a) would be contracted-out employment if the further contracting-out certificate were issued; or
  - (b) is contracted-out employment by virtue of the further contracting-out certificate.
- (4) In a case to which subsection (1) above applies, the Board shall not give effect to the election referred to in that subsection by issuing a further contracting-out certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.

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- (5) In a case to which subsection (2) above applies, the Board may, before the expiry of the period of twelve months beginning with the date on which the further contracting-out certificate was issued, cancel the further contracting-out certificate.
- (6) Where a contracting-out certificate is cancelled under subsection (5) above the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.
- (7) This section does not apply in any case where the surrender or cancellation of the first certificate occurred before 22nd July 1981.
- (8) Where the further contracting-out certificate referred to in paragraph (b) of subsection (2) above was issued before the commencement of this section, then—
  - (a) paragraph (c) of that subsection shall have effect as if this section had been in force at the time when the further contracting-out certificate was issued; and
  - (b) subsection (5) above shall have effect as if the reference to the date of issue of that certificate were a reference to the commencement of this section.
- (9) Regulations may make such supplemental provision in relation to cases falling within subsection (1) or (2) above as the Secretary of State considers necessary or expedient.
- (10) Without prejudice to subsection (9) above, regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (5) above, preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner's liability under [F199]section 6(3) of the Contributions and Benefits Act] as may be prescribed.
- (11) For the purposes of subsections (1) and (2) above an employment (the “second employment”) in respect of which—
  - (a) an election of the kind referred to in subsection (1)(b) above has been made; or
  - (b) a further contracting-out certificate of the kind referred to in subsection (2) (b) above has been issued;and an employment (the “first employment”) which was specified by virtue of section 31(1)(a) of this Act in the first certificate shall be treated as one employment if, in the opinion of the Board,—
  - (i) they are substantially the same, however, described; or
  - (ii) the first employment fall wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (12) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.]
- (13) . . . . . F200

**Textual Amendments**

**F198** S. 51A inserted by [Social Security and Housing Benefits Act 1982 \(c. 24\), s. 40](#)

**F199** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 32](#)

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**F200** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)

## 52 Contracting-out regulations.

Schedule 2 to this Act shall have effect for enabling regulations to be made in relation to the operation and administration of this Part of this Act.

## PART IV

### OCCUPATIONAL PENSIONS

*[<sup>F201</sup> The revaluation percentage]*

#### Textual Amendments

**F201** Ss. 52A–52D inserted by Social Security Act 1985 (c. 53), Sch. 1, para. 2

## 52A Duty of Secretary of State to specify revaluation percentage.

- (1) The Secretary of State shall in each revaluation year by order specify a revaluation percentage for each revaluation period.
- (2) In this section—
  - “revaluation period”, in relation to each order under this section, means a period—
    - (a) which commences—
      - (i) on the date of the commencement of this section; or
      - (ii) on an anniversary of the date of the commencement of this section falling before the making of the order; and
    - (b) which ends on the day before the first anniversary of the date of the commencement of this section to fall after the making of the order; and
  - “revaluation year” means a year beginning on the date of the commencement of this section or on an anniversary of that date.
- (3) Subject to subsection (8) below, the revaluation percentage which the Secretary of State is to specify in relation to each revaluation period is the percentage which appears to him <sup>F202</sup>to be the percentage increase in the general level of prices obtaining in Great Britain during the period which is the reference period in relation to that revaluation period, estimated in such manner as he thinks fit.]
- (4) The reference period in the case of the revaluation period to which the first order under this section relates is any period of 12 months—
  - (a) which ends not earlier than 6 months before the date on which the order is made; and
  - (b) for which it appears to the Secretary of State that information is available to him sufficient to enable him to determine the percentage increase in prices in Great Britain satisfactorily.

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- (5) The reference period in the case of any revaluation period to which a subsequent order relates is to be determined in accordance with subsection (6) or (7) below.
- (6) In the case of the revaluation period with the earliest commencement date the reference period is the period which—
- (a) begins at the commencement of the reference period mentioned in subsection (4) above; and
  - (b) ends on the latest anniversary of the end of that period to fall before the making of the order.
- (7) In the case of each of the other revaluation periods the reference period is the period which—
- (a) begins on the last anniversary of the commencement of the reference period mentioned in subsection (4) above to fall before the commencement of the revaluation period; and
  - (b) ends on the last anniversary of the end of that reference period to fall before the making of the order.
- [<sup>F203</sup>(8) Where, apart from this subsection, the revaluation percentage in relation to a revaluation period would exceed the maximum rate, the Secretary of State shall instead specify as the revaluation percentage for that period a percentage equal to the maximum rate.
- (9) For the purposes of subsection (8) above, “the maximum rate”, in relation to a revaluation period, is—
- (a) in the case of a revaluation period of 12 months, 5 per cent.; and
  - (b) in any other case, the percentage that would be the revaluation percentage had the general level of prices increased at the rate of 5 per cent. compound per annum during the reference period in question.]

#### Textual Amendments

**F202** Words substituted (with effect from 1.10.1989) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 6](#), para. 13(1)

**F203** [S. 52A\(8\)](#) and (9) substituted (with effect from 1.10.1989) for subsection (8) by [Social Security Act 1989 \(c. 24\)](#), [Sch. 6](#), para. 13(2)

#### 52B Revaluation and transfer values.

Schedule 1A to this Act shall have effect in relation to the revaluation of pensions and to transfer values.

*Extinguishment of liability of scheme for pensions  
secured by insurance policies or annuity contracts*

#### 52C

- (1) [<sup>F204</sup>A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person either [<sup>F205</sup>the requisite benefits][<sup>F206</sup>guaranteed minimum pensions] or short service benefit or any alternative to short service benefit—
- (a) if it is carried out not earlier than the time when that person’s pensionable service terminates; and

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- (b) if and to the extent that it results in—
    - (i) [<sup>F207</sup>the requisite benefits][<sup>F208</sup>guaranteed minimum pensions]; or
    - (ii) short service benefit, or an alternative to short service benefit, for or in respect of that person being appropriately secured and
  - (c) in a case where the transaction takes place on or after 1st January 1986, if and to the extent that the requirements set out in any one of paragraphs (a), (b) and (c) of subsection (5) below are satisfied.
- (2) This section applies to the following transactions—
- (a) the taking out or the transfer of the benefit of a policy of insurance or a number of such policies;
  - (b) the entry into or the transfer of the benefit of an annuity contract or a number of such contracts.]
- (4) In this section “appropriately secured” means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract; and a policy of insurance or annuity contract is appropriate for the purposes of this section if—
- [<sup>F209</sup>(a) the insurance company with which it is or was taken out or entered into—
    - (i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and
    - (ii) satisfies, or satisfied at the relevant time, prescribed requirements; and]
    - (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed; and
    - (c) it contains, or is endorsed with, terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed; and
    - (d) it satisfies such other requirements as may be prescribed.
- (5) The requirements referred to in subsection [<sup>F210</sup>(1)] above are—
- (a) that the arrangement for securing the amount by means of the policy or contract was made—
    - (i) at the written request of the earner or his widow; or
    - (ii) with his or her consent given in writing in a prescribed form;
  - (b) that—
    - (i) the case is one such as is mentioned in paragraph 13(5) of Schedule 1A to this Act; and
    - (ii) the policy or contract only secures guaranteed minimum pensions;
  - (c) that—
    - (i) the case is not one such as is mentioned in paragraph 13(5) of Schedule 1A to this Act; and
    - (ii) such conditions as may be prescribed are satisfied.
- (6) In subsection (4)(a) above, “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.
- (7) In this section—

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“insurance company” and “ordinary long-term insurance business” have the meanings assigned to them by the Insurance Companies Act 1982; and “pensionable service” and “short service benefit” are to be construed in accordance with Schedule 16 to the Social Security Act 1973.

#### Textual Amendments

- F204** S. 52A(1)(2) substituted retrospectively for s. 52A(1)-(3) by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(1)
- F205** Words saved, for transactions which took place before 1.11.1986, by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(3)
- F206** Words substituted, for transactions which took place from 1.11.1986, by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(3)
- F207** Words saved, for transactions which took place before 1.11.1986, by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(3)
- F208** Words substituted, for transactions which took place from 1.11.1986, by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(3)
- F209** S. 52C(4)(a) substituted (with effect from 13.5.1991 for making regulations, 4.11.1991 for all other purposes) by [Social Security Act 1990 \(c. 27\)](#), **Sch. 4**, para. 10
- F210** “(1)” substituted retrospectively by [Social Security Act 1986 \(c. 50\)](#), **Sch. 10**, para. 26(2)

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

- C70** Paragraph 14 of Sch. 6 to the [Social Security Act 1989 \(c. 24\)](#), makes it clear that the words “for or in respect of that person being appropriately secured” are part of s. 52C(1)(b), but not (as originally printed) part of s. 52C(1)(b)(ii)

### 52D Guaranteed minimum pensions under contracted-out schemes - supplementary.

(1) Where—

- (a) guaranteed minimum pensions provided for a member or his widow under a contracted-out scheme have been wholly or partly secured as mentioned in section 52C above by a policy or a number of policies of insurance taken out with one or more companies or by an annuity contract or a number of annuity contracts entered into with one or more companies, or by both a policy or a number of policies and an annuity contract or a number of annuity contracts; and

[<sup>F211</sup>(b) either—

- (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or

(ii) it is carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up;] and

- (c) any such company is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of any policy or policies taken out as mentioned in section 52C above and of any annuity contract or annuity contracts entered into as there mentioned and of any cash sums paid or alternative arrangements made under the Policyholders Protection Act 1975 are inadequate to provide the whole of the amount secured,



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the member and his widow shall be treated for the purposes of [<sup>F212</sup>sections 29(1), 29A, 29B and 29C above] as [<sup>F213</sup>only entitled to such part (if any) of his or her guaranteed minimum pension as] is provided by the proceeds mentioned in paragraph (d) above.

[(2) ..... <sup>F214</sup>

- (4) Where a scheme has ceased by virtue of section 52C above to be liable to provide guaranteed minimum pensions for a member and his widow<sup>1</sup>, the duties imposed on the Occupational Pensions Board by sections 40(2), 41 and 49 above shall cease to subsist in relation to those pensions.
- (5) Any question whether a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or his widow was entitled under a contracted-out scheme is to be determined for the purposes of this Act by the Secretary of State.
- (6) The Secretary of State may make any determination required by subsection (5) above on such basis as he considers appropriate.]

#### Textual Amendments

- F211** S. 52D(1)(b) substituted retrospectively by Social Security Act 1986 (c. 50), **Sch. 10**, para. 27(1)(a)
- F212** Words substituted (with effect from 1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6) Sch. 2, para. 33
- F213** Words substituted retrospectively by Social Security Act 1986 (c. 50), **Sch. 10**, para. 27(1)(b)
- F214** S. 52D(2)(3) repealed by Social Security Act 1986 (c. 50), **Sch. 11**

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

- C71** S. 52D(1) to be construed (with effect from 6.4.1988) as if references to “widow” included references to widower (and with consequential modifications) by virtue of Social Security Act 1986 (c. 50), **s.9(4)(h)**

### *Equal access to occupational pension schemes*

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

- C72** Under para. 11(a) of Sch. 5, and under Sch. 9, to the Social Security Act 1989 (c. 24), **ss. 53-56** are due, prosp., to be repealed.

## 53 Equal access requirements.

- (1) The provisions of sections 54 to 56 below shall have effect with a view to securing that the rules of occupational pension schemes conform with the equal access requirements.
- (2) Subject to subsection (3) below, the equal access requirements in relation to a scheme are that membership of the scheme is open to both men and women on terms which are the same as to the age and length of service needed for becoming a member and as to whether membership is voluntary or obligatory.
- (3) Regulations may—



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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- (a) provide for the equal access requirements to apply, whether to an occupational pension scheme, or to terms of employment relating to membership of it, or to both, with such modifications and exceptions as the Secretary of State considers necessary for particular cases or classes of case;
  - (b) modify those requirements in any manner which he thinks appropriate with a view to securing the orderly implementation of the provisions of sections 54 to 56 below and to obtaining general compliance with those provisions.
- (4) A rule does not contravene the equal access requirements only because it confers on the scheme's trustees or managers, or others, a discretion whose exercise may result in a person being more or less favourably treated than he otherwise would be, so long as the rule does not provide for the discretion to be exercised in any discriminatory manner as between men and women.
- (5) This section and sections 54 to 56 below shall have effect in relation to any occupational pension scheme which is in force on, or comes into force after, the day on which this section comes into operation, being a scheme whose resources are derived as mentioned in section 40(1) above.
- (6) Regulations may make provision—
- (a) for the <sup>M8</sup>Equal Pay Act 1970 to have effect, in relation to terms of employment relating to membership of an occupational pension scheme, with such modifications as may be prescribed;
  - (b) for imposing requirements on employers as to the payment of contributions and otherwise in case of their failing or having failed to comply with any such terms;
  - (c) for the consequential modification of a scheme's rules where there has been an alteration under the <sup>M9</sup>Equal Pay Act 1970 of any such terms.
- (7) A reference in this section to terms of employment includes (where the context permits)—
- (a) any collective agreement or pay structure;
  - (b) a wages regulation order within section 4 of the <sup>M10</sup>Equal Pay Act 1970; and
  - (c) an agricultural wages order within section 5 of that Act.

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

**C73** Under para. 11(a) of Sch. 5, and under Sch. 9, to the [Social Security Act 1989 \(c. 24\)](#), **ss. 53-56** are due, prosp., to be repealed.

**Marginal Citations**

**M8** 1970 c. 41.

**M9** 1970 c. 41.

**M10** 1970 c. 41.

**54 Duty to bring schemes into conformity with equal access requirements.**

- (1) Where the rules of an occupational pension scheme do not comply with the equal access requirements it shall be the responsibility of—
- (a) the trustees and managers of the scheme; or

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- (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration, to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.
- (2) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in subsection (1) above, advise whether the rules of a scheme do or do not in the Board's opinion conform with the equal access requirements and, where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

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

**C74** Under para. 11(a) of Sch. 5, and under Sch. 9, to the [Social Security Act 1989 \(c. 24\)](#), **ss. 53-56** are due, prosp., to be repealed.

**55 Determination of questions whether scheme conforms with equal access requirements.**

- (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the equal access requirements.
- [<sup>F215</sup>(2) The persons competent to make an application under this section in respect of a scheme are—
- (a) the persons mentioned in section 41E(2)(a) to (d) above; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.]
- (3) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on an application to them under subsection (1) above; and this subsection applies in particular to a scheme which the Board are considering with a view to contracting-out and one in respect of which an application has been made to them under section 64 of the <sup>M11</sup>Social Security Act 1973 for an order authorising the modification of the scheme or modifying it.
- (4) Any question arising in proceedings before any court or tribunal or before the Industrial Arbitration Board whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to the Occupational Pensions Board and determined by that Board.
- (5) At any time when the Occupational Pensions Board are concerned with a scheme for the purpose of issuing a determination under this section, they may include a determination (whether or not applied for) as to any of the particular matters specified in subsection (2) of section 53 above or in that subsection as modified by regulations under subsection (3) of that section.

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

#### Textual Amendments

**F215** S. 55(2) substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 32

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

**C75** Under para. 11(a) of Sch. 5, and under Sch. 9, to the [Social Security Act 1989 \(c. 24\)](#), [ss. 53-56](#) are due, prosp., to be repealed.

#### Marginal Citations

**M11** [1973 c. 38](#).

## 56 Modification of schemes to secure conformity.

- (1) If the Occupational Pensions Board determine under section 55 above that the rules of a scheme do not conform with the equal access requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
  - (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (2)(b) of that section, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
  - (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (who may in particular include such an employer as is specified in subsection (2)(c) of that section) to make that modification; or
  - (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.
- (2) The Board may exercise their powers under subsection (1) above from time to time in relation to any scheme in respect of which they have issued a determination under section 55 above, and may exercise the powers together or separately.
- (3) Any modification of a scheme made in pursuance of an order of the Board under subsection (1)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order may be made and complied with in relation to a scheme—
  - (a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;
  - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure, or the obtaining of any consent, with a view to the making of the modification.
- (4) An order of the Board under subsection (1)(a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (1)(b) or (c) may operate retrospectively; and in this subsection “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, not being in either case a date earlier than the coming into operation of this section.

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- (5) In section 64(3) of the Social Security Act 1973 (which confers power to modify schemes for various purposes) after paragraph (d) there shall be inserted—
- “(dd) to comply with the equal access requirements specified in section 53 of the Pensions Act but without prejudice to anything in section 56 of that Act.”

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

- C76** Under para. 11(a) of Sch. 5, and under Sch. 9, to the [Social Security Act 1989 \(c. 24\)](#), **ss. 53-56** are due, prosp., to be repealed.
- C77** The text of s. 56(5) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*[<sup>F216</sup> Information about and registration of occupational pension schemes]*

**Textual Amendments**

- F216** [Sections 56A, 56E](#) and 56L inserted by [Social Security Act 1985 \(c. 53\)](#), **Sch. 2**

**56A Power to make regulations requiring disclosure of information about schemes to members etc.**

- (1) The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping the persons mentioned in subsection (2) below informed of—
- (a) its constitution;
  - (b) its administration and finances;
  - (c) the rights and obligations that arise or may arise under it; and
  - (d) any other matters that appear to the Secretary of State to be relevant to occupational pension schemes in general or to pension schemes of a description to which that scheme belongs.
- (2) The persons referred to in subsection (1) above are—
- (a) members and prospective members of the scheme;
  - (b) spouses of members and prospective members;
  - (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
  - (d) independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and prospective members of the scheme.
- (3) Without prejudice to the generality of section 166(2) of the principal Act, the regulations may distinguish between—
- (a) cases in which information is to be given as of course; and
  - (b) cases in which information need only be given on request or in other prescribed circumstances.

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- (4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d) above.
- (5) Regulations under this section override any provision of an occupational pension scheme to the extent that that provision conflicts with them.
- (6) The Occupational Pension Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether any provision of regulations under this section does or does not override any provision of the scheme.
- (7) On an application made to them in respect of an occupational pension scheme, (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in subsection (6) above.
- (8) The persons competent to make an application under subsection (7) above are—
  - (a) the persons mentioned in section 41E(2)(a) above; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of subsection (7) above in respect of a scheme of that category.
- (9) In this section “independent trade union” has the meaning assigned to it by section 153 of the Employment Protection (Consolidation) Act 1978.

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

**C78** Under reg. 3(8) of [S.I. 1987/1116](#), [s. 56A](#) has effect (27.7.1987) in relation to personal pension schemes subject to the modifications in para. 1 of Sch. 3 to that S.I.

**56B** ..... **F217**  
**56D**

**Textual Amendments**

**F217** [Ss. 56B-56D](#), [56E\(1\)\(c\)](#), [56F-56K\(3\)](#) repealed (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [s. 13\(2\)](#) and Sch. 7 (and expressed to be repealed (7.2.1994) by [1993 c. 48](#), [s. 188](#), [Sch. 5 Pt. I](#); [S.I. 1994/86](#), [art. 2](#))

**56E Additional documents for members etc. and registrar.**

- (1) Without prejudice to the generality of the power conferred on him by subsection (1) of section 56A above, the Secretary of State may by regulations require the trustees of an occupational pension scheme or, if there are no trustees, the managers—
  - (a) to obtain at such times as may be prescribed documents to which this subsection applies;
  - (b) to make copies of them available to the persons specified in subsection (2) of that section; and
  - (c) .....

**F218**

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- (2) In relation to any scheme the documents to which subsection (1) above applies are—
  - (a) its audited accounts;
  - (b) an auditor’s statement about contributions under it;
  - (c) an actuarial valuation of its assets in relation to its liabilities; and
  - (d) an actuary’s statement concerning such aspects of any such valuation as may be prescribed.
- (3) The Secretary of State may by regulations—
  - (a) prescribe the persons who may act as auditors or actuaries for the purposes of this section; or
  - (b) provide that the persons who may so act shall be—
    - (i) persons with prescribed professional qualifications or experience; or
    - (ii) persons approved by the Secretary of State.
- (4) The Secretary of State may by regulations make provision as to the form and content of any such document as is mentioned in subsection (2) above.
- (5) Regulations under this section override any provision of an occupational pension scheme to the extent that that provision conflicts with them.
- (6) The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether any provision of regulations under this section does or does not override any provision of the scheme.
- (7) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in subsection (6) above.
- (8) The persons competent to make an application under subsection (7) above in respect of a scheme are—
  - (a) the persons mentioned in section 41E(2)(a) to (d) above; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make the application for the purposes of subsection (7) above in respect of a scheme of that category.

**Textual Amendments**

**F218** Ss. 56B-56D, 56E(1)(c), 56F-56K(3) repealed (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), s. 13(2) and Sch. 7

**56F**– ..... **F219**  
**56J**

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

### Textual Amendments

**F219** Ss. 56B-56D, 56E(1)(c), 56F-56K(3) repealed (with effect from 18.7.1990) by Social Security Act 1990 (c. 27), s. 13(2) and Sch. 7 (and expressed to be repealed (7.2.1994) by 1993 c. 48, s. 188, Sch. 5 Pt. I; S.I. 1994/86, art. 2)

- 56K**
- (1) ..... F220
  - (4) ..... F221
  - (5) ..... F222

### Textual Amendments

**F220** Ss. 56B-56D, 56E(1)(c), 56F-56K(3) repealed (with effect from 18.7.1990) by Social Security Act 1990 (c. 27), s. 13(2) and Sch. 7 (and expressed to be repealed (7.2.1994) by 1993 c. 48, s. 188, Sch. 5 Pt. I; S.I. 1994/86, art. 2)

**F221** S. 56K(4) repealed (before coming into force) by Social Security Act 1986 (c. 50), Sch. 11 (and expressed to be repealed (7.2.1994) by 1993 c. 48, s. 188, Sch. 5 Pt. I; S.I. 1994/86, art. 2 )

**F222** Ss. 56K(5)(6), 56L(1)(b), (5)(b) and (9), 56M and 56N repealed (with effect from 18.7.1990) by Social Security Act 1990 (c. 27), s. 13(2) and Sch. 7 (and expressed to be repealed (7.2.1994) by 1993 c. 48, s. 188, Sch. 5 Pt. I; S.I. 1994/86, art. 2)

- 56L**
- (1) If the trustees or managers of a scheme, having made default in complying with—
    - (a) regulations under section 56A or 56E(1)(b) . . . <sup>F223</sup>above; or
    - (b) ..... <sup>F224</sup>fail to make good the default within 14 days after the service of a notice on them requiring them to do so, an order may be made under this subsection.
  - (2) The Secretary of State may by regulations specify forms for notices under subsection (1) above.
  - (3) An order under subsection (1) above is an order directing the trustees or managers to make good the default within such time as may be specified in the order.
  - (4) The power to make such an order shall be exercisable by the appropriate court on the application of a person to whom this subsection applies.
  - (5) Subsection (4) above applies—
    - (a) to the Secretary of State;
    - (b) ..... <sup>F224</sup>
    - (c) to any person authorised by the Secretary of State . . . <sup>F223</sup>to make an application under this section; and
    - (d) in the case of a default in complying with regulations under section 56A or 56E(1)(b) above, to any aggrieved person.
  - (6) In this section “the appropriate court” means—
    - (a) in England and Wales, a county court; and
    - (b) in Scotland, the sheriff.



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- (7) An application to the sheriff shall be made by summary application.
- (8) An order under this section may provide that all costs (or in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.
- (9) ..... <sup>F224</sup>

**Textual Amendments**

**F223** Words repealed (with effect from 1.10.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 7](#)

**F224** [Ss. 56K\(5\)\(6\), 56L\(1\)\(b\), \(5\)\(b\) and \(9\), 56M and 56N](#) repealed (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [s. 13\(2\)](#) and Sch. 7

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

**C79** Under reg. 3(8) of, and para. 2 of Sch. 3 to, [S.I. 1987/1116](#), [s. 56L](#) above has effect (27.7.1987) in relation to personal pension schemes subject to the substitution, in subsection (1), of “a personal pension scheme” for “a scheme”.

- 56M,** ..... <sup>F225</sup>
- 56N.**

**Textual Amendments**

**F225** [Ss. 56K\(5\)\(6\), 56L\(1\)\(b\), \(5\)\(b\) and \(9\), 56M and 56N](#) repealed (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [s. 13\(2\)](#) and Sch. 7 (and expressed to be repealed (7.2.1994) by [1993 c. 48](#), [s. 188](#), [Sch. 5 Pt. I](#); [S.I. 1994/86](#), [art. 2](#))

*[<sup>F226</sup> Auditors]*

**Textual Amendments**

**F226** [S. 56P](#) and crossheading inserted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), [s. 11](#)

**[<sup>F227</sup> 56P Regulations as to auditors.**

- The Secretary of State may by regulations make provisions as to—
- (a) the appointment, resignation and removal of auditors of occupational pension schemes;
  - (b) the duty of employers and auditors of employers to disclose information to the trustees or managers of occupational pension schemes and the auditors of such schemes;
  - (c) the duty of trustees or managers of an occupational pension scheme to disclose information and to make available documents to the auditors of the scheme.]

**Textual Amendments**

**F227** [S. 56P](#) and crossheading inserted (with effect from 6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), [s. 11](#)



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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

### *Other provisions*

## **57 Disclosure of information by Occupational Pensions Board.**

The Occupational Pensions Board may inform any person claiming to be entitled to a pension under an occupational pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of section 89 of the <sup>M12</sup>Social Security Act 1973 (disclosure to Board of information obtained by Commissioners of Inland Revenue).

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

**C80** S. 57 has effect (27.7.1987) in relation to personal pension schemes as if the reference in it to an occupational pension scheme were a reference to a personal pension scheme: S.I. 1987/1116 reg. 3(9)

#### **Marginal Citations**

**M12** 1973 c. 38.

## **[<sup>F228</sup>57A Restrictions on investment of scheme's resources in employer-related assets.**

- (1) An occupational pension scheme shall comply with such restrictions as may be prescribed with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.
- (2) In this section—
  - “employer-related investments” means—
    - (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer;
    - (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person;
    - (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person;
    - (d) loans to the employer or any such person;
  - “the employer” means the employer of persons in the description or category of employment to which the scheme in question relates;
  - “securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.
- (3) If and to the extent that any sums due and payable by a person to the trustees or managers of a scheme remain unpaid, those sums shall be regarded for the purposes of this section as loans made to that person by the trustees or managers, and resources of the scheme shall be regarded as invested accordingly.
- (4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of this section as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 shall apply for the purposes of this section as that section applies for the purposes of the said Act of 1985.]

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#### Textual Amendments

**F228** S. 57A inserted (with effect from 3.12.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 3

#### [<sup>F229</sup>57B Grants by the Board to advisory bodies etc.

- (1) The Occupational Pensions Board may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.
- (2) The Secretary of State may pay to the Occupational Pensions Board such sums as he may think fit towards any expenditure of theirs in making grants under this section.]

#### Textual Amendments

**F229** S. 57B inserted (with effect from 1.10.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 11

#### [<sup>F230</sup>57C Requirement for independent trustee where employer becomes insolvent etc.

- (1) This section applies in relation to an occupational pension scheme which is constituted by trust deed—
  - (a) if a person (“the practitioner”) commences to act as an insolvency practitioner in relation to a company which, or an individual who, is the employer of persons in the description or category of employment to which the scheme relates; or
  - (b) if the official receiver becomes—
    - (i) the liquidator or provisional liquidator of a company which is the employer of any such persons, or
    - (ii) the receiver and the manager, or the trustee, of the estate of a bankrupt who is the employer of any such persons.
- (2) If and so long as this section applies to a scheme, it shall be the duty of the practitioner or official receiver—
  - (a) to satisfy himself that at all times at least one of the trustees of the scheme is an independent person; and
  - (b) if at any time he is not so satisfied, to appoint under this paragraph, or to secure the appointment of, an independent person as a trustee of the scheme;
 but this subsection is subject to subsection (5) below.
- (3) For the purposes of subsection (2) above a person is “independent” only if—
  - (a) he has no interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme;
  - (b) he is neither connected with, nor an associate of—
    - (i) the employer;
    - (ii) any person for the time being acting as an insolvency practitioner in relation to the employer; or
    - (iii) the official receiver, acting in any of the capacities mentioned in subsection (1)(b) above in relation to the employer; and

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- (c) he satisfies such other requirements as may be prescribed;  
and any reference in this section or section 57D below to an “independent trustee” shall be construed accordingly.
- (4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of paragraph (b) of subsection (3) above as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 (associated persons) shall apply for the purposes of that paragraph as that section applies for the purposes of the said Act of 1985.
- (5) Where, apart from this subsection, the duties imposed by subsection (2) above in relation to a scheme would fall to be discharged at the same time by two or more persons acting in different capacities, those duties shall be discharged—
- (a) if the employer is a company, by the person or persons acting as the company’s liquidator, provisional liquidator or administrator; or
  - (b) if the employer is an individual by the person or persons acting as his trustee in bankruptcy or interim receiver of his property or as permanent or interim trustee in the sequestration of his estate.
- (6) if the practitioner or official receiver neglects or refuses to discharge any duty imposed upon him by subsection (2) above in relation to a scheme, any member of the scheme may apply to the appropriate court for an order requiring him to discharge his duties under that subsection.
- (7) Where this section applies in relation to a scheme, it shall cease to do—
- (a) if some person other than the employer mentioned in subsection (1) above becomes the employer of persons in the description or category of employment to which the scheme relates; or
  - (b) if at any time neither the practitioner nor the official receiver is acting in relation to the employer;
- but nothing in this subsection affects the application of this section in relation to the scheme on any subsequent occasion when the conditions specified in subsection (1) (a) or (b) above are satisfied in relation to the scheme.
- (8) In this section:—
- “acting as an insolvency practitioner” and “official receiver” shall be construed in accordance with sections 388 and 399 of the Insolvency Act 1986;
  - “the appropriate court”, in relation to an application for an order under subsection (6) above, means—
- (a) if the employer in question is a company—
    - (i) where a winding up order has been made or a provisional liquidator appointed, the court which made the order or appointed the liquidator;
    - (ii) in any other case, any court having jurisdiction to wind up the company; and
  - (b) in any other case—
    - (i) in England and Wales, the court as defined in section 385 of the Insolvency Act 1986; or
    - (ii) in Scotland, where sequestration has been awarded or, by virtue of the proviso to section 13(1) of the Bankruptcy (Scotland) Act 1985 (petition presented by creditor or trustee acting under trust deed) an interim trustee appointed, the court which made the award or

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appointment and, if no such award or appointment has been made, any court having jurisdiction under section 9 of that Act;  
 “bankrupt” has the meaning given by section 381 of the Insolvency Act 1986;  
 “company” means a company within the meaning given by section 735(1) of the Companies Act 1985 or a company which may be wound up under Part V of the Insolvency Act 1986 (unregistered companies);  
 “interim trustee” and “permanent trustee” have the same meaning as they have in the Bankruptcy (Scotland) Act 1985.

- (9) References in this section to an individual include, except where the context otherwise requires, references to a partnership and to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985.]

#### Textual Amendments

**F230** Ss. 57C and 57D inserted (with effect from 12.11.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 1](#), (but with effect from 22.10.1990 for the purpose of making regulations). These sections are subject to modification and disapplication in specified circumstances, and their insertion is subject to a saving for specified processes started before 12.11.1990, under [S.I. 1990/2075](#).

#### 57D Independent trustees: further provisions.

- (1) If and so long as section 57C above applies in relation to a scheme, no independent trustee of the scheme shall be removed from being a trustee by virtue only of any provision of the scheme.
- (2) If a trustee appointed under subsection (2)(b) of that section ceases to be an independent trustee, then—
  - (a) he shall forthwith give written notice of that fact to the practitioner or official receiver by whom the duties under that provision fall to be discharged; and
  - (b) he shall cease to be a trustee of the scheme, unless the circumstances are such that upon his cessation there would be no other trustee of the scheme, in which case he shall not cease by virtue of this subsection to be a trustee until such time as another trustee is appointed.
- (3) A trustee appointed under subsection (2)(b) of that section shall be entitled to be paid out of the scheme’s resources his reasonable fees for acting in that capacity and any expenses reasonably incurred by him in doing so, and to be so paid in priority to all other claims falling to be met out of the scheme’s resources.
- (4) If, immediately before the appointment of an independent trustee under subsection (2)(b) of that section, there is no trustee of the scheme other than the employer, the employer shall cease to be a trustee upon the appointment of the independent trustee.
- (5) If and so long as section 57C above applies in relation to a scheme—
  - (a) any power vested in the trustees or managers of the scheme and exercisable at their discretion shall be exercisable only by the independent trustee; and
  - (b) any power—
    - (i) which the scheme confers on the employer (otherwise than as trustee or manager of the scheme), and

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(ii) which is exercisable by him at his discretion but only as trustee of the power,

shall be exercisable only by the independent trustee;

but if, in either case, there is more than one independent trustee, the power shall also be exercisable with the consent of at least half of those trustees by any person who could exercise it apart from this subsection.

- (6) Notwithstanding anything in section 155 of the Insolvency Act 1986 (court orders for inspection etc), if and so long as section 57C above applies in relation to a scheme, it shall be the duty of the practitioner or official receiver to provide the trustees of the scheme, as soon as practicable after the receipt of a request, with any information which the trustees may reasonably require for the purposes of the scheme.
- (7) Any expenses incurred by the practitioner or official receiver in complying with a request under subsection (6) above shall be recoverable by him as part of the expenses incurred by him in the discharge of his duties; and he shall not be required under that subsection to take any action which involves expenses that cannot be so recovered, unless the trustees of the scheme undertake to meet them.
- (8) The provisions of section 57C above and this section, and of any regulations made under that section or this section, override any provision of a scheme to the extent that it conflicts with them.
- (9) The Secretary of State may make regulations modifying section 57C above and this section in their application—
- (a) to any occupational pension scheme which applies to earners in employments under different employers;
  - (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act; or
  - (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme.
- (10) Section 57C above and this section (other than this subsection) shall not apply in relation to an occupational pension scheme of a prescribed description.

## 58 Priority in bankruptcy etc.

Schedule 3 to this Act shall have effect . . . <sup>F231</sup> ~~]~~<sup>F232</sup> for the purposes, in respect of the sequestration of estates in Scotland, of Schedule 3 to the Bankruptcy (Scotland) Act 1985 (preferred debts)] for affording priority in cases of insolvency to liabilities in respect of contributions to occupational pension schemes and in respect of state scheme premiums.

### Textual Amendments

**F231** Words, as applying to company insolvency in Great Britain, and also as applying to bankruptcy in relation to England and Wales only, deleted by [Insolvency Act 1986 \(c. 45\)](#), [Sch. 14](#).

**F232** Words inserted, for bankruptcy in Scotland, by [Bankruptcy \(Scotland\) Act 1985 \(c. 66\)](#), [Sch. 7](#), para. 13.

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[<sup>F233</sup> **58A Annual increase in rate of pension, other than guaranteed minimum pension or money purchase benefit.**

- (1) This section applies in relation to any occupational pension scheme—
- (a) which is neither a public service pension scheme nor a money purchase scheme; and
  - (b) whose rules do not require the annual rate of every pension which commences or has commenced under the scheme to be increased each year by at least an amount equal to the appropriate percentage of that rate.
- (2) On and after the appointed day, Schedule 3A to this Act shall have effect for the purpose of requiring the provision by schemes to which this section applies of annual increases in the annual rates of pensions under those schemes.

- (3) In this section—

“annual rate”, in relation to a pension, means the annual rate of the pension, as previously increased under the rules of the scheme or under Schedule 3A to this Act;

“the appointed day” means the day on which this section and Schedule 3A to this Act come into force;

“the appropriate percentage”, in relation to an increase in the annual rate of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of twelve months;

“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;

“pension” does not include—

- (a) a guaranteed minimum pension or any increase in such a pension under section 37A above; or
- (b) any money purchase benefit;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with section 52A above.]

**Textual Amendments**

**F233** S. 58A inserted (17.8.1990 for certain purposes otherwise *prosp.*) by [Social Security Act 1990 \(c. 27\)](#), s. 11(1); S.I. 1990/1446 art. 2

[<sup>F234</sup> **58B Deficiencies in the assets of a scheme on winding up.**

- (1) If, in the case of an occupational pension scheme which is not a money purchase scheme, the value at the applicable time of the scheme’s liabilities, as determined in accordance with regulations, exceeds the value of its assets, as so determined, then—
- (a) an amount equal to the excess shall be treated as a debt due from the employer to the trustees of the scheme; and
  - (b) if that debt has not been discharged before the default time then, for the purposes of the law relating to winding up, bankruptcy or sequestration as it applies in relation to the employer, it shall be taken to arise at the default time.

- (2) In this section—

“the applicable time” means the earlier of—

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- (a) any time when the scheme is being wound up which falls before the default time; or
  - (b) the default time;  
“the default time” means—
    - (a) in England and Wales—
      - (i) where the employer is a company, immediately before the company goes into liquidation, within the meaning of section 247(2) of the Insolvency Act 1986; or
      - (ii) where the employer is an individual, immediately before the commencement of his bankruptcy, within the meaning of section 278 of that Act; or
    - (b) in Scotland—
      - (i) where the employer is a company, immediately before the commencement of the company’s being wound up, within the meaning of section 129 of that Act; or
      - (ii) where the employer is a debtor, within the meaning of the Bankruptcy (Scotland) Act 1985, immediately before the date of sequestration as defined in section 12(4) of that Act;“the employer” means the employer of persons in the description or category of employment to which the scheme relates;  
“money purchase scheme” has the same meaning as it has in section 58A above.
- (3) The power to make regulations conferred by subsection (1) above included power to provide—
  - (a) that, in calculating the value of the scheme’s liabilities, an provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets is to be disregarded;
  - (b) that the value of the scheme’s liabilities or assets is to be calculated and verified in such manner as may, in the particular case, approved—
    - (i) by a prescribed person,
    - (ii) by a person with prescribed professional qualifications or experience, or
    - (iii) by a person approved by the Secretary of State, or that their value is to be calculated and verified in accordance with guidance prepared by a prescribed body.
- (4) This section is without prejudice to any other right or remedy which the trustees may have in respect of the deficiency.
- (5) A debt due by virtue only of this section shall be regarded neither as a preferential debt for the purposes of the Insolvency Act 1986 nor as a preferred debt for the purposes of the Bankruptcy (Scotland) Act 1985.
- (6) The Secretary of State may make regulations modifying this section in its application—
  - (a) to any occupational pension scheme which applies to earners in employments under different employers;
  - (b) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme;



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- (c) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act; or
  - (d) to any case where the assets and liabilities of the scheme are transferred to another occupational pension scheme.
- (7) The provisions of this section and of any regulations made under it override any provision of a scheme to the extent that it conflicts with this section or those regulations.]

#### Textual Amendments

**F234** S. 58B inserted (with effect from 29.6.1992.) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 2](#)

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

**C81** S. 58B(2) modified, where there are multiple employers or there are no members in pensionable service, by reg. 3(b) or reg. 4 of [S.I. 1992/1555](#) as from 1.7.92. Also for multiple employers, an extra subsection ((1A)) is added to s. 58B by reg. 3(a) or 4(b) of [S.I. 1992/1555](#) as from 1.7.1992.

## 59 Increase of official pensions.

- (1) Where by virtue of [<sup>F235</sup>section 151 of the Administration Act a direction is given that the sums mentioned in section 150(1)(c) of that Act] are to be increased by a specified percentage the Minister for the Civil Service shall by order provide that the annual rate of an official pension may, if a qualifying condition is satisfied or the pension is [<sup>F236</sup>a derivative or substituted pension or a relevant injury pension], be increased in respect of any period beginning on or after the date on which the direction takes effect—
- (a) if the pension began before the beginning of the base period for that direction, by the same percentage as that specified in the direction;
  - (b) if the pension began during the base period, by that percentage multiplied by A/B where A is the number of complete months in the period between the beginning of the pension and the end of the base period and B is the number of complete months in the base period.
- (2) Where an order is made under this section in consequence of any such direction as aforesaid the order shall, in addition to the provision required by subsection (1) above, authorise the payment of an increase in respect of any lump sum that becomes payable during the base period for that direction, being an increase equal to the percentage specified in the direction multiplied by A/B where—
- (a) A is the number of complete months in the period between the beginning date for the lump sum (or, if later, the date from which it was last authorised to be increased by an order under this section) and the date on which it becomes payable; and
  - (b) B is the number of complete months in that base period.
- (3) In the case of the first order made under this section in consequence of any such direction as aforesaid, subsection (1) above shall have effect as if the increase required to be authorised in the case of any pension (whether beginning before or during the base period) were an increase equal to the percentage specified in the direction multiplied by A/B where—
- (a) A is the number of complete months in the period between the beginning of the pension (or, if later, the date from which it was last authorised to be increased

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- by an order under section 2 of the <sup>M13</sup>Pensions (Increase) Act 1971) and the end of the base period for that direction; and
- (b) B is the number of complete months in that base period.
- (4) In the case of the first order so made under this section, subsection (2) above shall have effect as if—
- (a) for the reference to any lump sum that becomes payable during the base period there were substituted a reference to any lump sum that becomes or has become payable before the end of the base period but after the date from which official pensions were last increased by an order under section 2 of the <sup>M14</sup>Pensions (Increase) Act 1971; and
- (b) the reference in paragraph (a) of the subsection to the date from which the lump sum was last authorised to be increased were a reference to the date specified in paragraph (a) above.
- (5) The increases in the rate of a pension that may be provided for by an order under this section are to be calculated by reference to the basic rate of the pension as authorised to be increased by section 1 of the said Act of 1971 or by any order under section 2 of that Act or this section; but where—
- [<sup>F237</sup>(a) a person is entitled to a guaranteed minimum pension when an order under this section comes into force; and
- (b) entitlement to that guaranteed minimum pension arises from an employment from which (either directly or by virtue of the payment of a transfer credit . . . <sup>F238</sup>) entitlement to the official pension also arises;
- the amount by reference] to which any increase authorised by that or any subsequent order is to be calculated shall be reduced by an amount equal to the rate of the guaranteed minimum pension.
- [<sup>F239</sup>(5ZA) In the application of subsection (5) above in relation to a widow's or widower's pension in a case where the pensioner becomes entitled on the death of the deceased spouse to such a guaranteed minimum pension as is there mentioned.
- (a) the pensioner shall be treated as having been entitled to that guaranteed minimum pension at all times during the period beginning with the date on which the deceased spouse became entitled to a guaranteed minimum pension and ending with the date of the death;
- (b) the rate of the guaranteed minimum pension to which the pensioner is treated as so entitled at any time during that period shall be taken to be one half of the rate of the deceased spouse's guaranteed minimum pension at that time; and
- (c) the amount by reference to which any increase in the widow's or widower's pension is to be calculated shall, subject to any directions under section 59A below (whether made before or after the coming into force of this subsection), be accordingly reduced under that subsection by an amount equal to the rate, as determined under paragraph (b) above, of the guaranteed minimum pension to which the pensioner is treated as entitled;
- but this subsection does not apply to a widow's or widower's pension in respect of any service of the deceased spouse if the deceased spouse became payable before the coming into force of this subsection.]
- [<sup>F240</sup>(5A) Nothing in section 37A(13), (14) or (15) above authorises any deduction from an increase in the rate of an official pension under this section.]
- (6) Any order under this section shall be made by statutory instrument and shall be laid before Parliament after being made.

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(7) In this section—

“base period”, in relation to any such direction as is mentioned in subsection (1) above, means the period ending with the coming into force of that direction and beginning with the coming into force of the last previous such direction or, if there was none, with [<sup>F241</sup>13th November 1978 (date of the relevant order under section 124 of the principal Act, increasing rates of benefit);]

“beginning date”, in relation to a lump sum, shall be construed in accordance with sections 8(2) and 9(2)(a) of the said Act of 1971;

“lump sum” includes an instalment of a lump sum;

[<sup>F242</sup>“widower’s pension” means a pension payable in respect of the services of the pensioner’s deceased wife]

and this section [<sup>F243</sup>and section 59A of this Act] and the said Act of 1971 shall have effect as if this section [<sup>F243</sup>and section 59A of this Act] were contained in Part I of that Act.

[<sup>F244</sup>(8) Where, for the purposes of this section, it is necessary to calculate the number of complete months in any period an incomplete month shall be treated as a complete month if it consists of at least 16 days.]

#### Textual Amendments

- F235** Words substituted by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 34](#)
- F236** Words substituted by the [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7\), s. 1\(7\)](#)
- F237** Words substituted by [Social Security Act 1979 \(c. 18\), s. 11\(1\)](#)
- F238** Words repealed by [Social Security Act 1985 \(c. 53\), Sch. 5, para. 33](#) and [Sch. 6](#)
- F239** [S. 59\(5ZA\)](#) inserted (with effect from 24.7.1990) by [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7\), s. 5\(1\)](#)
- F240** [S. 59\(5A\)](#) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\), s. 9\(8\)](#)
- F241** Words substituted by [Social Security Act 1979 \(c. 18\), s. 11\(2\)](#)
- F242** Definition inserted (with effect from 24.7.1990) by [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7\), s. 5\(2\)](#)
- F243** Words inserted by [Social Security Act 1979 \(c. 18\), Sch. 3 para. 20](#)
- F244** [S. 59\(8\)](#) inserted by [Social Security Act 1979 \(c. 18\), s. 11\(3\)](#)

#### Marginal Citations

- M13** 1971 c. 56.
- M14** 1971 c. 56.

[<sup>F245</sup>**59A Modification of effect of section 59(5).**

- (1) This section applies where the amount by reference to which an increase in an official pension is to be calculated would, but for the provisions of this section, be reduced under section 59(5) of this Act by an amount equal to the rate of a guaranteed minimum pension.
- (2) The Minister for the Civil Service may direct that in such cases or classes of case as may be specified in the direction—
  - (a) no such reduction shall be made; or

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(b) the reduction shall be of an amount less than the rate of the guaranteed minimum pension;

and in any case to which such a direction applies the increase shall, in respect of such period or periods as may be specified in the direction, be calculated in accordance with the direction, notwithstanding section 59(5).

[ Where in any tax year—

- <sup>F246</sup>(2A) (a) an increase is calculated in accordance with a direction under this section; and  
(b) the amount by reference to which the increase is calculated, or any part of it, is increased in that tax year under section 37A above,

the increase calculated in accordance with the direction shall be reduced by the amount of the increase under section 37A above.]

- (3) A direction under this section may provide that where it has applied in any case and ceases to apply in that case, the rate of the official pension for any period following the date on which the direction ceases to apply shall, in such circumstances as may be specified in the direction, be calculated as if the direction had never applied.
- (4) A direction under this section may provide that the rate of an official pension shall, in such circumstances as may be specified in the direction, be calculated as if the direction had been in force at all times during such period as may be so specified.
- (5) A direction made under subsection (2) above may be varied or revoked by a subsequent direction.]

#### Textual Amendments

**F245** S. 59A inserted by [Social Security Act 1979 \(c. 18\), s. 11\(4\)](#)

**F246** S. 59A(2A) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\), s. 9\(9\)](#)

## PART IVA

### [<sup>F247</sup> THE PENSIONS OMBUDSMAN]

#### Textual Amendments

**F247** Ss. 59B to 59J inserted (with effect from 18.7.1990 for making regulations, 1.10.1990 for other purposes) by [Social Security Act 1990 \(c. 27\), Sch. 3](#)

### **59B The Pensions Ombudsman.**

- (1) For the purpose of conducting investigations in accordance with this Part of this Act or any corresponding legislation having effect in Northern Ireland there shall be a commissioner, to be known as the Pensions Ombudsman.
- (2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold office upon such terms and conditions as the Secretary of State may think fit.
- (3) The Pensions Ombudsman may at any time—  
(a) be removed from office by notice in writing given to him by the Secretary of State; or

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- (b) resign his office by giving such notice to the Secretary of State.
- (4) The Secretary of State may make available such staff and other facilities as he thinks fit for the Pensions Ombudsman and any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part of this Act, may be performed by any member of that staff who is authorised for that purpose by the Pensions Ombudsman.
- (5) The Secretary of State may—
  - (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine with the approval of the Treasury; and
  - (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.
- (6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for the period ending with 31st March following the coming into force of this section, and for each subsequent financial year, and shall submit it to the Secretary of State as soon as practicable thereafter.
- (7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6) above.

### **59C Functions of Pensions Ombudsman.**

- (1) The Pensions Ombudsman may investigate and determine any complaint made to him in writing by or on behalf of an authorised complainant who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of the trustees or managers of an occupational or personal pension scheme.
- (2) The Pensions Ombudsman may also investigate and determine any dispute of fact or law which arises in relation to such a scheme between—
  - (a) the trustees or managers of the scheme, and
  - (b) an authorised complainant in relation to the scheme,
 and which is referred to him in writing by or on behalf of the authorised complainant.
- (3) The Secretary of State may by regulations provide that, subject to any modifications or exceptions specified in the regulations, this Part of this Act shall apply in relation to—
  - (a) the employer in relation to any description or category of employment to which an occupational pension scheme relates or has related, or
  - (b) any prescribed person or body of persons concerned with the financing or administration of, or the provision of benefits under, any occupational or personal pension scheme,
 as it applies in relation to the trustees or managers of such a scheme.
- (4) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before the coming into force of this Part of this Act.
- (5) The Pensions Ombudsman shall not investigate or determine a complaint or dispute—

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- (a) if, before the making of the complaint or the reference of the dispute, proceedings have been commenced in any court in respect of the matters which would be the subject of the investigation;
  - (b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or
  - (c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.
- (6) The persons who, for the purposes of this Part of this Act, are “authorised complainants” in relation to a scheme are—
- (a) a member of the scheme,
  - (b) the widow or widower, or any surviving dependant, of a deceased member of the scheme;
  - (c) where the complaint or dispute relates to the question—
    - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) above is such a person, or
    - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,the person so claiming.
- (7) In this Part of this Act—
- “employer”, in relation to a pension scheme, includes a person—
- (a) who is or has been an employer in relation to the scheme, or
  - (b) who is or has been treated under section 66(3) below as an employer in relation to the scheme for the purposes of Part 111 or IV of this Act, or under Article 2(4) of the Social Security Pensions (Northern Ireland) Order 1975 as an employer in relation to the scheme for the purposes of Part IV or V of that Order;
- “member”, in relation to a pension scheme, includes a person—
- (a) who is or has been in pensionable service under the scheme, as defined in paragraph 3 of Schedule 16 to the 1973 Act or paragraph 3 of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975, or
  - (b) who is or has been treated under section 66(4) below as a member in relation to the scheme for the purposes of Part 111 or IV of this Act, or under Article 2(5) of the Social Security Pensions (Northern Ireland) Order 1975 as a member in relation to the scheme for the purposes of Part IV or V of that Order;
- “Northern Ireland public service pension scheme” means a public service pension scheme, within the meaning of Article 2(2) of that Order;
- “trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

#### **59D Death, insolvency or disability of authorised complainant.**

- (1) Where an authorised complainant dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) below applies—

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- (a) any complaint or dispute (whenever arising) which the authorised complainant might otherwise have made or referred under this Part of this Act may be made or referred by the appropriate person, and
  - (b) anything in the process of being done by or in relation to the authorised complainant under or by virtue of this Part of this Act may be continued by or in relation to the appropriate person,
- and any reference in this Part of this Act, except this section, to an authorised complainant shall be construed as including a reference to the appropriate person.
- (2) For the purposes of subsection (1) above “the appropriate person” means—
- (a) where the authorised complainant has died, his personal representatives; or
  - (b) in any other case, a member of the authorised complainant’s family, or some body or individual suitable to represent him.
  - (3) Where a person is acting as an insolvency practitioner in relation to an authorised complainant, investigations under this Part of this Act shall be regarded for the purposes of the Insolvency Act 1986 and the Bankruptcy (Scotland) Act 1985 as legal proceedings.
- (4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

**59E Staying court proceedings where a complaint is made or a dispute is referred.**

- (1) This section applies where—
- (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and
  - (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.
- (2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgement of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.
- (3) In Scotland, where this section applies any party to the legal proceedings may—
- (a) if the proceedings are in the Court of Session, at any time—
    - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
    - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
  - (b) if the proceedings are in the sheriff court, at any time—
    - (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
    - (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken,
- apply to the court for a sist of process.



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- (4) On an application under subsection (2) or (3) above the court may make an order staying or, in Scotland, sisting the proceedings if it is satisfied—
- (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
  - (b) that the applicant was at the time when the legal proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the investigation.
- (5) For the purposes of this section the parties to an investigation are—
- (a) the authorised complainant in question;
  - (b) the trustees or managers of the scheme in question;
  - (c) any person against whom allegations are made in the complaint or reference; and
  - (d) any person claiming under a person falling within paragraphs (a) to (c) above.

#### **59F Procedure on an investigation.**

- (1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part of this Act, he shall afford to the trustees and managers of the scheme concerned, and any other person against whom allegations are made in the complaint or reference, an opportunity to comment on any allegations contained in the complaint or reference.
- (2) The Secretary of State may by statutory instrument make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part of this Act.
- (3) The rules may include provision—
- (a) requiring any oral hearing held in connection with an investigation under this Part of this Act to take place in public, except in such cases as may be specified in the rules; and
  - (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation, as defined in section 59E(5) above.
- (4) Subject to any provision made by the rules, the procedure for conducting an investigation under this part of this Act shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner as he thinks fit.

#### **59G Investigations: further provisions.**

- (1) For the purposes of an investigation under this Part of this Act or under any corresponding legislation having effect in Northern Ireland, the Pensions Ombudsman may require any trustee or manager of the scheme concerned, or any other person who, in his opinion, is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation, the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.

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- (3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.
- (4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of an act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.
- (5) Where an offence is certified under subsection (4) above, the court may inquire into the matter and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.
- (6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of the Treasury.
- (7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.
- (8) In this section “the court” means—
  - (a) in England and Wales, a county court;
  - (b) in Scotland, the sheriff.
- (9) Subsections (4) and (5) above shall be construed, in their application to Scotland, as if contempt of court were in Scots law categorised as an offence.

#### **59H Determinations of the Pensions Ombudsman.**

- (1) Where the Pensions Ombudsman has conducted an investigation under this Part of this Act, he shall send a written statement of his determination of the complaint or dispute in question—
  - (a) to the authorised complainant in question; and
  - (b) to the trustees or managers of the scheme in question;
 and any such statement shall contain the reasons for his determination.
- (2) Where the Pensions Ombudsman makes a determination under this Part of this Act or under any corresponding legislation having effect in Northern Ireland, he may direct the trustees or managers of the scheme concerned to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) above or otherwise in writing.
- (3) Subject to subsection (4) below, the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2) above, shall be final and binding on—
  - (a) the authorised complainant in question;
  - (b) the trustees or managers of the scheme concerned; and
  - (c) any person claiming under them respectively.

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- (4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3) above.
- (5) Any determination or direction of the Pensions Ombudsman shall be enforceable—
  - (a) in England and Wales, in a county court as if it were a judgment or order of that court, and
  - (b) in Scotland, by the sheriff, as if it were a judgment or order of the sheriff and whether or not the sheriff could himself have granted such judgment or order.
- (6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part of this Act and of the result of that investigation.
- (7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—
  - (a) in submitting or publishing a report under section 59B(6) or subsection (6) above, or
  - (b) in sending to any person a statement under subsection (1) above or a direction under subsection (2) above,shall be absolutely privileged.

#### **59J Power to make special county court rules.**

- (1) The Secretary of State may by statutory instrument make rules—
  - (a) regulating the practice, and the forms of proceedings, which are to be followed in county courts in any proceedings under or by virtue of this Part of this Act; and
  - (b) prescribing the scales of costs to be paid in connection with any such proceedings.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may to any extent, and with or without modifications, apply any county court rules to proceedings under or by virtue of this Part of this Act.

### **PART V**

#### **GENERAL**

#### **[<sup>F248</sup>59K Registration of occupational and personal pension schemes.**

- (1) The Secretary of State may by regulations make provision—
  - (a) for the compilation and maintenance of a register of occupational and personal pension schemes (“the register”);
  - (b) for the appointment of a Registrar of Occupational and Personal Pension Schemes (“the registrar”); and
  - (c) for conferring on the registrar such functions relating to the compilation and maintenance of the register as may be specified in the regulations.
- (2) The regulations—

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- (a) may make provision with respect to any of the following matters, that is to say—
    - (i) the remuneration and expenses, and any pensions, allowances or gratuities, or compensation for loss of office, payable to or in respect of the registrar;
    - (ii) the staff and other facilities that are to be available to the registrar;
    - (iii) the other terms and conditions upon which the registrar is to hold office; and
    - (iv) the removal of the registrar from office; and
  - (b) may confer upon the registrar power to appoint an agent to perform any of his functions on his behalf.
- (3) The register—
- (a) may consist of one or more parts, as may be prescribed;
  - (b) shall be organised in such manner, and contain such information relating to occupational and personal pension schemes, as may be prescribed; and
  - (c) subject to the regulations, may be kept in such manner and form as the registrar may think fit.
- (4) The regulations may make provision—
- (a) for the register, or for extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and
  - (b) for copies of the register, or of extracts from it, to be supplied to,
- such persons, in such manner, at such times, upon payment of such fees, and subject to such other terms and conditions, as may be prescribed.
- (5) The regulations may require—
- (a) any person who is or has been—
    - (i) a trustee or manager of an occupational or personal pension scheme or an administration of a public service pension scheme, or
    - (ii) the employer in relation to employment of any description or category to which an occupational pension scheme relates, and
  - (b) such other persons as may be prescribed,
- to provide the registrar with such information for the purposes of the register in such form and within such time as may be prescribed.
- (6) The Secretary of State, the Inland Revenue and the Occupational Pensions Board may provide the registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—
- (a) persons employed in the Department of Social Security,
  - (b) persons employed in relation to the Inland Revenue, or
  - (c) the staff of the Occupational Pensions Board,
- shall prevent them from disclosing to the registrar such information as is necessary for the purposes of the register.
- (7) The Secretary of State may direct the registrar to submit to him, in such form and at such intervals as may be specified in the direction, such statistical and other reports as the Secretary of State may require; and the Secretary of State may determine at his discretion whether or not to publish a report submitted to him under this subsection.

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- (8) In this section “employer”, in relation to a pension scheme, includes a person who is or has been treated under section 66(3) below as an employer in relation to the scheme for the purposes of Part 111 or IV of this Act.
- (9) Subsections (2) to (5) above are without prejudice to the generality of subsection (1) above and nothing in subsection (5) or (6) above shall be taken to imply that the Occupational Pensions Board may not be appointed as the registrar.]

#### Textual Amendments

**F248** S. 59K inserted (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), s. 13(1)

### 60 Determination of questions.

- (1) The questions to which [<sup>F249</sup>section 17(1) of the Administration Act] applies (questions for determination by the Secretary of State) shall include—
- (a) . . . . .<sup>F250</sup>
  - (b) any question as to the amount of a person’s guaranteed minimum for the purposes of section 33 or 36 above;
  - (c) any question whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium.
  - [<sup>F251</sup>(d) any question whether a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or his widow was entitled under a contracted scheme.]
- (2) Any question arising under this Act whether the employment of an earner in employed earner’s employment at any time is or was contracted-out employment in relation to him shall be referred by the Secretary of State to the Occupational Pensions Board and determined by that Board.
- (3) Neither the said [<sup>F252</sup>section 17(1) nor section 20(1) of the Administration Act] (questions for determination by [<sup>F253</sup>adjudication officers]) shall apply to any such question as is mentioned in subsection (2) above.
- (4) Section 86(1) of the <sup>M15</sup>Social Security Act 1973 (references and appeals from Occupational Pensions Board) shall apply to—
- (a) any matter which under subsection (2) above falls to be determined by that Board; and
  - (b) any matter arising under Part III or IV of this Act for determination by the Board.

#### Textual Amendments

**F249** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 35(a)

**F250** [Ss. 1–10, 12–16A, 18–21, 23–25, 51A\(13\), 60\(1\)\(a\)](#), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); [Sch. 1](#); [Sch. 4](#), paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

**F251** [S. 60\(1\)\(d\)](#) added by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 34

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**F252** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 35(b)

**F253** Words substituted (with effect from 23.4.1984) by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41\)](#), [Sch. 8](#), para. 1(3)(a)

#### Marginal Citations

**M15** 1973 c. 38.

### [<sup>F254</sup> **60ZA** Levies towards meeting certain expenditure under this Act.

- (1) For the purpose of meeting some or all of the expenditure under section 57B, Part IVA, and section 59K of this Act, regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.
- (2) Any levy imposed under this section shall be payable to the Secretary of State by or on behalf of—
  - (a) the administrators of such public service pension schemes as may be prescribed,
  - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed, or
  - (c) such other persons as may be prescribed
 at such rates and at such times as may be prescribed.
- (3) The amount payable by any person on account of the levy shall be a debt due from him to the Secretary of State and shall be recoverable accordingly.
- (4) Regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section, but this subsection is without prejudice to the generality of subsection (1) above.]

#### Textual Amendments

**F254** [S. 60ZA](#) inserted (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 12

### [<sup>F255</sup> **60ZB** Offences relating to state scheme premiums.

If a person fails to pay, at or within the time prescribed for the purpose, any state scheme premium which is payable by him, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

#### Textual Amendments

**F255** [Ss. 60ZB—60ZF](#) inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 36

### **60ZC** Questions arising in proceedings.

- (1) Where in any proceedings—
  - (a) for an offence under this Act; or
  - (b) involving any question as to payment of a state scheme premium,

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any such question arises as is mentioned in section 60(1) above, the decision of the Secretary of State shall be conclusive for the purposes of the proceedings.

(2) If—

- (a) a decision of any question is necessary for the determination of proceedings; and
- (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,

the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with sections 17 to 19 of the Administration Act.

(3) subsection (1) above does not apply if—

- (a) an appeal under section 18 of that Act is pending; or
- (b) the time for appealing has not expired; or
- (c) a question has been raised with a view to a review of the Secretary of State's decision under section 19,

and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

#### **60ZD Recovery of unpaid state scheme premiums on prosecution.**

Where—

- (a) a person has been convicted of an offence under section 60ZB above of failing to pay a state scheme premium at or within the time prescribed for the purpose; and
- (b) the premium remains unpaid at the date of the conviction,

he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.

#### **60ZE Proof of various offences.**

- (1) Subject to subsection (2) below, where a person is convicted of an offence mentioned in section 60ZD above, evidence may be given of any previous failure by him to pay state scheme premiums within the time prescribed for the purpose; and in that section “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

#### **60ZF Unpaid premiums— supplementary.**

- (1) Where in England and Wales a person charged with an offence to which section 60ZD applies is convicted of that offence in his absence under section 12(2) of the Magistrates Courts Act 1980, then if—
  - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 60ZE(2) above has been duly served specifying the other state scheme premiums in respect of which the prosecutor intends to give evidence; and



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- (b) the clerk of the court 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 to failing to pay the other premiums so specified or any of them,  
section 60ZE 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) In England and Wales, where—
- (a) a person is convicted of an offence to which section 60DZ above applies; and
  - (b) an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally,
- sections 60ZD and 60ZE above and subsection (1) above shall apply as if it were a conviction for all purposes.
- (3) In Scotland, where—
- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
  - (b) an order is made under Part I of the Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation,
- sections 60ZD and 60ZE above shall apply as if—
- (i) the conviction on indictment were a conviction for all purposes; or
  - (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.
- (4) In England and Wales, any sum which a person is liable to pay under sections 60ZD and 60ZE above and subsection (1) above shall be recoverable from him as a penalty.
- (5) State scheme premiums recovered by the Secretary of State under those provisions are to be treated for all purposes as premiums paid to the Secretary of State in the respect of the person in respect of whom they were originally payable.

#### [<sup>F256</sup> 60A Treatment of insignificant amounts.

Where an amount is required to be calculated in accordance with the provisions of sections . . . <sup>F257</sup> 35(4) and (6) and 36(3) of, . . . <sup>F257</sup> this Act and, apart from this section, the amount so calculated is less than  $\frac{1}{2}p$ , then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking  $\frac{1}{2}p$  as nearest to the next whole penny above].

#### Textual Amendments

**F256** S. 60A inserted by [Social Security Act 1979 \(c. 18\), s. 18](#)

**F257** Words repealed by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 1](#)

#### [<sup>F258</sup> 60B Guaranteed minimum pensions attributable in part to period before 1988-1989.

Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988-1989 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by

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applying section 60A above separately to the amount attributable to the period before the tax year 1988-1989 and to the amount attributable to that and subsequent tax years and then aggregating the two amounts so calculated.]

#### Textual Amendments

**F258** S. 60B inserted (with effect from 6.4.1988) by [Social Security Act 1988 \(c. 7\)](#), [Sch. 2](#), para. 2

### 61 Consultation about regulations.

- (1) ..... <sup>F259</sup>
- (2) [<sup>F260</sup>Subject to section 61 of the Social Security Act 1986, where] the Secretary of State proposes to make any regulations for the purposes of
- [<sup>F261</sup>(a)] Part III or IV of this Act
- [<sup>F262</sup>[ Part I] of the Social Security Act 1986][<sup>F264</sup>or <sup>F263</sup>(b)]
- (c) Schedule 5 to the Social Security Act 1989,
- (other] than [<sup>F265</sup>regulations under section 51A(10) above] regulations prescribing actuarial tables or regulations [<sup>F266</sup>made for the purpose only of consolidating other regulations revoked thereby]) he shall refer the proposals, in the form of draft regulations or otherwise, to the Occupational Pensions Board.
- (3) The Board shall consider any proposals referred to them under subsection (2) above and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject-matter of the proposals; and if after receiving the Board's report the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject-matter of proposals referred to the Board he shall lay with the regulations or draft a copy of the report and a statement showing—
- (a) the extent, if any, to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board's report; and
- (b) in so far as he has not given effect to any such recommendations, his reasons for not doing so.
- (4) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, any reference in this section to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.
- (5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (3) above shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement referred to in that subsection are laid before that House not later than the second day on which the House sits after the laying of the regulations.

#### Textual Amendments

- F259** S. 61(1) repealed by [Social Security Act 1980 \(c. 30\)](#), [Sch. 5](#), Pt. II
- F260** Words substituted by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 94(a)
- F261** "(a)" inserted by [Social Security Act 1989 \(c. 24\)](#), [Sch. 8](#), para. 12(1)(a)
- F262** Words inserted by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 94(b)

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- F263** Words substituted by [Social Security Act 1989 \(c. 24\), Sch. 8, para. 12\(1\)\(b\)](#)  
**F264** Words (including para. (c)) substituted by [Social Security Act 1989 \(c. 24\), Sch. 8, para. 12\(1\)\(c\)](#)  
**F265** Words inserted by [Social Security and Housing Benefits Act 1982 \(c. 24\), Sch. 4, para. 21](#)  
**F266** Words substituted by [Social Security Act 1979 \(c. 18\), Sch. 3 para. 21](#)

**[<sup>F267</sup>61A Consultation with Social Security Advisory Committee about certain regulations.**

- (1) Subject to section 173 of the Administration Act, where the Secretary of State proposes to make regulations under sections 51A(10) above, he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).
- (2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) above and shall make to the Secretary of State a report containing such recommendations with regard to the subject-matter of the proposals as the committee thinks appropriate.
- (3) If after receiving a report of the Committee the Secretary of State lays before Parliament any regulations which comprise the whole or any part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee’s report and a statement showing—
  - (a) the extent (if any) to which he has, in framing the regulations, given effect to the committee’s recommendations; and
  - (b) in so far as effect has not been given to them, his reasons why not.
- (4) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (3) above shall be satisfied as respects either House of Parliament if a copy of the report and statement there referred to are laid before that House not later than the second day on which the House sits after laying of the regulations.]

**Textual Amendments**

- F267** [Ss. 61A and 61B](#) inserted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 37](#)

**61B Orders and regulations (general provisions).**

- (1) Powers under this Act to make regulations or orders, except any power of the Occupational Pensions Board to make orders, are exercisable by statutory instrument.
- (2) Except in so far as this Act otherwise provides any power conferred thereby to make regulations or an order may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified exemptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes

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of case or different provision as respects the same case or class of case for different purposes of this Act,

(iii) any such provision either unconditionally or subject to any specified condition;

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and powers to make regulations or an order for the purposes of any one provision of this Act are without prejudice to powers to make regulations or an order for the purposes of any other provision.

- (3) Without prejudice to any specific provision in this Act, a power conferred by this Act to make regulations or an order includes power to make thereby such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.
- (4) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make regulations or an order includes power to provide for a person to exercise a discretion in dealing with any matter.
- (5) A power conferred on the Secretary of State to make any regulations or order, where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

## 62 Other provisions about regulations and orders.

(1) ..... F268

[<sup>F269</sup>(2) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any order or regulations made under this Act by the Secretary of State, other than an order which, under any provision of this Act, is required to be laid before Parliament after being made; and
- (b) which is not subject to any requirement that a draft of the instrument shall be laid before and approved by a resolution of each house of Parliament,

shall be subject to anullment in pursuance of a resolution of either House of Parliament.]

(3) ..... F268

(4) Where any provision of Part III or IV of this Act allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Secretary of State, any regulations made by virtue of that provision may provide for those matters to be dealt with by the Occupational Pensions Board in their discretion or to be determined in accordance with the exercise by the Board of a discretion vested in them by the regulations, and for the Board's discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.

### Textual Amendments

**F268** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

**F269** S. 62(2) substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 38](#)

### 63 Transitional provisions.

- (1) Regulations may make provision for any transitional matter connected with the coming into force of this Act.
- (2) Without prejudice to the generality of subsection (1) above, regulations may in particular—
  - (a) make provision whereby a contribution paid or credited before (or in respect of a period before) commencement is treated, for the purposes of entitlement to or the calculation of any benefit, as having been paid or credited at a specified time or in respect of earnings of a specified amount;
  - (b) make provision whereby a person who has satisfied any contribution condition before commencement is treated as having satisfied any contribution condition having effect by virtue of this Act;
  - (c) modify any contribution condition in cases where the period in relation to which it is to be satisfied begins before and ends after commencement;
  - (d) modify any provision of this Act in relation to persons who have attained the age of 16 before commencement;
  - (e) make provision with respect to the operation of Schedule 1 to this Act in relation to persons who have attained pensionable age before commencement but have not then retired from regular employment;
  - (f) make provision for effecting orderly transition between Part III of the <sup>M16</sup>National Insurance Act 1965 and Part III of this Act, including provision modifying for that purpose any provision of those Parts;
  - (g) make provision for enabling the Occupational Pensions Board to issue contracting-out certificates on the basis of such undertakings and information as may be prescribed;
  - (h) make provision for the preservation of rights under any provision repealed or modified by this Act or otherwise for securing continuity between any such provision and any provision of this Act.
- (3) In subsection (2) above “commencement” means the time of the coming into force of any provision of this Act specified in the regulations in question.

#### Marginal Citations

**M16** 1965 c. 51.

### 64 Expenses and receipts.

- (1) There shall be paid out of moneys provided by Parliament—
  - (a) any expenses of the Secretary of State or any other government department under this Act;
  - (b) any increase attributable to this Act in the sums falling to be paid out of moneys so provided under any other Act.

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- (2) [<sup>F270</sup>Section 165(5) of the Administration Act] (reimbursement of expenses out of the National Insurance Fund) shall have effect in relation to the expenses mentioned in paragraph (a) of subsection (1) above as it has effect in relation to the expenses mentioned in [<sup>F270</sup>section 163(2)(a) of that Act]; . . . <sup>F271</sup>
- (3) Any state scheme premium received by the Secretary of State under this Act shall be paid by him into the National Insurance Fund.

#### Textual Amendments

**F270** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 39](#)

**F271** [Ss. 1–10, 12–16A, 18–21, 23–25, 51A\(13\), 60\(1\)\(a\)](#), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); [Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67](#) repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

### 65 Amendments of enactments; repeals.

- (1) The enactments mentioned in Part I of Schedule 4 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act and otherwise required in connection with those provisions.
- (2) The enactments mentioned in Part II of Schedule 4 to this Act shall have effect, and be deemed always to have had effect, with the amendments there specified, being amendments required for the correction in certain minor respects of the <sup>M17</sup>social security consolidation Acts passed in March 1975; and paragraph 1 of Schedule 5 to the Social Security Benefits Act 1975 (commencement orders) shall be deemed not to have been repealed.
- (3) The enactments mentioned in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) . . . . . <sup>F272</sup>
- (5) The Secretary of State may, with the consent of the Minister for the Civil Service, make payments to the chairman and members of the Reserve Pension Board in consequence of its abolition by this Act.

#### Textual Amendments

**F272** [Ss. 1–10, 12–16A, 18–21, 23–25, 51A\(13\), 60\(1\)\(a\)](#), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); [Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67](#) repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

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

**C82** The text of s. 65(1)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M17** [1975 c. 11.](#)

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

## 66 Interpretation.

### (1) In this Act—

F273

[<sup>F274</sup>“the Administration Act” means the Social Security Administration Act 1992;]

[<sup>F275</sup>“average salary benefits” means benefits the rate or amount of which is calculated by reference to a member’s average salary over the period of service on which the benefits are based;]

[<sup>F274</sup>“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;]

“guaranteed minimum pension” has the meaning given in section 26 above;

“linked qualifying service” shall be construed in accordance with [<sup>F276</sup>section 43(2A) and (2B)] above;

“long-term benefit” means a Category A or Category B retirement pension, a widowed mother’s allowance, a widow’s pension or an invalidity pension;

[<sup>F275</sup>“minimum payments” shall be construed in accordance with section 30 above;

“money purchase benefits” in relation to an occupational pension scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by a member of the scheme or by any other person in respect of a member, other than average salary benefits;

“money purchase contracted-out scheme” means an occupational pension scheme which is contracted-out by virtue of satisfying section 32(2A) above;]

“normal pension age”, in relation to a member of an occupational pension scheme, means the earliest age at which that member can become entitled to receive a pension under the scheme apart from any special provision as to early retirement on grounds of ill-health or otherwise;

“occupational pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

[<sup>F277</sup>“personal pension scheme” has the meaning assigned to it by section 84(1) of the Social Security Act 1986;]

“the principal Act” means the <sup>M18</sup>Social Security Act 1975;

[<sup>F278</sup>“protected rights” has the meaning given by Schedule 1 to the Social Security Act 1986 with the substitution made by section 32(2B) above.]

“public service pension scheme” means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

- (a) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter; or
- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,



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and includes [<sup>F279</sup>any occupational pension scheme established, with the concurrence of the Minister for the Civil Service, by or with the approval of another Minister of the Crown and] any occupational pension scheme prescribed by regulations made by the Secretary of State and the Minister for the Civil Service jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Act;

“qualifying earnings factor” has the meaning given in section 5(3) above;

<sup>F280</sup>

“resources”, in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme . . . <sup>F281</sup> are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;

[<sup>F282</sup> “transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme.]

- (2) Except as respects commencement and extent, and subject to sections 61 and 62 above, this Act and the principal Act shall have effect as if the provisions of this Act other than [<sup>F283</sup>sections 59 and 59A] were contained in that Act; and for that purpose—
  - (a) . . . . . <sup>F284</sup> sections 27 and 28 of this Act shall be treated as included in Part I of that Act (contributions); and
  - (b) Part II . . . <sup>F284</sup> and [<sup>F285</sup>sections 29 and 29C] of this Act shall be treated as included in Chapter I of Part II of that Act (contributory benefits).
- (3) References in Parts III and IV of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those Parts of this Act; and, subject to any such regulations, references in those Parts to an employer shall, in relation to an earner employed in an office with emoluments, be construed as references to—
  - (a) such person as may be prescribed in relation to that office; or
  - (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (4) Regulations may, for any purpose of Parts III and IV of this Act, prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (5) . . . . . <sup>F286</sup>
- (6) Except where the context otherwise requires, references in this Act to any Part of it include references to any Schedule having effect by virtue of any provision in that Part.
- (7) Any reference in this Act to another enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, including an enactment contained in this Act.

**Textual Amendments**

**F273** Definition repealed by [Social Security Act 1985 \(c. 53\)](#), [Sch. 6](#)

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- F274** Definition inserted (with effect from 1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), **Sch. 2**, para. 40(1)
- F275** Definition inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 2**, para. 11
- F276** Words substituted (with effect from 1.10.1989) by Social Security Act 1989 (c. 24), **Sch. 6**, para. 9(3)
- F277** Definition inserted (with effect from 1.5.1987) by Social Security Act 1986 (c. 50), **Sch. 10**, para. 28
- F278** Definition inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 2**, para. 11
- F279** Words inserted by Social Security Act 1980 (c. 30), **s. 4(1)**
- F280** Definition repealed by Social Security Act 1986 (c. 50), **Sch. 11**
- F281** Words repealed by Social Security Act 1986 (c. 50), **Sch. 11**
- F282** Definition substituted by Health and Social Security Act 1984 (c. 48), **Sch. 7**, para. 5(b)
- F283** Words substituted by Social Security Act 1979 (c. 18), **Sch. 3 para. 22**
- F284** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by Social Security (Consequential Provisions) Act 1992 (c. 6)
- F285** Words substituted (with effect from 1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), **Sch. 2**, para. 40(2)
- F286** S. 66(5) repealed by Social Security Act 1985 (c. 53), **Sch. 6**

#### Marginal Citations

**M18** 1975 c. 14.

## 67 Commencement.

- (1) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (2) Without prejudice to subsection (1) above there may by an order under this section be appointed different days for the coming into force of section 22 of this Act, and of other provisions of this Act relevant to the operation of that section, in relation to persons of different age groups.
- (3) An order under this section may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Act which are thereby brought (wholly or partly) into force, and may make such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Act.
- (4) The power to make an order under this section includes power to vary or revoke a previous order; and any statutory instrument containing such an order shall be laid before Parliament after being made.

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

**C83** Power under s. 67 exercised by **S.I. 1975/1318**, 1975/1572, 1975/1689, 1975/2079, 1976/141, 1976/1173, 1976/2129, 1977/778, 1977/1403, 1977/1485, 1977/1617, 1977/2038, 1978/367, 1979/171, 1979/367, 1979/394, 1979/1030

## 68 Short title, citation and extent.

- (1) This Act may be cited as the Social Security Pensions Act 1975.

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- (2) The <sup>M19</sup>Social Security Act 1975 and this Act may be cited together as the Social Security Acts 1975.
- (3) The following provisions of this Act have the same extent as the <sup>M20</sup>Pensions (Increase) Act 1971—
- (a) [<sup>F287</sup>sections 59 and 59A];
  - (b) paragraph 18 of Schedule 4;
  - (c) Schedule 5, so far as it repeals provisions of that Act.
- (4) [<sup>F288</sup>The following provisions of this Act, namely, sections 57, 59B, other than subsections (4) and (5)(b), and 59K(1),(2), other than paragraph (a)(ii),(3),(4) and (9) extend] to Northern Ireland; and this Act extends to Northern Ireland so far as it—
- (a) amends sections 66, 67(4) and 89 of, and Schedule 17 to, the <sup>M21</sup>Social Security Act 1973;
  - (b) amends section 99(1) of that Act by inserting definitions of “the Pensions Act” and “state scheme premium”;
  - (c) repeals Part III and section 89(3)(c) and (4) of that Act, and Schedules 18 to 20 to that Act;
  - (d) by section 65(2) and Part II of Schedule 4 amends the <sup>M22</sup>Social Security (Northern Ireland) Act 1975 and the <sup>M23</sup>Social Security (Consequential Provisions) Act 1975 and reinstates paragraph 1 of Schedule 5 to the <sup>M24</sup>Social Security Benefits Act 1975;
  - (e) repeals paragraphs 47 and (in part) 58 of Schedule 2 to the Social Security (Consequential Provisions) Act 1975;
  - (f) amends or repeals provisions of the <sup>M25</sup>Income and Corporation Taxes Act 1970;
  - (g) amends provisions of the <sup>M26</sup>Finance Act 1971;
  - (h) repeals provisions of the <sup>M27</sup>Public Records Act 1958, the <sup>M28</sup>Superannuation Act 1972, the <sup>M29</sup>Parliamentary and other Pensions Act 1972, the <sup>M30</sup>Pensions (Increase) Act 1974 and the <sup>M31</sup>House of Commons Disqualification Act 1975;
- but subject to the foregoing provisions of this subsection and to subsection (3) above, this Act does not extend to Northern Ireland.

#### Textual Amendments

**F287** Words substituted by [Social Security Act 1979 \(c. 18\), Sch. 3 para. 22](#)

**F288** Words substituted (with effect from 18.7.1990) by [Social Security Act 1990 \(c. 27\), Sch. 4, para. 13](#), and Sch. 7

#### Marginal Citations

**M19** 1975 c. 14.

**M20** 1971 c. 56.

**M21** 1973 c. 38.

**M22** 1975 c. 15.

**M23** 1975 c. 18.

**M24** 1975 c. 11.

**M25** 1970 c. 10.

**M26** 1971 c. 68.

**M27** 1958 c. 51.

**M28** 1972 c. 11.

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**M29** 1972 c. 48.

**M30** 1974 c. 9.

**M31** 1975 c. 24.

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

## SCHEDULES

### SCHEDULE

1.....  
F289

#### Textual Amendments

**F289** Ss. 1–10, 12–16A, 18–21, 23–25, 51A(13), 60(1)(a), words in s. 60A, s. 62(1) and (3), words in s. 64(2), s. 65(4), words in s. 66(2)(a) and (b); Sch. 1; Sch. 4, paras. 35–46, 49, 50, 53–64, 66, 67 repealed (1.7.1992) on consolidation by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

### [<sup>F290</sup>SCHEDULE 1A

#### REVALUATION OF PENSIONS AND TRANSFER VALUES]

#### Textual Amendments

**F290** [Schedule 1A](#) inserted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 1 para. 3](#)

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

**C84** The provisions of this Schedule are modified in certain circumstances by [S.I. 1991/168](#) (revaluation)

**C85** Under reg. 3(10) of [S.I. 1987/1116](#), [Sch. 1A](#) below has effect (27.7.1987) in relation to personal pension schemes, subject to the modifications, in respect of Part I of this Schedule, specified in paras. 1–6 of Sch. 4 to that S.I.

## PART I

### REVALUATION OF PENSIONS

- 1 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this schedule if—
- (a) it terminates before normal pension age; and
  - (b) on the date when it terminates—
    - (i) he has accrued rights to benefit under the scheme; . . . <sup>F291</sup>
    - (ii) . . . . . <sup>F291</sup>
- (2) In this Part of this Schedule “the revaluation condition” means—
- (a) in relation to benefit payable to the member, that, subject to subparagraph (3) below, there are 365 days or more in the period of which the first day is the

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- day after the date when his pensionable service terminates and the last is the day on which he attains normal pension age;
- (b) in relation to benefit payable to any other person in respect of the member, that, subject to sub-paragraph (3) below, there are 365 days or more in the period mentioned in paragraph (a) above and the member dies after attaining normal pension age.
- (3) For the purpose of calculating the number of days in the period mentioned in sub-paragraph (2) above, any day which is 29th February shall be disregarded.
- (4) For the purposes of this Part of this Schedule “normal pension age” . . . . <sup>F292</sup> and, subject to paragraph 2(3) below, “pensionable service” are to be construed in accordance with Schedule 16 to the Social Security Act 1973.

#### Textual Amendments

**F291** S. 1(1)(b)(ii) and the word “or” preceding it, repealed (with effect from 28.2.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4 para. 5\(4\)\(c\)\(i\)](#), and Sch. 7

**F292** Words repealed (with effect from 28.2.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 5\(4\)\(c\)\(ii\)](#), and Sch. 7

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

**C86** Where normal pension age is under 60, the reference to it in para. 1(2)(a) above is modified by reg. 3(2) of [S.I. 1991/168](#).

- 2 (1) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied—
- (a) any pension or other retirement benefit payable under the scheme to the member; and
- (b) any pension or other benefit payable under it to any other person in respect of him,
- is to be revalued by adding the appropriate amount to the amount that would be payable but for this Schedule or regulations made under it.
- (2) For the purposes of this Schedule “the appropriate amount” is

$$\frac{AB}{C} \left( D - E \right)$$

, where—

- (a) A = the revaluation percentage specified in the last period of one year beginning on the date of the commencement of this Part of this Schedule or on an anniversary of that date and ending before the date on which the member attains normal pension age as the revaluation percentage for the period which is of the same length as the number of complete years in the period mentioned in paragraph 1(2)(a) above;

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- (b) B = the length of the member’s qualifying pensionable service;
  - (c) C = the length of his pensionable service;
  - (d) D = the amount of the pension or other benefit—
    - (i) which on the date when his pensionable service terminates has accrued to him or to any other person in respect of him; . . . <sup>F293</sup>
    - (ii) . . . . . <sup>F293</sup>;
  - (e) E = any part of the amount mentioned in paragraph (d) above which consists of the member’s or his widow’s guaranteed minimum.
- (3) In sub-paragraph (2)(b) and (c) above—  
“pensionable service” includes any notional pensionable service which is credited to the member by the scheme; and  
[<sup>F294</sup>“qualifying pensionable service” means—
- (a) where the termination of pensionable service occurs after the coming into force of this paragraph of this definition, the whole of the member’s pensionable service, as defined in this sub-paragraph; and
  - (b) in any other case, so much of any such service as falls on or after 1st January 1985.]
- (4) For the purposes of sub-paragraph (2)(b) and (c) above, any notional pensionable service which is credited to a member by a scheme shall be taken to have ended immediately before the member’s actual pensionable service began.
- (5) Any rule of a scheme the effect of which is that benefit fails to be revalued by reference to any period is to be disregarded in making any calculation required by this paragraph.

**Textual Amendments**

**F293** Sch. 1A para. 2(d)(ii), and word “or” preceding it, repealed (with effect from 28.2.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 5\(4\)\(c\)\(i\)](#) and Sch. 7

**F294** Definition of “qualifying pensionable service” substituted (with effect from 1.1.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4, para. 4\(1\)](#)

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

**C87** Sch. 1A para . 2 is modified, where retirement benefit is varied at state pension age, by reg. 9 of [S.I. 1991/168](#); and, where normal pension age is under 60, the reference to that age in para. 2(2)(a) above is modified by reg. 3(2) [S.I. 1991/168](#). See also modifications in regs. 10 (rounding) and 13 (lump sum deriving from before 6.4.1975) of [S.I. 1991/168](#).

**C88** [Para. 2\(2\)\(e\)](#) to be construed (with effect from 13.7.1990) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\)](#), [s.9\(4\)\(i\)](#)

- 3
- (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to the member’s average salary over the period of service on which that benefit is based.
  - (2) A benefit to which this paragraph applies is referred to in this Schedule as an “average salary benefit”.

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- (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any average salary benefit payable to the member or to any other person in respect of him is to be revalued—
- (a) by revaluing his salaries during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service; or
  - (b) by the method specified in paragraph 2 above.
- (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in sub-paragraph (3) above appears to the trustees or managers of the scheme to be appropriate.
- (5) In this paragraph “salaries”<sup>[F295]</sup> means, subject to sub-paragraph (5A) below, the member’s salaries for the period between the date when his pensionable service commenced and the date when it terminated], or such part of them as was relevant under the scheme to the calculation of the retirement benefits payable under the scheme to him or to any other person in respect of him; and those salaries are to be taken for the purposes of this paragraph to include—
- (a) any amount which is attributed to them, otherwise than by virtue of this paragraph, as the result of a revaluation for which the rules of the scheme provide; and
  - (b) any amount which is for any reason credited to the member by way of salary notionally earned.
- <sup>[F296]</sup>(5A) Where the member’s pensionable service terminated before the coming into force of this sub-paragraph, sub-paragraph (5) above shall have effect with the substitution for the words from, “means” to “terminated” of the words “means the member’s salaries for the period between 1st January 1985 and the date when his pensionable service terminated”.]
- (6) For the purposes of the application of this Paragraph to a case where a member is credited with an amount by reference to salary notionally earned over a period of time of a particular length that period shall be taken to have ended immediately before the member’s actual pensionable service began.

#### Textual Amendments

**F295** Words substituted (with effect from 1.1.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 4(2)

**F296** [Sch. 1A](#), para. 3(5A) inserted (with effect from 1.1.1991) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 4(3)

- 4 (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference solely to the member’s length of service.
- (2) A benefit to which this paragraph applies is referred to in this Schedule as a “flat rate benefit”.
- (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any flat rate benefit payable to the member or to any other person in respect of him is to be revalued—



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- (a) by revaluing the benefits which have accrued to him during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service; or
    - (b) by the method specified in paragraph 2 above.
  - (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in sub-paragraph (3) above appears to the trustees or managers of the scheme to be appropriate.
- 5
  - (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to a payment or payments made by the member, or by any other person in respect of him [<sup>F297</sup>and which is not an average salary benefit].
  - (2) A benefit to which this paragraph applies is referred to in this Schedule as a “money purchase benefit”.
  - (3) In the case of such a benefit, if the revaluation condition is satisfied, the investment yield and any bonuses arising from payments made by or on behalf of a member shall be applied, subject to sub-paragraph (4) below, towards providing any pension or other retirement benefit which is payable under the scheme to him or to any other person in respect of him in the manner in which they would have been applied if his pensionable service had not been terminated.
  - (4) The Secretary of State may by regulations authorise trustees and managers of schemes to deduct from any pension or other retirement benefit provided under sub-paragraph (3) above an appropriate amount in respect of the administrative expenses incurred by them in carrying this paragraph into effect.

#### **Textual Amendments**

**F297** Words added (with effect from 1.5.1987) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 10](#), para. 29

- 6 Nothing in paragraph 2, 3, 4 or 5 above is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 by way of complete substitute for another pension or benefit.
- 7
  - (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
  - (2) This Part of this Schedule does not override a protected provision of a scheme.
  - (3) Subject to sub-paragraph (4) below, in sub-paragraph (2) above “protected provision” has the same meaning as it has in subsection (2) of section 41C above by virtue of subsection (3) of that section.
  - (4) In its application to schemes which are not contracted-out section 41C(3) above shall have effect for the purpose of this paragraph as if—
    - (a) there were omitted—

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- (i) from paragraph (a), sub-paragraph (ii) and the word “or” immediately preceding it;
  - (ii) from paragraph (b), the word “and”; . . . <sup>F298</sup>
  - (iii) from paragraph (c), the words from “authorised” to the end; and
  - <sup>F299</sup>(iv) from paragraph (e), the words from “as respects” to “guaranteed minimum pension”.]
- (b) . . . . . <sup>F300</sup>

**Textual Amendments**

- F298** Word repealed (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 7](#), para. 9(3)
- F299** [Sch. 1A](#), para. 7(4)(iv) added (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 9(3)
- F300** [Sch. 1A](#), para. 7(4)(b) repealed (with effect from 13.7.1990) by [Social Security Act 1990 \(c. 27\)](#), [Sch. 4](#), para. 9(3) and [Sch. 7](#)

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

- C89** “Protected provision” in para. 7 modified by reg. 7 of [S.I. 1991/168](#)

- 8 If under a scheme—
- (a) the amount of the pension or other benefit for a member or for any other person in respect of him falls to be increased during the period mentioned in paragraph 1(2)(a) above—
    - (i) by the percentages specified during that period under <sup>F301</sup>section 151(1) of the Administration Act]; or
    - (ii) under any arrangement which, in the opinion of the Occupational Pensions Board, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain during that period; and
  - (b) the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or his widow has not been deducted, the fact that the scheme provides as mentioned in sub-paragraph (a) above does not in itself result in conflict with paragraph 2, 3 or 4 above.

**Textual Amendments**

- F301** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), [Sch. 2](#), para. 41

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

- C90** [Para. 8\(b\)](#) to be construed (with effect from 21.7.1989) as if references to “widow” included references to widower (and with consequential modifications) by virtue of [Social Security Act 1986 \(c. 50\)](#), [s.9\(4\)\(i\)](#)

- 9 In making any calculation for the purposes of this Part of this Schedule any commutation, forfeiture or surrender of the whole or part of a pension shall be disregarded.

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

**C91** Para. 9 modified by reg. 8 of S.I. 1991/168

- 10 The same money may not be treated as providing both the benefit required by section 41A or 41B above and the increase in benefit required by this Part of this Schedule.

**PART II**

TRANSFER VALUES

- 11 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this Part of this Schedule if—
- (a) it terminates at least one year before normal pension age; and
  - (b) on the date when it terminates—
    - (i) he has accrued rights to benefit under the scheme; . . . <sup>F302</sup>
    - (ii) . . . . . <sup>F302</sup>
- (2) For the purposes of this Part of this Schedule . . . <sup>F303</sup>, “pensionable service” and “normal pension age” are to be construed in accordance with Schedule 16 to the Social Security Act 1973.
- (3) Any reference to a member in the following provisions of this Part of this Schedule is a reference to a member of an occupational pension scheme to whom this Part of this Schedule applies.

**Textual Amendments**

**F302** Sch. 1A para. 11(1)(b)(ii) and word “or” preceding it, repealed (with effect from 28.2.1991) by Social Security Act 1990 (c. 27), Sch. 4, para. 5(4)(c)(i) and Sch. 7

**F303** Words repealed (with effect from 28.2.1991) by Social Security Act 1990 (c. 27), Sch. 4, para. 5(4)(c)(ii) and Sch. 7

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

**C92** Under reg. 3(10) of S.I. 1987/1116, para. 11 above has effect (27.7.1987) in relation to personal pension schemes as modified by para. 7 of Sch. 4 to that S.I.

- 12 (1) Subject to the following provisions of this Schedule, a member acquires a right, when his pensionable service terminates, to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to or in respect of him under the applicable rules; . . . <sup>F304</sup>
  - (b) . . . . . <sup>F304</sup>
- (2) In this paragraph “the applicable rules” means—

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- (a) the rules of the scheme, except so far as—
  - (i) section 41A or 41B above; or
  - (ii) Part I of this Schedule,
 overrides them; and
- (b) any provision which the rules of the scheme do not contain but which a scheme must contain if it is to conform with the preservation requirements; and
- (c) any provision—
  - (i) of section 41A or 41B above; or
  - (ii) of Part I of this Schedule,
 which overrides any of the rules of the scheme;
 

“the relevant date” means [<sup>F305</sup>, subject to regulations under sub-paragraph (2C) below,] the date when the member’s pensionable service terminates or the date of the relevant application, whichever is the later; and

“the relevant application” means any application which the member has made under paragraph 16 below and which he has not withdrawn.

[<sup>F306</sup>(2A) Where a member continues in employment to which a scheme applies after his pensionable service in that employment terminates—

- (a) if regulations so provide, he only acquires a right to the cash equivalent of such part of the benefits specified in sub-paragraph (1) above as may be prescribed; and
- (b) if regulations so provide, he acquires no right to a cash equivalent.

(2B) Regulations may provide for the purposes of sub-paragraph (2A) above that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.]

[<sup>F307</sup>(2C) Regulations—

- (a) may provide that a right at the relevant date to the cash equivalent of any part of the benefits specified in sub-paragraph (1) above which but for regulations under the foregoing provisions of this paragraph a member would have on the termination of his pensionable service in an employment to which a scheme applies shall, if his employment terminates at least one year before normal pension age, accrue to him on the date when it terminates and be valued accordingly; and
- (b) may substitute, in relation to any case to which the regulations apply—
  - (i) a new definition of the “relevant date” for the definition in sub-paragraph (2) above, and
  - (ii) a new definition of “the last option date” for the definition in paragraph 15(2) below.]

(3) .....<sup>F308</sup> in sub-paragraph (2) above “the preservation requirements” means the requirements set out in Part I of Schedule 16 to the Social Security Act 1973 as the requirements of Part II of that Act relating to preservation of benefit under occupational pension schemes.

(4) .....<sup>F309</sup>

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#### Textual Amendments

- F304** Sch. 1A para. 12(1)(b) and word “or” preceding it repealed (with effect from 28.2.1991) by Social Security Act 1990 (c. 27), **Sch. 4**, para. 5(4)(c)(iii) and Sch. 7
- F305** Words inserted (with effect from 6.4.1988) by Social Security Act 1988 (c. 7), **Sch. 2**, para. 3(a)
- F306** Sch. 1A paras. 12(2A) and (2B) inserted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), **Sch. 10**, para. 30(a)
- F307** Sch. 1A para. 12(2C) inserted (with effect from 6.4.1988) by Social Security Act 1988 (c. 7), **Sch. 2**, para. 3(b)
- F308** Words repealed retrospectively by Social Security Act 1986 (c. 50), **Sch 10**, para. 30(b)
- F309** Sch. 1A para. 12(4) repealed retrospectively by Social Security Act 1986 (c. 50), **Sch 10**, para. 30(b)

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

- C93** Under reg. 3(10) of S.I. 1987/1116, **Sch. 1A para. 12** has effect (27.7.1987) in relation to personal pension schemes as modified by para. 8 of Sch. 4 to that S.I.

13 (1) A member who acquires a right to a cash equivalent under this Part of this Schedule may only take it by exercising the option conferred by sub-paragraph (2) below.

[<sup>X1</sup>(2) Subject to sub-paragraphs (3) and (4) below, the option conferred by this sub-paragraph on any such member is that of requiring the trustees or managers of the scheme of which he is a member to use the cash equivalent to which he has acquired a right in whichever of the ways specified in paragraphs (a), (b) and (c) below he chooses—

- (a) for acquiring transfer credits allowed under the rules of [<sup>F310</sup>another occupational pension scheme, or for acquiring rights allowed under the rules of a personal pension scheme] whose trustees or managers [<sup>F311</sup>, in either case,] are able and willing to accept him and which [<sup>F311</sup>, in either case,] satisfies prescribed requirements;
- (b) [<sup>F312</sup>except in respect of the cash equivalent of his protected rights, if any, under a scheme which is, or was formerly, a money purchase contracted-out scheme] for purchasing from one or more insurance companies such as are mentioned in section 52C (4)(a) above, chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
- (c) subject to sub-paragraph (3) below, for subscribing to [<sup>F313</sup>other pension arrangements which satisfy prescribed requirements].]

[<sup>F314</sup>(2) Subject to sub-paragraphs (3) and (4) below, the option conferred by this sub-paragraph on any such member is that of requiring the trustees or managers of the scheme of which he is a member to use the cash equivalent to which he has acquired a right in whichever of the ways specified in paragraphs (a), (b) and (c) below he chooses—

- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme, or for acquiring rights allowed under the rules of another personal pension scheme whose trustees or managers, in either case, are able and willing to accept him and which, in either case, satisfies prescribed requirements;
- (c) subject to sub-paragraph (3) below, for subscribing to other pension arrangements which satisfy prescribed requirements.]

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[<sup>F315</sup>(2A) Without prejudice to the generality of sub-paragraph (2) above, the powers conferred by that sub-paragraph include power to provide that a scheme, an annuity or pension arrangements must satisfy requirements of the Inland Revenue.]

(3) Except in such circumstances as may be prescribed sub-paragraph (2) above is to be construed as if paragraph (c) were omitted.

(4) A member may exercise the option conferred by sub-paragraph (2) above in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (5) below applies, in relation to the whole of the sum mentioned in sub-paragraph (6) below.

[<sup>X2</sup>(5) Where—

[<sup>F316</sup>(a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme, or of a personal pension scheme which is not an appropriate scheme, [<sup>F317</sup>or of a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987] are able or willing to accept a transfer payment only in respect of a member's rights other than his accrued rights to guaranteed minimum pensions or his protected rights; and

(b) the member has not required the trustees or managers of the scheme from which he is being transferred to use that portion of his cash equivalent that represents guaranteed minimum pensions or protected rights in any of the ways specified in sub-paragraph (2) above.]

paragraph 12 above, this paragraph and paragraph 14 below are to be construed as conferring on the member an option only in respect of the sum mentioned in sub-paragraph (6) below.

(6) The sum referred to in sub-paragraph (5) above is the sum equal to the balance of the cash equivalent to which the member would be entitled if sub-paragraph (5) above did not apply, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability in respect of his and his widow's guaranteed minimum pensions [<sup>F318</sup>or his protected rights].]

[<sup>F319</sup>(5) Where—

(a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme, or of a personal pension scheme which is not an appropriate scheme, [<sup>F320</sup>or of a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987] are able or Willing to accept a transfer payment only in respect of a member's rights other than his protected fights within the meaning given by Schedule 1 to the Social Security Act 1986; and

(b) the member has not required the trustees or managers of the scheme from which he is being transferred to use that portion of his cash equivalent that represents protected rights within the meaning given by Schedule 1 to te Social Security Act 1986 in either of the ways specified in sub-paragraph (2) above,

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paragraph 12 above, this paragraph and paragraph 14 below are to be construed as conferring on the member an option only in respect of the sum mentioned in sub-paragraph (6) below.

- (6) The sum referred to in sub-paragraph (5) above is the sum equal to the balance of the cash equivalent to which the member would be entitled if sub-paragraph (5) above did not apply, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability in respect of his protected rights within the meaning given by Schedule 1 to the Social Security Act 1986.]

#### Editorial Information

- X1** Sch. 1A para. 13(2) containing sub-paras (a) and (c) substituted for para. 13(2) containing sub-paras. (a), (b) and (c) (with effect from 6.4.1988) by S.I. 1987/1116, reg. 3(10) and para. 9(a)(b)
- X2** Sch. 1A para 13(5)(6) as set out second substituted (with effect from 6.4.1988) for para 13(5)(6) as set out first, by S.I. 1987/1116, Sch. 4 para. 9(c) and (d)

#### Textual Amendments

- F310** Words substituted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para. 1)
- F311** Words inserted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para. 1)
- F312** Words inserted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para. 2)
- F313** Words substituted by Social Security Act 1986 (c. 50), Sch. 10, para. 30(c)(i)
- F314** Sch. 1A para. 13(2) containing sub-paras (a) and (c) substituted for para. 13(2) containing sub-paras. (a), (b) and (c) (with effect from 6.4.1988) by S.I. 1987/1116, reg. 3(10) and para. 9(a)(b)
- F315** Sch. 1A para. 13(2A) inserted by Social Security Act 1986 (c.50), Sch. 10, para. 30(c)(ii)
- F316** Sch. 1A para. 13(5)(a)(b) substituted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para.3)
- F317** Words inserted (with effect from 1.7.1988) by The Personal and Occupational Pension Schemes (Transfer to Self-employed Arrangements) Regulations 1988 (S.I. 1988/1016, reg. 4(2)(b))
- F318** Words added (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para.4)
- F319** Sch. 1A para 13(5)(6) as set out second substituted (with effect from 6.4.1988) for para 13(5)(6) as set out first, by S.I. 1987/1116, Sch. 4 para. 9(c) and (d)
- F320** Words inserted (with effect from 1.7.1988) by The Personal and Occupational Pension Schemes (Transfer to Self-employed Arrangements) Regulations 1988 S.I. 1988/1016, reg. 4(2)(b)

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

- C94** Under reg. 3(10) of S.I. 1987/1116, para. 13(1) and (2) as set out first above have effect (27.7.1987) in relation to personal pension schemes subject to the modifications, specified in para. 9(a) and (b) of Sch. 4 to that S.I., of para. 13(2) as it stood before 6.4.1988. As so modified, para.13(2) reads as set out secondly below
- C95** Under reg. 3(10) of S.I. 1987/1116, para. 13 (2A)-(6) above have effect (27.7.1987) in relation to personal pension schemes subject to the modifications, specified in para. 9(c) and (d) of Sch. 4 to that S.I., of para. 13(5) and (6) as it stood before 6.4.88. As so modified para. 13(5) and (6) reads as set out secondly below
- C96** Sch. 1A para. 13(6) to be construed (with effect from 21.7.1989) as if references to “widow” included references to widower (and with consequential modifications) by virtue of Social Security Act 1986 (c. 50), s.9(4)(i)



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- 14 (1) [<sup>F321</sup>Cash equivalents] are to be calculated and verified in the prescribed manner.
- (2) The power to make regulations conferred by sub-paragraph (1) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons; or
  - (b) by persons with prescribed professional qualifications or experience; or
  - (c) by persons approved by the Secretary of State
- [<sup>F322</sup>and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body].
- (3) Regulations may provide—
- (a) that in calculating cash equivalents account shall be taken—
    - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under paragraph 16 below;
    - [<sup>X3</sup>(ii) in a case where a paragraph 13(5) above applies, of the need to deduct an appropriate amount to provide guaranteed minimum pensions [<sup>F323</sup>or give effect to protected rights]; and]
    - [<sup>F324</sup>(ii) in a case where paragraph 13(5) above applies, of the need to deduct an appropriate amount to make provision for protected rights; and]
  - [<sup>F325</sup>(b) that in prescribed circumstances a cash equivalent shall be increased or reduced.]
- (4) Without prejudice to the generality of sub-paragraph (3) above—
- (a) the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include—
    - (i) the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Part of this Schedule or regulations under it;
    - (ii) failure by the trustees or managers of a scheme to do what is needed to carry out what a member of the scheme requires within six months of the date on which they receive an application from him under paragraph 16 below; and
    - (iii) the state of the funding of a scheme; and
  - (b) regulations under that sub-paragraph may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

#### Editorial Information

**X3** Sch. 1A, para. 14(3)(a)(ii) as set out second, substituted for para. 14(3)(a)(ii) as set out first, by S.I.1987/1116, Sch. 4, para. 10(a)

#### Textual Amendments

**F321** Words substituted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), Sch. 10, para. 30(d)(i)

**F322** Words added (with effect from 25.7.1986) by Social Security Act 1986 (c.50), Sch. 10, para. 30(d)(ii)

**F323** Words inserted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para. 5)



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**F324** Sch. 1A, para. 14(3)(a)(ii) as set out second, substituted for para. 14(3)(a)(ii) as set out first, by S.I. 1987/1116, Sch. 4, para. 10(a)

**F325** Sch. 1A para. 14(3)(b) substituted (with effect from 6.4.1988) by Social Security Act 1986 (c. 50), Sch. 10, para. 30(d)(iii)

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

**C97** Under reg. 3(10) of, and para. 10 of Sch. 4 to, S.I. 1987/1116, para. 14 above has effect (27.7.1987) in relation to personal pension schemes subject to the omission of sub-paragraph 14(4)(a)(i), and to the modification, specified in para. 10(a) of Sch. 4 to that S.I., of sub-para. 14(3)(a)(ii) as it stood before 6.4.1988. As so modified, sub-para. 14(3)(a)(ii) reads as set out second

- 15 (1) A member may only exercise the option conferred by paragraph 13 above on or before the last option date.
- (2) In this paragraph “the last option date” means the date which falls—
- (a) one year before the date on which he attains normal pension age, or
  - (b) six months after the date when his pensionable service terminates, whichever is the later.
- (3) A member loses the right to any cash equivalent under this Part of this Schedule—
- (a) if his pension or benefit in lieu of a pension or any part of it becomes payable before he attains normal pension age;
  - (b) if he fails to exercise the option conferred by paragraph 13 above on or before the last option date; or
  - (c) if the scheme is wound up.

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

**C98** Under reg. 3(10) of S.I. 1987/1116, the revised form of para. 15 set out in para. 11 of Sch. 4 to that S.I. has effect (27.7.1987) in relation to personal pension schemes.

**C99** (Definition of “the last option date” modified, in certain cases where employment continues after pensionable service in it has terminated, by S.I. 1985/1931, reg. 2C(3))

- 16 (1) A member may only exercise the option conferred by paragraph 13 above by making an application in writing to the trustees or managers of the scheme.

[<sup>X4</sup>(2) In any case where—

- (a) a member has exercised that option; and
- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires.

the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any [<sup>F326</sup>such cases as are] mentioned in paragraph 13(5) above, to the extent that an obligation to provide [<sup>F326</sup>such guaranteed minimum pensions or give effect to such protected rights] continues to subsist.]

[<sup>F327</sup>(2) In any case where—

- (a) a member has exercised that option; and

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- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,
- the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 1 3(5) above, to the extent that an obligation to make provision for such protected rights continues to subsist.]
- (3) If the trustees or managers of a scheme receive an application under this paragraph, it shall be their duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires—
- (a) within twelve months of the date on which they receive the application; or
- (b) by the date on which the member attains normal pension age, whichever is the earlier.
- (4) If—
- (a) disciplinary proceedings or proceedings before a court have been commenced against a member at any time before the expiry of the period of twelve months beginning with the date when his pensionable service terminates; and
- (b) it appears to the trustees or managers of the scheme of which he is a member that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited,
- it shall be the trustees' or managers' duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires before—
- (i) the date before which they would be obliged to do it under sub-paragraph (3) above; or
- (ii) the end of the period of three months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),
- whichever is the later.
- (5) The Occupational Pensions Board may grant an extension of the period within which the trustees or managers of a scheme are obliged to do what is needed to carry out what a member of the scheme requires—
- (a) in any case where in the opinion of the Board—
- (i) the scheme is being wound up or is about to be wound up;
- (ii) the scheme is ceasing to be a contracted-out scheme;
- (iii) the interests of the members of the scheme generally will be prejudiced if the trustees or managers of the scheme do what is needed to carry out what is required within that period; or
- (iv) the member has not taken all such steps as the trustees or managers can reasonably expect him to take in order to satisfy them of any matter which falls to be established before they can properly carry out what he requires;
- (b) in any case where the provisions of section 49 above apply; and
- (c) in any case where a request for an extension has been made on a ground specified in paragraph (a) or (b) above, and the Board's consideration of the request cannot be completed before the end of that period.
- (6) A request under sub-paragraph (5) above may only be made by the trustees or managers.

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- (7) The Board shall have power, if they are satisfied that there has been a relevant change of circumstances since they granted an extension, or that they granted an extension in ignorance of a material fact or on the basis of a mistake as to a material fact—
- (a) to direct that the extension shall end on a date earlier than that on which it would otherwise have ended; or
  - (b) to revoke the grant of the extension.
- (8) An application to the trustees or managers of a scheme under this paragraph is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

#### **Editorial Information**

- X4** Sch. 1A para. 16(2) as set out second substituted (with effect from 6.4.1988) for para. 16(2) as set out first by S.I. 1987/1116, Sch. 4, para. 12(a)

#### **Textual Amendments**

- F326** Words substituted (with effect from 6.4.1988) by The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116, Sch. 6, para. 6)
- F327** Sch. 1A para. 16(2) as set out second substituted (with effect from 6.4.1988) for para. 16(2) as set out first by S.I. 1987/1116, Sch. 4, para. 12(a)

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

- C100** Under reg. 3(10) of S.I. 1987/1116, para. 16(1) and (2) as set out first have effect (27.7.1987) in relation to personal pension schemes subject to the modification, specified in para. 12(a) of Sch. 4 to that S.I., of that part of para. 16(2) which came after the words “an obligation” as it stood before 6.4.1988. As so modified, para. 16(2) reads as set out second
- C101** Under reg. 3(10) of S.I. 1987/1116, Sch. 1A para. 16(3)-(8) has effect (27.7.1987) in relation to personal pension schemes subject to the modifications, specified in para. 12(b)-(e) of Sch. 4 to that S.I., to paras. 3(b), (4) and (5)

- 17 (1) Subject to sub-paragraph (2) below, a member of a scheme may withdraw an application under paragraph 16 above by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.
- (2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member’s cash equivalent in a way specified in paragraph 13(2)(a), (b) or (c) above.
- (3) A member who withdraws an application may make another.
- (4) A notice to the trustees or managers of a scheme under this paragraph is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

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

**C102** Under reg. 3(10) of, and para. 13 of Sch. 4 to, [S.I. 1987/1116](#), [paras. 17](#) and 18 above have effect (27.7.1987) in relation to personal pension schemes, subject to the substitution, in para. 17(2) above, of “13(2)(a) or (c)” for “13(2)(a), (b) or (c)”

- 18 (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
- (2) This Part of this Schedule does not override any provision of a scheme to the extent that it deals with priorities on a winding-up.

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

**C103** Under reg. 3(10) of, and para. 13 of Sch. 4 to, [S.I. 1987/1116](#), [paras. 17](#) and 18 above have effect (27.7.1987) in relation to personal pension schemes, subject to the substitution, in para. 17(2) above, of “13(2)(a) or (c)” for “13(2)(a), (b) or (c)”

### PART III

#### SUPPLEMENTARY

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

**C104** Under reg. 3(10) of [S.I. 1987/1116](#), Part III (paras. 19-23) has effect (27.7.1987) in relation to personal pension schemes subject to modifications, specified in paras. 14-16 of Sch. 4 to that S.I., to paras. 19, 21 and 22

- 19 In making any calculation for the purposes of this Schedule—
- (a) any charge or lien on the whole or part of a pension; and
  - (b) any set-off against the whole or part of a pension,
- shall be disregarded.
- 20 (1) The Secretary of State may by regulations direct that this Schedule shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may there specify.
- (2) In sub-paragraph (1) above “modification” includes, without prejudice to the generality of that sub-paragraph, addition, omission and amendment.
- 21 The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether—
- (a) any provision of this Schedule (including, without prejudice to section 20(2) of the Interpretation Act 1978, any such provision as modified

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- by regulations under paragraph 20 above) does or does not override any provision of the scheme;
- (b) any benefit is an average salary benefit, a flat rate benefit or a money purchase benefit.
- 22 (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in paragraph 21 above.
- (2) The persons competent to make an application under this paragraph in respect of a scheme are—
- (a) the persons mentioned in section 41E(2)(a) to (d) above; and
- (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this paragraph in respect of a scheme of that category.
- 23 It is hereby declared that nothing in the foregoing provisions of this Schedule is to be taken to preclude a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.

## SCHEDULE 2

Section 52.

### CONTRACTING-OUT REGULATIONS

#### *General regulations*

- 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 such employments are or have been contracted-out, provision may be made by regulations—
- (a) for treating an earner's employment, where it ends before a person succeeds to the business of the earner's employer, as having been employment under the employer's successor;
- (b) for disregarding changes in an earner's employment due to the death of an employer or other cause, or any cesser of contracted-out employment so due, or for treating employment under one employer as a continuation of that under another and treating any contracting-out certificate issued to, or election made by, the former employer as issued to or made by the latter;
- (c) for disregarding temporary interruptions in an earner's employment or contracted-out employment, and for treating the employment in either case as continuing during the interruption; and
- (d) 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;

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and 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.

- 2 Regulations may enable the Occupational Pensions Board 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 earlier than would otherwise be the case, not being, in the case of an earner within the scope of the determination, a date earlier than that on which his relevant employment began or a contracting-out certificate was issued in respect of it, whichever is the later.
- 3 Provision may be made by regulations for requiring an employer to give notice to the Secretary of State when an earner's employment becomes or ceases to be contracted-out employment and when an earner's employment in contracted-out employment begins or ends.

#### *Requisite benefits*

F328 .....

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#### **Textual Amendments**

**F328** Sch. 4 para 4 repealed by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

#### *Modification of Part III in certain cases*

- 5 (1) Regulations may modify the provisions of Part III of this Act in their application to cases in which a person is employed at the same time in two or more employments (whether or not under the same employer), being employments of which at least one is contracted-out employment but which are not all contracted-out employments, with a view to enabling the employments to be treated either separately or together for the purposes of that Part of this Act.
- (2) Regulations may modify the provisions of Part III of this Act 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;
  - (b) earners qualify for the benefits of a scheme by reference not only to service in contracted-out employment but also to service in the same or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment;

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and regulations under this paragraph may include provision for securing that in such cases an earner's employment does not cease to be contracted-out employment only because his service for the time being does not qualify him for the requisite benefits.

*State scheme premiums*

6 (1) Regulations may make provision for requiring persons to furnish the Secretary of State or the Occupational Pensions Board with such information as he or the Board may require for the purposes of sections 42 to 50 of this Act.

(2) In relation to employed earners who, in any period of service in contracted-out employment—

- (a) have been paid earnings in any income tax week by more than one person in respect of different employments; or
- (b) have worked under the general control or management of a person other than their immediate employer,

and in relation to any other case for which it appears to the Secretary of State that such provision is needed, regulations may provide that for the purposes of sections 42 to 45 of this Act the prescribed person shall be treated as the employer of any earners.

(3) Regulations may, in relation to state scheme premiums, provide—

- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- (b) for treating a premium payable in respect of any person as actually paid where the failure to pay is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, that person;
- [<sup>F329</sup>(bb) for treating part of a premium payable in prescribed circumstances in respect of a person as actually paid and for modifying Part III of this Act in relation to a case in which such a part is so treated;]
- (c) for treating a premium wrongly paid, or paid as to the wrong amount, as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of [<sup>F330</sup>The Contributions and Benefits Act];
- (d) for the return of premiums paid in error or, in prescribed circumstances, of premiums as to which the Secretary of State is satisfied that they ought to be repaid;
- (e) for the Secretary of State, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;
- (f) for any other matters incidental to the payment, collection or return of premiums.

[<sup>F331</sup>and the Secretary of State may accept payments in connection with a case in which a premium or part of it is treated as actually paid and shall pay into the National Insurance Fund any sums received by him by way of such payments]

[<sup>F332</sup>(4) Without prejudice to sub-paragraph (3) above, regulations may provide—

- (a) that for the purpose of extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions [<sup>F333</sup>or, in the case of a contracted-out protected rights premium, for the purpose of extinguishing

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- protected rights and reducing any guaranteed minimum pension to which a person is entitled.] a state scheme premium is to be treated as actually paid on a date determined under the regulations;
- (b) for disregarding the effect of regulations made by virtue of paragraph (a) of this sub-paragraph in a case where the premium in question is not paid on or before the date when it becomes payable or such later date as may be determined under the regulations; and
  - (c) for obtaining repayment of benefits paid by virtue of regulations so made in a case where the effect of the regulations is to be disregarded, and, where the repayment is obtained from assets of the relevant scheme, for reducing the sums payable under the scheme to the beneficiary by the amount of the repayment.]
- [<sup>F334</sup>(a) that for the purpose of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled, a personal pension protected rights premium is to be treated as actually paid on a date determined under the regulations;]

#### Textual Amendments

- F329** Para. 6(3)(bb) inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(a\)](#)
- F330** Words substituted (with effect from 1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), Sch. 2, para. 42](#)
- F331** Words inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(b\)](#)
- F332** Para. 6(4) inserted by [Social Security Act 1980 \(c. 30\), s. 3\(12\)\(c\)](#)
- F333** Words inserted (with effect from 6.4.1988) by [The Personal and Occupational Pension Schemes \(Modification of Enactments\) Regulations 1987 \(S.I. 1987/1116, reg. 5\(4\)\)](#)
- F334** [Sch. 2 para. 6\(4\)\(a\)](#) substituted (with effect from 6.4.1988) by [S.I. 1987/1116 reg. 3\(11\) and Sch. 5 para. 3](#)

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

- C105** Under reg. 3(11) of, and Sch. 5 to, [S.I. 1987/1116, Sch. 2 para. 6](#) has effect (27.7.1987) in relation to personal pension schemes subject to the substitution (in para. 6(3)(bb)) of “Part I of the Social Security Act 1986” for “Part III of this Act”, the omission (in para. 6(3)(c)) of the words after “another premium”, and the modification made by para. 3 of Sch. 5 to that S.I. to para. 6(4)(a) above as it stood before 6.4.1988. As so modified, para. 6(4)(a) reads as set out at the end of para. 6

#### Centralised schemes

- 7 (1) Regulations may modify sections 31 to 49 of this Act 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—
- (a) for the trustees or managers of the scheme instead of the employer to be subject to the liabilities imposed by sections 42 to 45 of this Act;
  - (b) for the adjustment (whether as a consequence of any provision made under paragraph (a) above or otherwise) of rights and liabilities as between employers, earners and the trustees or managers.



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*Special provisions for certain public service pension schemes*

- 8 (1) In relation to employments of any class to which this paragraph applies, the Secretary of State may by regulations—
- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by him instead of by the employer;
  - (b) make provision for other things which by or under Part III of this Act are required or authorised to be done by or to an employer to be done instead by or to the Secretary of State;
  - (c) 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;
  - (d) make provision for the recovery by the Secretary of State of any state scheme premium from any person where it has been paid by the Secretary of State instead of by that person.
- (2) Before making any regulations under this paragraph the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.
- (3) Subject to sub-paragraphs (4) and (5) below, the employments in which an earner's service qualifies him for benefit under any of the following enactments shall constitute a class to which this paragraph applies—
- Section 26 of the <sup>M32</sup>Fire Service Act 1947;
  - [<sup>F335</sup>the <sup>M33</sup>Police Pensions Act 1976];
  - Sections 7 to 10 of the <sup>M34</sup>Superannuation Act 1972.
- (4) Where service in any employment would qualify a person as aforesaid under any of the enactments specified in sub-paragraph (3) above but for rules having effect under section 2 of <sup>M35</sup> the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as falling within the class to which that enactment relates and as not falling within any other class to which this paragraph applies.
- (5) 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 (3) above, that provision shall be deemed to be included among the enactments so specified.

**Textual Amendments**

**F335** Words substituted by [Police Pensions Act 1976 \(c. 35\), Sch. 2 para. 11](#)

**Marginal Citations**

**M32** 1947 c. 41.

**M33** 1976 c. 35.

**M34** 1972 c. 11.

**M35** 1948 c. 33

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### *Incidental matters*

- 9 Regulations may make provision for any incidental matters connected with the provisions of Part III of this Act in relation to any employment which is, has been or may become contracted-out employment and for any incidental matters otherwise connected with the provisions of that Part or this Schedule.

## SCHEDULE 3

Section 58.

### PRIORITY IN BANKRUPTCY ETC.

#### *Earners' contributions to occupational pension scheme*

- 1 <sup>[F336]</sup>This Schedule applies to] any sum owed on account of an earner's contributions to an occupational pension scheme, being contributions deducted from earnings paid in the period of four months immediately preceding the <sup>[F337]</sup>relevant date] or otherwise due in respect of earnings paid or payable in that period.

#### **Textual Amendments**

**F336** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(2)

**F337** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(3)

#### *Employer's contributions to occupational pension scheme*

- 2 (1) <sup>[F338]</sup>This Schedule applies to] any sum owed on account of an employer's contributions to a contracted-out scheme, being contributions payable—
- (a) in the period of twelve months immediately preceding the <sup>[F339]</sup>relevant date]; and
  - (b) in respect of earners in contracted-out employment by reference to the scheme towards the provision for those earners of guaranteed minimum pensions under the scheme.

<sup>[F340]</sup>(1A) This Schedule applies to any sum owed on account of an employer's minimum payments to a contracted-out scheme falling to be made in the period of twelve months immediately preceding the relevant date.]

- (2) In so far as contributions <sup>[F341]</sup>or payments] cannot from the terms of the scheme be identified as falling within sub-paragraph (1) <sup>[F341]</sup>or (1A)] above, the amount of the debt having priority by virtue of that sub-paragraph shall be deemed <sup>[F342]</sup>, in a case where the relevant event took place before the day of the passing of the Social Security Act 1985,] to be an amount equal to—
- (a) 7 per cent. of the total reckonable earnings paid or payable, in the period of twelve months referred to in that sub-paragraph, to or for the benefit of non-contributing earners; or

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- (b) 4.5 per cent. of the total reckonable earnings paid or payable in that period to or for the benefit of contributing earners.
- [<sup>F341</sup>and shall be deemed, [<sup>F343</sup>in any other case], to be an amount equal to—
- (i) [<sup>F344</sup>5.8] per cent. of the total reckonable earnings mentioned in paragraph (a) above; and
- (ii) [<sup>F345</sup>3.8] per cent. of the total reckonable earnings mentioned in paragraph (b) above; and]
- (3) For the purposes of sub-paragraph (2) above—
- (a) the earnings to be taken into account as reckonable earnings are those paid or payable to or for the benefit of earners in contracted-out employment (by reference to the scheme) in the whole or any part of the said period of twelve months; and
- (b) earners are to be identified as contributing or non-contributing in relation to service of theirs in contracted-out employment by reference to the scheme according to whether or not in the period in question they were liable under the terms of the scheme to contribute in respect of that service towards the provision of pensions under the scheme.
- (4) In this paragraph “employer” shall be construed in accordance with regulations made under section 66(3) of this Act and “reckonable earnings”, in relation to any employment, means the earner’s earnings from that employment so far as those earnings—
- (a) were comprised in any payment of earnings made to him or for his benefit at a time when the employment was contracted-out employment; and
- (b) exceeded the current lower earnings limit but not the current upper earnings limit.

#### Textual Amendments

- F338** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(2)
- F339** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(3)
- F340** [Sch. 3 para. 2\(1A\)](#) inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 12(a)
- F341** Words inserted (with effect from 6.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 2](#), para. 12(b)
- F342** Words inserted by [Social Security Act 1985 \(c. 53\)](#), s. 29(1), [Sch. 5 para. 36](#)
- F343** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(4)
- F344** Figure substituted, in relation to earnings from 6.4.1988, for figure of 6.25 by [S.I. 1987/656](#), [art 3](#)
- F345** Figure substituted, in relation to earnings from 6.4.1988, for figure of 4.1 by [S.I. 1987/656](#), [art 3](#)

#### *State scheme premiums*

- 3 (1) [<sup>F346</sup>This Schedule applies to] any sum owed on account of a state scheme premium payable at any time before, or in consequence of, [<sup>F347</sup>a person going into liquidation or being adjudged bankrupt][<sup>F348</sup>the sequestration of a debtor’s estate][<sup>F349</sup>or (in the case of a company not in liquidation)—
- (a) the appointment of a receiver as mentioned in section 40 of the Insolvency Act 1986 (debenture-holders secured by floating charge), or

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- (b) the appointment of a receiver under section 53(6) or 54(5) of that Act (Scottish company with property subject to floating charge), or
  - (c) the taking of possession by debenture-holders (so secured) as mentioned in section 196 of the Companies Act 1985].
- (2) Where any such premium is payable in respect of a period of service of more than twelve months (taking into account any previous linked qualifying service), the amount to be paid in priority by virtue of this paragraph shall be limited to the amount of the premium that would have been payable if the service had been confined to the last twelve months taken into account in fixing the actual amount of the premium.
- (3) Where—
- (a) by virtue of this paragraph the whole or part of a premium is required to be paid in priority to other debts of the debtor or his estate; and
  - (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 47 of this Act or under any provision made by the relevant scheme for the purposes of that section or otherwise,
- that other person shall be liable for any part of the premium for the time being unpaid; but so that no person shall be liable by virtue of this sub-paragraph for an amount in excess of the sum which might thereunder be recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under this sub-paragraph.
- (4) The payment under sub-paragraph (3) above of any amount in respect of a premium shall have the same effect on the rights and liabilities of the person making it (other than his liabilities under that sub-paragraph) as if it had been a payment of that amount on account of the sum recoverable from him in respect of a premium as mentioned in sub-paragraph (3)(b) above.

#### **Textual Amendments**

- F346** Words substituted (with effect from 29.12.1986) by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8](#), para. 26(2)
- F347** Words substituted (with effect from 29.12.1986) for company insolvency in Great Britain and for Bankruptcy in England and Wales, by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8 para. 26\(3\)](#)
- F348** Words substituted (with effect from 29.12.1986) for bankruptcy in Scotland, by [Bankruptcy \(Scotland\) Act 1985 \(c. 66\)](#), [Sch. 7](#), para. 13(i)
- F349** Words added (with effect from 29.12.1986) by [Insolvency Act 1986 \(c. 45\)](#), [Sch. 14](#)

#### *Interpretation*

- 4 <sup>[F350]</sup>Section 196(3) of the Companies Act 1985 and section 387 of Insolvency Act 1986 apply as regards the meaning in this Schedule of the expression “the relevant date”<sup>[F351]</sup>In this Schedule “the relevant date” has the same meaning as in Part I of Schedule 3 to the Bankruptcy (Scotland) Act 1985]; and references to a contracted-out scheme, contracted-out employment and a state scheme premium include references to a contracted-out scheme, contracted-out employment and a state scheme premium within the meaning of any provisions in force in Northern Ireland and corresponding to the provisions of this Act.

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

#### Textual Amendments

- F350** Words substituted (with effect from 29.12.1986) for company insolvency in Great Britain and for bankruptcy in England and Wales only, by [Insolvency Act 1986 \(c. 45\)](#), [Sch. 14](#)
- F351** Words applying, for the purposes of sequestration of a debtor's estate in Scotland, following substitution (with effect from 29.12.1986) of words by [Insolvency Act 1985 \(c. 65\)](#), [Sch. 8, para. 26\(5\)](#) and further amendment (also with effect from 29.12.1986), by [Bankruptcy \(Scotland\) Act 1985 \(c. 66\)](#), [Sch. 7, para. 13\(ii\)](#)

### [<sup>F352</sup>SCHEDULE 3A

Section 58A]

#### ANNUAL INCREASE IN RATE OF CERTAIN OCCUPATIONAL PENSIONS

#### Textual Amendments

- F352** [Sch. 3A](#) inserted (*prosp.*) by Sch. 2 to [Social Security Act 1990 \(c. 27\)](#)

### [<sup>F353</sup> Interpretation

#### Textual Amendments

- F353** [Sch. 3A](#) repealed (7.2.1994) by [1993 c. 48, s. 188\(1\)](#), [Sch. 5 Pt.I](#); [S.I. 1994/86, art. 2](#)

- 1 In this Schedule—
- “annual rate”, in relation to a pension or the later or earlier service component of a pension, means the annual rate of the pension or component, as previously increased under the rules of the scheme or this Schedule;
- “the appointed day” means the day on which this Schedule and section 58A of this Act come into force;
- “the appropriate percentage”, in relation to an increase in the annual rate of a pension or a component of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of twelve months;
- “earlier service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service before the appointed day;
- “later service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service on or after the appointed day;
- “pension”, in relation to a scheme, means any pension which commences or has commenced under the scheme but does not include—
- (a) a guaranteed minimum pension or any increase in such a pension under section 37A above; or
  - (b) any money purchase benefit;
- “pensionable service” has the meaning given by paragraph 3 of Schedule 16 to the 1973 Act;

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“qualifying scheme” means a scheme to which section 58A of this Act applies;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with section 52A above.

*Annual increase of later service component*

- 2 (1) If, apart from this Schedule, the annual rate of a pension under a qualifying scheme would not be increased as mentioned in section 58A(1)(b) of this Act, the annual rate of its later service component shall be increased annually by at least an amount equal to the appropriate percentage of the annual rate of that component as applicable immediately before the increase takes effect.
- (2) The first increase by virtue of this paragraph in the rate of a pension shall take effect not later than the first anniversary of the commencement of the pension and subsequent increases shall take effect at intervals of not more than twelve months thereafter.
- (3) This paragraph is subject to paragraphs 4 to 7 below.

*Annual increase of earlier service component where scheme is in surplus*

- 3 (1) If on any valuation day the value of a qualifying scheme’s assets, as determined in accordance with regulations, exceeds the value of its liabilities, as so determined, the amount of the excess (the “valuation surplus”) shall be applied in accordance with the following provisions of this paragraph in providing for annual increases, up to the aggregate referred to in sub-paragraph (6) below, in the annual rate of the earlier service component of each pension under the scheme that would not, apart from this Schedule, be increased as mentioned in section 58A(1)(b) of this Act.
- (2) The amount of each annual increase to be provided in pursuance of this paragraph in consequence of a valuation surplus shall be an amount equal to the appropriate percentage of the annual rate of the earlier service component of the pension in question as applicable immediately before that annual increase takes effect.
- (3) Except in a case where regulations otherwise provide, the days which are “valuation days” for the purposes of this paragraph are—
- (a) the appointed day; and
  - (b) each subsequent day as at which the assets and liabilities of the scheme in question are actuarially valued for any purpose.
- (4) Where, in consequence of a valuation surplus, this paragraph requires provision to be made for annual increases in the annual rate of the earlier service component of a pension, the first of those increases shall take effect not later than the first anniversary of the later of—
- (a) the valuation day as at which the valuation was made which disclosed the valuation surplus; or
  - (b) the commencement of the pension;
- and subsequent increases shall take effect at intervals of not more than twelve months thereafter.
- (5) In any case where—

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- (a) a valuation of the assets and liabilities of a qualifying scheme discloses a valuation surplus, but
  - (b) the amount of the surplus is insufficient to provide in full for the annual increases otherwise required by this paragraph in pensions under the scheme, the valuation surplus shall be applied in providing for the increases so required but only at the percentage rate that would apply year by year in relation to those increases if, for the maximum percentage of 5 per cent. specified in section 52A(9)(a) above, there were substituted such lower percentage as represents the greatest maximum percentage, as determined in accordance with regulations, by reference to which the valuation surplus is sufficient to provide for annual increases in the earlier service component of the pensions in question.
- (6) If a valuation surplus is disclosed on a valuation at any time when either—
- (a) provision has already been made by the scheme for the annual rate of the earlier service component of every such pension as is mentioned in sub-paragraph (1) above to be increased annually in the aggregate by at least the appropriate percentage of that rate, or
  - (b) the application of part only of the valuation surplus would be sufficient to secure that result,
- this paragraph does not require that valuation surplus or, as the case may be, the remaining part of it, to be applied in the provision of increases under this paragraph.
- (7) the powers conferred by sub-paragraphs (1) and (5) above to make regulations include, respectively, power to provide that the valuation of the scheme's assets or liabilities is to be calculated and verified, or the percentage in question is to be determined,—
- (a) in such manner as may, in the particular case, be approved—
    - (i) by a prescribed person;
    - (ii) by a person with prescribed professional qualifications or experience; or
    - (iii) by a person approved by the Secretary of State;
  - (b) in accordance with guidance prepared by a prescribed body;
  - (c) in accordance with prescribed principles and requirements; or
  - (d) in accordance with principles determined by the person who performs the duties of calculation and verification.
- (8) This paragraph is subject to paragraphs 4 to 7 below.

*Proportional increases where first period is less than 12 months*

- 4 (1) Where a pension commenced to be paid less than twelve months before the date on which its first increase under paragraph 2 above is to take effect, the amount of that first increase shall be determined by the application of the formula—

$$\frac{M \times I}{12}$$

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Where—

- M is the number of complete months in the period beginning with the commencement of the pension and ending immediately before that date; and  
 I is the amount of the increase that would have been required by that paragraph, apart from this sub-paragraph.

- (2) This paragraph shall apply in relation to the first increase of a pension by virtue of paragraph 3 above in consequence of each successive valuation surplus as it applies in relation to the first increase of a pension under paragraph 2 above.

*Restriction on increases where member is under 55*

- 5 (1) No increase under paragraph 2 or 3 above is required to be paid to or for a member of a scheme whose pension has commenced but who has not attained the age of 55 at the time when the increase takes effect, unless—
- (a) he is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or
  - (b) he has retired on account of mental or physical infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable,

in which case the pension shall be payable at the annual rate at which it would have been payable apart from this sub-paragraph.

- (2) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of paragraph (a) or (b) of sub-paragraph (1) above, the member—
- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but
  - (b) continues to be entitled to the pension,

any increases subsequently taking effect under paragraph 2 or 3 above in the annual rate of the pension shall not be paid or shall not be paid in full.

- (3) In any case where—
- (a) by virtue only of sub-paragraph (1) or (2) above, increases are not paid to or for a member or are not paid in full, but
  - (b) the member attains the age of 55 or, in a case falling within sub-paragraph (2) above, again satisfies the conditions set out in paragraph (a) or (b) of sub-paragraph (1) above,

his pension shall thereupon become payable at the annual rate at which it would have been payable apart from sub-paragraph (1) or (2) above.

*Application of Schedule to pensions not attributable to pensionable service*

- 6 Regulations may provide that this Schedule (other than this paragraph) shall apply in relation to any pension under a qualifying scheme as if so much of the annual rate of the pension as would not otherwise be attributable to pensionable service were attributable in accordance with the regulations—
- (a) to pensionable service before the appointed day;
  - (b) to pensionable service on or after that day; or
  - (c) partly to pensionable service before, and partly to pensionable service on or after, that day;



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and any reference to the earlier or later service component of the pension shall be construed accordingly.

#### *Regulations*

- 7 (1) The Secretary of State may by regulations direct that section 58A of this Act and this Schedule shall have effect, in such cases as he may specify.
- (2) In sub-paragraph (1) above “modification”, without prejudice to the generality of that sub-paragraph, includes addition, omission, and amendment.

#### *Overriding effect of the increase provisions*

- 8 The provisions of section 58A of this Act, this Schedule and any regulations made under it override any provision of a qualifying scheme, other than a protected provision (within the meaning of paragraph 7 of Schedule 1A to this Act), to the extent that it conflicts with them.]

### SCHEDULE 4

section 65(1),(2).

#### AMENDMENTS OF ENACTMENTS

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

**C106** The text of Schedules 4 and 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### PART I

#### CONSEQUENTIAL AND OTHER AMENDMENTS

##### *The Bankruptcy (Scotland) Act <sup>M36</sup>1913*

##### **Marginal Citations**

**M36** 1913 c. 20.

- 1 In section 118(1) of the Bankruptcy (Scotland) Act 1913 for paragraphs (f) and (g) there shall be substituted—
- “(f) all the debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”

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*The Bankruptcy Act <sup>M37</sup>1914*

**Marginal Citations**

**M37** 1914 c. 59

- 2 In the Bankruptcy Act 1914—
- (a) in section 33(1) for paragraphs (f) and (g) there shall be substituted—
- “(f) all debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”
- (b) in Schedule 2 to that Act, in paragraph 9 for the words “contributions or premiums payable under Part III of the Social Security Act 1973” there shall be substituted the words “state scheme premiums payable under Part III of the Social Security Pensions Act 1975 or any corresponding provisions in force in Northern Ireland”.

*The Companies Act <sup>M38</sup>1948*

**Marginal Citations**

**M38** 1948 c. 38.

- 3 In section 319(1)(e) of the Companies Act 1948 for the words from “all the debts” onwards, there shall be substituted the words “all the debts specified in section 153(2) of the Social Security Act 1975, Schedule 3 to the Social Security Pensions Act 1975 and any corresponding provisions in force in Northern Ireland”.

*The Law Reform (Personal Injuries) Act <sup>M39</sup>1948*

**Marginal Citations**

**M39** 1948 c. 41

- 4 In section 2(1) of the Law Reform (Personal Injuries) Act 1948 for the words “the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975” there shall be substituted the words “the Social Security Act 1975, the Social Security Pensions Act 1975 or any corresponding provisions in force in Northern Ireland.”

*The Administration of Justice Act <sup>M40</sup>1964*

**Marginal Citations**

**M40** 1964 c. 42

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- 5 In section 17(2)(b) of the Administration of Justice Act 1964 for the words from “together” onwards there shall be substituted the words “together with—
- (i) secondary class 1 contributions payable in respect of those officers under Part I of the Social Security Act 1975; and
  - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975”

*The Family Allowances Act <sup>M41</sup> 1965*

**Marginal Citations**

**M41** 1965 c. 53.

- 6 In section 8(3) of the Family Allowances Act 1965 after the words “the Social Security Act 1975” there shall be inserted the words “, the Social Security Pensions Act 1975”.

*The Supplementary Benefit Act <sup>M42</sup> 1966*

*(The Ministry of Social Security Act 1966)*

**Marginal Citations**

**M42** 1966 c. 20

- 7 In section 16(1)(a) of the Supplementary Benefit Act 1966 after the words “the Social Security Act 1975” there shall be inserted the words “or Part II of the Social Security Pensions Act 1975”.
- 8 In section 26(4) of that Act after the words “Part II of the Social Security Act 1975” there shall be inserted the words “or Part II of the Social Security Pensions Act 1975”.
- 9 In paragraph 24 of Schedule 2 to that Act—
- (a) after sub-paragraph (2)(d) there shall be inserted—
    - “(e) any guaranteed minimum pension within the meaning of the Social Security Pensions Act 1975”
  - (b) in sub-paragraph (3) after the words “the Social Security Act 1973” there shall be inserted the words “or Part II of the Social Security Pensions Act 1975”;
  - (c) In sub-paragraphs (4) and (5) for the words “the rate specified in Part I of Schedule 4 to the Social Security Act 1975 for a widow’s pension under that Act” there shall be substituted the words “the sum specified in section 6(1) (a) of the Social Security Pensions Act 1975”.

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*The Agriculture Act<sup>M43</sup> 1967*

**Marginal Citations**

**M43** 1967 c. 22.

- 10 In section 67(3)(e) of the Agriculture Act 1967 after the words “Part II of the Social Security Act 1975” there shall be inserted the words “or Part II of the Social Security Pensions Act 1975”

*The Rent Act<sup>M44</sup> 1968*

**Marginal Citations**

**M44** 1968 c. 23.

- 11 In section 40(3)(a) of the Rent Act 1968 for the words “Part III of the Social Security Act 1973” there shall be substituted the words “Part III of the Social Security Pensions Act 1975”

*The Income and Corporation Taxes Act<sup>M45</sup> 1970*

**Marginal Citations**

**M45** 1970 c. 10.

- 12 In section 8(2)(b) of the Income and Corporation Taxes Act 1970 after the words “those Acts” there shall be inserted the words “or the Social Security Pensions Act 1975 or under any provisions in force in Northern Ireland and corresponding to the last-mentioned Act.”

*The Administration of Justice Act<sup>M46</sup> 1970*

**Marginal Citations**

**M46** 1970 c. 31.

- 13 In Schedule 4 to the Administration of Justice Act 1970 for paragraph 3 there shall be substituted—
- “3 State scheme premiums under Part III of the Social Security Pensions Act 1975.”

*The Family Income Supplements Act<sup>M47</sup>*

**Marginal Citations**

**M47** 1970 c. 55.

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- 14 In section 8(4) of the Family Income Supplements Act 1970 for the words “the Social Security Act 1975” there shall be substituted the words “the Social Security Acts 1975”.

*The Attachment of Earnings Act<sup>M48</sup>*

**Marginal Citations**

**M48** 1971 c. 32.

- 15 In section 24(2) of the Attachment of Earnings Act 1971 after paragraph (e) there shall be inserted—  
“(f) guaranteed minimum pension within the meaning of the Social Security Pensions Act 1975.”
- 16 In Schedule 2 to that Act for paragraph 3 there shall be substituted—  
“3 State scheme premiums under Part III of the Social Security Pensions Act 1975.”
- 17 In Schedule 4 to that Act for the words “The Social Security Act 1975 (c. 14)” there shall be substituted the words “The Social Security Acts 1975 (cc. 14 and 60)”.

*The Pensions (Increase) Act<sup>M49</sup> 1971*

**Marginal Citations**

**M49** 1971 c. 56.

- 18 In section 5(3) of the Pensions (Increase) Act 1971 for the words “in relation to a particular review under section 2 above” there shall be substituted the words “for any particular purpose”.
- 19 In section 15(4) of that Act for the words “section 1 or 2 above” there shall be substituted the words “section 1 above or section 59 of the Social Security Pensions Act 1975”.

*The Finance Act<sup>M50</sup> 1971*

**Marginal Citations**

**M50** 1971 c. 68.

- 20 In paragraph 1(b) of Schedule 4 to the Finance Act 1971 for the words following “benefit under” there shall be substituted—  
“(i) the Social Security Act 1975,  
(ii) the Social Security Pensions Act 1975,  
(iii) the Social Security (Northern Ireland) Act 1975, or  
(iv) any provisions in force in Northern Ireland and corresponding to provisions of the Social Security Pensions Act 1975,

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which is payable to the wife otherwise than by virtue (wholly or partly) of her own contributions.”

*The Housing (Financial Provisions) (Scotland) Act*<sup>M51</sup> 1972

**Marginal Citations**

**M51** 1972 c. 46.

- 21 In Schedule 2 to the Housing (Financial Provisions) (Scotland) Act 1972, in paragraph 9(2)(i) for the words “the rate specified in Schedule 4 to the Social Security Act 1975 for a widow’s pension under that Act” there shall be substituted the words “the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975.”

*The Housing Finance Act*<sup>M52</sup>

**Marginal Citations**

**M52** 1972 c. 47.

- 22 In Schedule 3 to the Housing Finance Act 1972, in paragraph 9(2)(j) for the words “the rate specified in Schedule 4 to the Social Security Act 1975 for a widow’s pension under that Act” there shall be substituted the words “the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975.”

*The Social Security Act*<sup>M53</sup>

**Marginal Citations**

**M53** 1973 c. 38.

- 23 In section 51(7)(a) of the Social Security Act 1973 for the word “recognised” there shall be substituted the words “contracted-out”.
- 24 In section 63 of that Act—
- (a) in subsection (4) for the words “section 51(4)(a) of this Act” there shall be substituted the words “section 40(1) of the Social Security Pensions Act 1975 (in this Act referred to as “the Pensions Act”);”;
  - (b) In subsection (6) for the word “recognition” there shall be substituted the words “contracting-out”.
- 25 In section 64 of that Act—

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- (a) in subsections (3) (the concluding words),(4) and (8) after the words “this Act” there shall be inserted the words “or the Pensions Act”;
  - (b) in subsection (3)(a) for the words “recognised pensionable employment” there shall be substituted the words “contracted-out employment”.
- 26 In section 66 of that Act—
- (a) in subsection (1) after the words “this Act” there shall be inserted the words “or the Pensions Act”;
  - (b) in subsection (7)(a) for the words “recognition certificates” there shall be substituted the words “contracting-out certificates”;
  - (c) after subsection (9) there shall be inserted—
    - “(10) References in this section to the Pensions Act and contracting-out certificates shall respectively include references—
    - (a) to any provisions in force in Northern Ireland and corresponding to provisions of this Part of this Act or the Pensions Act; and
    - (b) to contracting-out certificates within the meaning of any such provisions.”
- 27 In section 67 of that Act—
- (a) in subsection (1)(a) for the words “recognition certificate” there shall be substituted the words “contracting-out certificate”;
  - (b) in subsection (4) after the words “review under this section” there shall be inserted the words “or any corresponding provision in force in Northern Ireland”.
- 28 In section 69(2)(a) and (5) of that Act for the words “recognised” there shall be substituted the words “contracted-out”.
- 29 In section 86 of that Act—
- (a) in subsection (1)(a) after the words “this Act” there shall be inserted the words “or Part III or IV of the Pensions Act”;
  - (b) in subsection (1)(b) for the words from “under section 85(1)” onwards there shall be substituted the words “under section 60(2) of the Pensions Act falls to be determined by that Board”;
  - (c) in subsection (1)(c) for the words “either Board” in both places there shall be substituted the words “that Board”;
  - (d) in subsection (3) for the words “either Board” there shall be substituted the words “the Occupational Pensions Board”.
- 30 In section 89(1) and (3)(b) of that Act for the words from “reserve scheme contributions” onwards there shall be substituted the words “state scheme premiums”.

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- 31 In section 99(1) of that Act the following definitions shall be inserted at the appropriate points—
- ““contracted-out employment” and “contracting-out certificate” shall be construed in accordance with section 30 of the Pensions Act and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 32 of that Act;”
- ““guaranteed minimum pension” has the meaning given in section 26 of the Pensions Act;”
- ““the Pensions Act” means the Social Security Pensions Act 1975;”
- ““requisite benefits” has the meaning given in section 26 of the Pensions Act;”
- ““state scheme premium” means a state scheme premium under Part III of the Pensions Act or under any corresponding provision in force in Northern Ireland;”
- 32 In Schedule 16 to that Act—
- (a) in paragraph 4(2) and (3) for the words “minimum benefits for recognition purposes”, “minimum personal pension” and “minimum benefits” there shall be substituted the words “requisite benefits”;
  - (b) in paragraph 7(1)(b) for the words “recognised pensionable employment” there shall be substituted the words “contracted-out employment”;
  - (c) in paragraph 9(2)(a) for the word “recognised” there shall be substituted the words “contracted-out”;
  - (d) in paragraph 23 for the words “recognised pensionable employment” there shall be substituted the words “contracted-out employment”.
- 33 In Schedule 17 to that Act, in paragraph 14, after the word “Act” there shall be inserted the words “or under any corresponding provision in force in Northern Ireland”.

*The Employment and Training Act <sup>M54</sup>1973*

**Marginal Citations**

**M54** 1973 c. 50.

- 34 In section 12(2)(a) of the Employment and Training Act 1973 after the words “the Social Security Act 1975” there shall be inserted the words “, the Social Security Pensions Act 1975”.



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*The National Insurance Act* <sup>M55</sup> 1974

**Marginal Citations**

**M55** 1974 c. 14.

- 35 In section 6(1) of the National Insurance Act 1974 there shall be added at the end the words “or the Social Security Pensions Act 1975.”

*The Social Security Act* <sup>M56</sup> 1975

**Marginal Citations**

**M56** 1975 c. 14

- 36 In section 4 of the Social Security Act 1975—
- (a) in subsection (1) for the words following paragraph (b) there shall be substituted the words “and those limits shall be such amounts as may be specified for that year under section 1 of the Social Security Pensions Act 1975 (in this Act referred to as “the Pensions Act””;
  - (b) in subsection (6) after the words “subject to regulations under sections 128 to 132 below” there shall be substituted the words “and to section 27 of the Pensions Act”.
- 37 In section 12(1)(f) of that Act after the words “payable to a woman by virtue of her husband’s contributions” there shall be inserted the words “or payable to a man by virtue of his late wife’s contributions”.
- 38 In section 13 of that Act—
- (a) in subsection (2), after paragraph (b) there shall be inserted “and
    - (c) of calculating the additional component in the rate of long-term benefit”
  - (b) at the beginning of subsection (3) there shall be inserted “subject to section 3 of the Pensions Act”.
- 39 In section 14 of that Act—
- (a) for subsection (2)(c) there shall be substituted—
    - “(c) the person—
      - (i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but
      - (ii) has made an election for the purposes of section 30(3) of this Act and has not revoked the election.”

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- (b) for subsection (6)(a) there shall be substituted—  
“ (a) any increase under section 10(2) of or Schedule 1 to the Pensions Act;”.
- 40 In section 15 of that Act—  
(a) for subsection (2)(b) there shall be substituted—  
“ (b) the person—  
(i) would on that day have been entitled to a Category B retirement pension by virtue of the contributions of his deceased spouse, but  
(ii) has made an election of the purposes of section 30(3) of this Act and has not revoked the election.”  
(b) in subsection (3) for the words from “at the weekly rate” onwards there shall be substituted the words “at the rate specified in section 14 of the Pensions Act”;  
(c) for subsection (4)(a) there shall be substituted—  
“ (a) any increase under section 10(2) of or Schedule 1 to the Pensions Act;”
- 41 In section 25(1) of that Act for the words “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 6” there shall be substituted the words “at the rate specified in section 13 of the Pensions Act”.
- 42 In section 26(1) of that Act for the words “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 7” there shall be substituted the words “at the rate specified in section 13 of the Pensions Act”.
- 43 In section 28(1) of that Act for the words “at the weekly rate specified in relation thereto in Schedule 4, Part I, paragraph 8” there shall be substituted the words “at the rate specified in section 6 of the Pensions Act”.
- 44 In section 29(7) of that Act in paragraph (a)(i) the word “lower” shall be omitted and in paragraphs (a)(ii) and (b) for the words “at the higher rate so specified” there shall be substituted the words “at the rate specified in section 7 of the Pensions Act”.
- 45 In section 30(4)(b) of that Act there shall be inserted at the end the words “or Category A with an increase by virtue of that husband’s contributions under section 10(2) of the Pensions Act”.
- 46 In section 33(3) of that Act after the words “Schedule 4 to this Act” there shall be inserted “or Part II of the Pensions Act”

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- 47 In section 34(1) of that Act, after paragraph (c), there shall be inserted—  
“(cc) mobility allowance”
- 48 In section 42(3) of that Act after the words “Category A” there shall be inserted  
“, B”.
- 49 In section 119(4) of that Act, after paragraph (c) there shall be inserted—  
“(cc) modifying those subsections in relation to payments by way of a  
mobility allowance in respect of any person, where the benefit was  
not paid to him but to some other person on his behalf”
- 50 In section 120 of that Act—  
(a) in subsection (1) for the words “in respect of contributions” there shall be  
substituted the words “in respect of Class 2, 3 or 4 contributions”;  
(b) in subsection (2) for the words “contributions under this Act” there shall  
be substituted the words “contributions of those Classes”;  
(c) subsection (5)(a) shall be omitted.
- 51 In section 125(1) of that Act, for paragraph (a) there shall be substituted—  
“(a) Parts I, IV and V of Schedule 4 to this Act and paragraphs 1 to 3,  
4 and 5 of Part III; and”
- 52 In section 135(2) of that Act, after paragraph (c), there shall be inserted—  
“(cc) a mobility allowance”
- 53 In section 143(1) of that Act, after paragraph (b) there shall be inserted  
“(bb) payments to or in respect of persons suffering from physical  
disability such that they are unable to walk or virtually unable to do  
so”
- 54 In section 144(2)(c) of that Act after the words “contributions under this Act” there  
shall be inserted the words “or a state scheme premium under Part III of the Pensions  
Act”.
- 55 In section 145 of that Act—  
(a) in subsection (1)(a) after the words “this Act” there shall be inserted the  
words “or any state scheme premiums under Part III of the Pensions Act”;  
(b) in subsection (2)(e) after the word “contributions” there shall be inserted the  
words “or premiums”.
- 56 In section 146(1) of that Act after the words “Act to pay” there shall be inserted  
the words “or any state scheme premium which is payable by him under Part III  
of the Pensions Act”.



*Status: Point in time view as at 04/03/1991.*

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“The Pension s Act”	allowance, a widow’s pension or an invalidity pension ” “ The Social Security Pensions Act 1975. ”
“Qualifying earnings factor”	“ An earnings factor equal to the lower earnings limit for the tax year in question multiplied 2 ”,

*The Social Security (Consequential Provisions) Act <sup>M57</sup>1975*

**Marginal Citations**

**M57** 1975 c. 18.

- 65 In Schedule 3 to the Social Security (Consequential Provisions) Act 1975, in paragraph 9(1)(b) for the words “those schemes and provisions” there shall be substituted the words “that scheme”.

**PART II**

MINOR CORRECTIONS OF 1975 CONSOLIDATION ACTS

*The Social Security Act <sup>M58</sup>1975*

**Marginal Citations**

**M58** 1975 c. 14.

- 66 In section 142(4)(b) of the Social Security Act 1975, for the words “Great Britain” and “Northern Ireland” there shall be substituted respectively the words “Northern Ireland” and “Great Britain”.
- 67 In section 152(2) of that Act, for the words “Criminal Justice Act 1948” there shall be substituted the words “Powers of Criminal Courts Act 1973”.

*The Social Security (Northern Ireland) Act <sup>M59</sup>1975*

**Marginal Citations**

**M59** 1975 c. 15.

*Status: Point in time view as at 04/03/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

- 68 In section 96(1) of the Social Security (Northern Ireland) Act 1975, for the words “95(1)(a) or (b)” there shall be substituted the words “95(1)(a) or (c)”.
- 69 In section 133(3)(b) of that Act, for the words “Northern Ireland” and “Great Britain” there shall be substituted respectively the words “Great Britain” and “Northern Ireland”.
- 70 In section 138(5) of that Act, for the word “paragraph” there shall be substituted the word “subsection”.

*The Social Security (Consequential Provisions) Act <sup>M60</sup>*

**Marginal Citations**

**M60** 1975 c. 18.

- 71 In Schedule 3 to the Social Security (Consequential Provisions) Act 1975—
- (a) for paragraph 12(4) there shall be substituted—
- “(4) In paragraph 10 of this Schedule as it applies to Northern Ireland—
- (a) the first reference in sub-paragraphs (a) and (b) to an Order in Council includes a reference to an order made by the Secretary of State; and
- (b) in sub-paragraph (b) the words “and any regulations having effect by virtue of section 22(2) of the Family Allowances Act” shall be omitted.”
- (b) after paragraph 13(1) there shall be inserted—
- “(1A) An order made by the Secretary of State, under an enactment repealed by this Act, for any purpose for which an Order in Council may be made under one of the consolidations shall not be invalidated by the repeal but shall have effect as if it were an Order in Council so made.”
- (c) in paragraph 31, there shall be inserted at the end of the Table—

“ The words from “by statutory instrument” onwards (in paragraph 30(2)). ”

“ The words “by statutory rule for the purposes of the Statutory Rules Act (Northern Ireland) 1958; and any statutory rule containing any such regulations shall be laid before the Northern Ireland Assembly after being made.”

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*Changes to legislation: There are currently no known outstanding effects for the Social Security Pensions Act 1975. (See end of Document for details)*

## SCHEDULE 5

Section 65(3).

### REPEALS

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

**C107** The text of Schedules 4 and 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2. c. 51.	The Public Records Act 1958.	In Schedule 1, in Part I, in the second column of the Table, the words “Reserve Pension Board”.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 219(3), paragraph (a) the words “or any secondary reserve scheme contribution within the meaning of the said Act of 1973”; and the words “in either case”.
1971 c. 32.	The Attachment of Earnings Act 1971.	In Schedule 3, paragraph 3(b).
1971 c. 56.	The Pensions (Increase) Act 1971.	Section 2 but without prejudice to any existing order under that section. Section 9(3), (4) and (4A).
1972 c. 11.	The Superannuation Act 1972.	Section 25.
1972 c. 48.	The Parliamentary and other Pensions Act 1972.	Section 34(2).
1972 c. 53.	The Contracts of Employment Act 1972.	In section 6, paragraph (d) together with the word “and” immediately preceding it.
1973 c. 38.	The Social Security Act 1973.	Section 1(7), (8) and (9). Section 23(1). In section 51, subsections (1), (2) and (4), in subsection (5) the words “in subsection (4) (a) above and” and subsections (6), (8) and (9). In section 52, subsections (1) to (7), in subsection (8) the words “for the purposes of

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recognition, and” and “other”  
and subsection (9).

Sections 53 to 57.

Section 58(1)(c), (3), (4) and  
(5).

In section 59, in  
subsection (1) the words in  
brackets, and subsections (2)  
to (9).

Sections 60 to 62.

Part III.

Section 85.

In Section 86, in subsections  
(1), (4), (5) and (8) the  
word “concerned”, in  
subsection (4), paragraph (b)  
together with the word “or”  
immediately preceding it and  
subsection (9).

Section 88.

In section 89, in  
subsection (3), paragraph (c);  
and subsection (4).

Section 91.

In section 92, subsections (1)  
and (2); in subsection (4) the  
words from “the recovery”  
onwards; and subsections (5)  
to (7).

Section 93.

In section 98, in  
subsection (1)(a) the words  
from “including” onwards,  
and subsection (2).

In section 99, in  
subsection (1) all the  
definitions except those of  
“earnings”, “employment”,  
“Inland Revenue”, “linked  
qualifying service”, “the  
Northern Ireland Ministry”,  
“occupational pension  
scheme”, “prescribed”,  
“public service pension  
scheme”, “resources” and  
“transfer credits”, and



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		subsections (6), (7), (10), (13) and (14).
		Schedule 15.
		Schedules 18, 19 and 20.
		Schedule 22.
		In Schedule 23, paragraph 5, and from paragraph 7 to the end.
		Schedule 24.
1974 c. 9.	The Pensions (Increase) Act 1974.	In section 3, subsection (1) and in subsection (3)(a) the figure “2(1)”.
1974 c. 14.	The National Insurance Act 1974.	In Schedule 4, paragraphs 33 to 35.
1975 c. 14.	The Social Security Act 1975	In section 4(6)(a) the words “or 2 per cent. according to whether the earner is liable to contribute at the standard rate or the reduced rate”.
		Sections 5 and 6.
		Section 7(2) and (3).
		In section 8, in subsection (2), paragraph (b) together with the word “and” immediately preceding it, and subsection (3).
		In section 9(8)(b) the words following “pensionable age”.
		In section 27(6), the words from “but where” onwards.
		Section 28(2) to (6) and (8) (a).
		In section 29, in subsection (7)(a)(i) the word “lower” and subsections (10) to (12).
		In section 42(4)(a) the words in brackets.
		Section 120(5)(a).
		Section 130(2) and (3).
		In section 133(6), in paragraph (a) the words “the Reserve Pension Fund or”

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		and in paragraph (b) the words “out of the Reserve Pension Fund or”.
		In section 167(1)(a) the entry relating to section 5(3) and (4).
		In Schedule 4, in Part I, paragraphs 2, 6, 7 and 8.
		Schedule 7.
		In Schedule 20 the definitions of “Reserve Pension Fund”, “Reserve scheme contributions” and “Reserve scheme premiums”.
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 2, paragraphs 1(b), 2(b), 7(a), 47, 51, 53, to 57, 58 (except so much as substitutes “Ministry” for “Minister” in section 89(1) of the 1973 Act), 59 and 62 to 65.
		In Schedule 3, in paragraph 9(1)(a) the word “(respectively)” and paragraph (ii) together with the word “and” immediately preceding it.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1 the words “The Reserve Pension Board”.

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**Changes to legislation:**

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