



Pension Schemes Act 1993

1993 CHAPTER 48

PART III

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

CHAPTER I

CERTIFICATION

Preliminary

7 Issue of contracting-out^{F1}... certificates.

[^{F2}(1) Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme.]

[^{F2}(1A) In this Act such a certificate is referred to as "a contracting-out certificate".]

(2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—

- (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.

[^{F3}(2A) The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—

- (a) at the end of a prescribed period beginning with that day, or
- (b) if prescribed conditions are not satisfied at any time in that period,

but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection

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is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.

(2B) In this Part, “the principal appointed day” means the day designated by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act]

(3) 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 in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.

^{F4}(4)

^{F4}(5)

^{F4}(6)

(7) Except in prescribed circumstances, no contracting-out certificate ^{F5}... shall have effect from a date earlier than that on which the certificate is issued.

[^{F6}(8) References in this Act to a contracting-out certificate, a contracted-out scheme and to contracting-out in a context relating to a money purchase contracted-out scheme are to be construed in accordance with section 181A.]

Textual Amendments

- F1** Words in s. 7 sidenote repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 27(7), 30(2)(b), [Sch. 4 para. 2\(6\)](#), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F2** [S. 7\(1\)\(1A\)](#) substituted for [s. 7\(1\)](#) (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 2\(2\)](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F3** [S. 7\(2A\)\(2B\)](#) inserted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. [136\(1\)](#), 180(1); S.I. 1996/778, art. 2(5)(a)(7), [Sch. Pt. 5](#)
- F4** [S. 7\(4\)-\(6\)](#) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 27(7), 30(2)(b), [Sch. 4 para. 2\(3\)](#), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F5** Words in [s. 7\(7\)](#) repealed (6.4.2012 being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 27(7), 30(2)(b), [Sch. 4 para. 2\(4\)](#), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F6** [S. 7\(8\)](#) inserted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 2\(5\)](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)

Modifications etc. (not altering text)

- C1** [S. 7\(2\)](#) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [12\(3\)](#), 13(2), 14
- C2** [S. 7\(7\)](#) extended (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. 1(1), [12\(3\)](#), 13(2), 14

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), [art. 2](#)

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8 Meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”.

- (1) The employment of an earner in employed earner’s employment is “contracted-out employment” in relation to him during any period in which^[F7]—
 - (a) he is under pensionable age;
 - (aa) his service in the employment is for the time being service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out scheme”);]
 - (b) there is in force a contracting-out certificate issued by the ^[F8]Inland Revenue] in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

- ^[F9](1A) In addition, in relation to any period before the abolition date, the employment of an earner in employed earner's employment was “contracted-out employment” in relation to him during that period if—
 - (a) he was under pensionable age;
 - (b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and
 - (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.]

(2) In this Act—

“guaranteed minimum pension” means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner’s or, as the case may be, the earner’s ^[F10]widow's, widower’s ^[F11], surviving same sex spouse's] or surviving civil partner's] guaranteed minimum as determined for the purposes of those sections respectively; and

“minimum payment”, in relation to an earner’s employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in that week as exceeds the current lower earnings limit but not ^[F12]the applicable limit] (or the prescribed equivalents if he is paid otherwise than weekly);

^[F13]and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage ^[F14]for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before the abolition date)]].

- ^[F15](2A) In subsection (2) “the applicable limit” means—
 - (a) in relation to a tax year before 2009-10, the upper earnings limit;
 - (b) in relation to 2009-10 or any subsequent tax year, the upper accrual point.]

^[F16](3)

(4) 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.

^[F17](5)

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Textual Amendments

- F7** Words in s. 8(1) substituted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(2)** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F8** Words in s. 8(1)(b) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 34(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F9** S. 8(1A) inserted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(3)** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F10** Words in s. 8(2) substituted (5.12.2005) by The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050), art. 1(3), **Sch. 1 para. 1**
- F11** Words in s. 8(2) inserted (E.W.) (13.3.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 4 para. 19**; S.I. 2014/93, art. 3(j)(v); same words inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 11(2)**
- F12** Words in s. 8(2) substituted (21.9.2008) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 8(2)**
- F13** Words in s. 8(2) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 23(a)**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F14** Words in s. 8(2) substituted (26.9.2007 for specified purposes, 6.4.2012 in so far as not already in force, that being "the abolition date" for the purposes of s. 15(1) of the amending Act) by Pensions Act 2007 (c. 22), ss. 15(4), 30(2)(b)(3), **Sch. 4 para. 3(4)** (with Sch. 4 Pt. 3); S.I. 2011/1267, art. 2(a)
- F15** S. 8(2A) inserted (21.9.2008) by National Insurance Contributions Act 2008 (c. 16), s. 6(1), **Sch. 1 para. 8(3)**
- F16** S. 8(3) repealed (6.4.2015) by Pensions Act 2007 (c. 22), ss. 27(7), 30(2)(b), Sch. 4 para. 47, **Sch. 7 Pt. 7**; S.I. 2011/1267, art. 3(a)(iv)(b) (as amended (20.3.2012) by S.I. 2012/911, art. 2(d))
- F17** S. 8(5) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 23(b), **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, **art. 2**

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