



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART III

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

### CHAPTER II

#### REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

#### *Preliminary*

#### **40** Scope of Chapter II.

This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [<sup>F1</sup>Inland Revenue] in respect of earners who are members of [<sup>F2</sup>money purchase contracted-out schemes and members of ]appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

#### **Textual Amendments**

**F1** Words in s. 40(b) substituted (11.11.1999) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(4)(d), [Sch. 11 para. 21](#)

**F2** Words in s. 40(b) inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), [ss. 137\(1\), 180\(1\)](#); [S.I. 1996/778](#), art. 2(1)(5)(a), [Sch. Pts. 1, 5](#); [S.I. 1997/664](#), art. 2(3), [Sch. Pt. 2](#)

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*Changes to legislation: Pension Schemes Act 1993, Chapter II is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

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

*[<sup>F3</sup>Reduced rates of contributions for members of salary related contracted-out schemes]*

### Textual Amendments

**F3** S. 41 cross-heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 137(2), 180(1)**; S.I. 1996/778, **art. 2(1)(5)(a), Sch. Pts. I, V**; S.I. 1997/664, **art. 2(3), Sch. Pt. II**

## 41 [<sup>F4</sup>Reduced rates of Class 1 contributions]

[<sup>F5</sup>(1) Subsections (1A) to [<sup>F6</sup>(1E)] apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner’s service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme;

and in subsections (1A) and (1B) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not [<sup>F7</sup>the applicable limit] for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).]

[<sup>F8</sup>(1ZA) In subsection (1)—

- (a) “the applicable limit”—
  - (i) in relation to a tax week falling in a tax year before the flat rate introduction year, means the upper earnings limit for the week in question;
  - (ii) in relation to a tax week falling in the flat rate introduction year or any subsequent tax year, means the upper accrual point divided by 52; and
- (b) “prescribed”—
  - (i) in relation to the lower or upper earnings limit, means (in accordance with section 5(4) of the Social Security Contributions and Benefits Act 1992) prescribed under that provision;
  - (ii) in relation to the amount mentioned in paragraph (a)(ii) above, means (in accordance with section 181) prescribed by regulations under this Act.]

[<sup>F9</sup>(1A) The amount of any primary Class 1 contribution [<sup>F10</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] in respect of the earnings shall be reduced by an amount equal to 1.6 per cent of the relevant part of the earnings (“Amount R1”).

(1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to [<sup>F11</sup>3.7 per cent] of the relevant part of the earnings (“Amount R2”).

(1C) The aggregate of Amounts R1 and R2 shall be set off—

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- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (1A) and (1B); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
  - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
  - (ii) in relation to which the secondary contributor is such a contributor; and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(1D) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.

But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(1E) If the Inland Revenue pay any amount under subsection (1D) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]

(2) 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 purposes of subsection (1) 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.

(3) 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 section 19(4) of the <sup>M1</sup> Social Security Contributions and Benefits Act 1992 (reduced rates for married women and widows).

#### Textual Amendments

- F4** S. 41 heading substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(2)**, 180(1); [S.I. 1996/778](#), art. 2(1)(5)(a), [Sch. Pts. I, V](#); [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II**
- F5** S. 41(1)-(1C) substituted for s. 41(1)(1A) (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), **Sch. 7 para. 127**; [S.I. 1999/418](#), art. 2(3)(a)
- F6** Word in s. 41(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(3)(a), **Sch. 9 para. 6(2)**; [S.I. 1999/3420](#), art. 2
- F7** Words in s. 41(1) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 1 para. 37(a)**

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- F8** S. 41(1ZA) inserted (26.9.2007) by Pensions Act 2007 (c. 22), s. 30(3), **Sch. 1 para. 37(b)**
- F9** S. 41(1A)-(1E) substituted for s. 41(1A)-(1C) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(3)(a), **Sch. 9 para. 6(3)**; S.I. 1999/3420, art. 2
- F10** Words in s. 41(1A) inserted (with effect in accordance with s. 8(2) of the amending Act) by National Insurance Contributions Act 2002 (c. 19), **Sch. 1 para. 36**
- F11** Words in s. 41(1B) substituted (6.4.2007) by The Social Security (Reduced Rates of Class 1 Contributions, Rebates and Minimum Contributions) Order 2006 (S.I. 2006/1009), arts. 1(1), 2

#### Commencement Information

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

#### Marginal Citations

- M1** 1992 c. 4.

## 42 Review and alteration of rates of contributions applicable under s. 41.

- (1) The Secretary of State may from time to time, and shall when required by subsection (2), lay before each House of Parliament—
- (a) [<sup>F12</sup>a report by the Government Actuary or the Deputy Government Actuary on—
- (i) the percentages for the time being applying under section [<sup>F13</sup>41(1A) and (1B)], and
- (ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F14</sup>(or parts of benefits) which, in accordance with section 48A below and [<sup>F15</sup>Schedules 4A and 4B] to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of salary related contracted-out schemes]
- (b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the 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 Secretary of State shall lay such reports at intervals of not more than five years.
- (3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section [<sup>F16</sup>41(1A) and (1B)], 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.
- (4) An order under subsection (3) 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.
- (5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.
- (6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified

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in paragraph 2(3) of Schedule 4 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

- F12** S. 42(1)(a) substituted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(3), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. 1, 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F13** Words in s. 42(1)(a)(i) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))
- F14** Words in s. 42(1)(a)(ii) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **ss. 34, 86(1)(b)(2)** (with s. 83(6)); [S.I. 2001/153](#), art. 2(a)
- F15** Words in s. 42(1)(a)(ii) substituted (26.9.2007) by [Pensions Act 2007 \(c. 22\)](#), s. 30(3), **Sch. 2 para. 12**
- F16** Words in s. 42(3) substituted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86(1)(b)(2), **Sch. 5 para. 4** (with s. 83(6))

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

- C1** S. 42(1)(a) modified (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(4), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. 1, 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

#### Commencement Information

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

*[<sup>F17</sup>Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes*

#### Textual Amendments

- F17** Ss. 42A, 42B and cross-heading inserted (13.3.1996 for specified purposes, 6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), **ss. 137(5), 180(1)**; [S.I. 1996/778](#), art. 2(1)(5)(a), Sch. Pts. I, V; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. II**

### 42A Reduced rates of Class 1 contributions, and rebates

[<sup>F18</sup>(1) Subsections (2) to [<sup>F19</sup>(2D) and (3)] apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme;

and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).]

[ The amount of any primary Class 1 contribution [<sup>F21</sup>attributable to section 8(1)(a) of <sup>F20</sup>(2) the Social Security Contributions and Benefits Act 1992] in respect of the earnings

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shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R1”).

(2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R2”).

(2B) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—

- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and

- (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(2C) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.

But regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]

(3) The [<sup>F22</sup>Inland Revenue] shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—

- (a) the appropriate age-related percentage of that part of those earnings, exceeds
- (b) the appropriate flat-rate percentage of that part of those earnings.

(4) Regulations may make provision—

- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
- (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,
- (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.

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(5) If the <sup>F23</sup>[Inland Revenue]<sup>F24</sup>[pay] an amount under subsection (3) which <sup>F24</sup>[they]<sup>F24</sup>[are] not required to pay or is not required to pay to the person to whom, or in respect of whom, he pays it, he may recover it from any person to whom, or in respect of whom, he paid it.

(6) Where—

- (a) an earner has ceased to be employed in an employment, and
- (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.

[ For the purposes of this section “the appropriate age-related percentage” and “the <sup>F25</sup>(8) appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 42B (as it had effect prior to that date).]

#### Textual Amendments

- F18** S. 42A(1)-(2B) substituted for s. 42A(1)(2) (6.4.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 128](#); S.I. 1999/418, art. 2(3)(a)
- F19** Words in s. 42A(1) substituted (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 7\(2\)](#); S.I. 1999/3420, art. 2
- F20** S. 42A(2)-(2D) substituted for s. 42A(2)-(2B) (22.12.1999 for specified purposes, 6.4.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(a\), Sch. 9 para. 7\(3\)](#); S.I. 1999/3420, art. 2
- F21** Words in s. 42A(2) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\), Sch. 1 para. 37](#)
- F22** Words in s. 42A(3) 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. 46\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F23** Words in s. 42A(5) 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. 46\(3\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F24** Words in s. 42A(5) 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. 46\(3\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F25** S. 42A(8) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\), ss. 15\(4\), 30\(2\)\(b\)\(3\), Sch. 4 para. 17](#) (with Sch. 4 Pt. 3)

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

(1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—



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- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F26</sup>(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of money purchase contracted-out schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—
- (a) specify different percentages for primary and secondary Class 1 contributions, and
  - (b) for each of the tax years for which it has effect—
    - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
    - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i)) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### **Textual Amendments**

**F26** Words in s. 42B(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 34, 86\(1\)\(b\)\(2\)](#) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C2** [S. 42B\(2\)](#) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [ss. 7\(1\), 89\(5\)\(a\)](#) (with [ss. 7\(3\), 8](#)); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

*Minimum contributions: members of appropriate personal pension schemes*

### **43 Payment of minimum contributions to personal pension schemes.**

- (1) Subject to the following provisions of this Part, the [<sup>F27</sup>Inland Revenue] shall, except in such circumstances [<sup>F28</sup>or in respect of such periods] as may be prescribed, pay



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minimum contributions in respect of an employed earner for any period during which the earner—

- (a) is over the age of 16 but has not attained pensionable age;
  - (b) is not a married woman or widow who has made an election which is still operative that <sup>F29</sup>so much of her liability in respect of primary Class 1 contributions as is attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 (c. 4)] shall be a liability to contribute at a reduced rate; and
  - (c) is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.
- (2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner's chosen scheme.
- (3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.
- (4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the <sup>F27</sup>Inland Revenue]<sup>F30</sup>are] required to pay minimum contributions, the duty of the <sup>F27</sup>Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations.
- (5) If the <sup>F27</sup>Inland Revenue]<sup>F31</sup>pay] an amount by way of minimum contributions which <sup>F32</sup>they]<sup>F31</sup>are] not required to pay, <sup>F32</sup>they] may recover it—
- (a) from the person to whom <sup>F32</sup>they] paid it, or
  - (b) from any person in respect of whom <sup>F32</sup>they] paid it.
- (6) If the <sup>F27</sup>Inland Revenue]<sup>F33</sup>pay] in respect of an earner an amount by way of minimum contributions which <sup>F34</sup>they]<sup>F33</sup>are] required to pay, but <sup>F33</sup>do] not pay it to the trustees or managers of the earner's chosen scheme, <sup>F34</sup>they] may recover it from the person to whom <sup>F34</sup>they] paid it or from the earner.
- <sup>F35</sup>(7) In this section “the earner's chosen scheme” means the scheme which was immediately before the abolition date the earner's chosen scheme in accordance with section 44 (as it had effect prior to that date.)]

#### Textual Amendments

- F27** Words in s. 43 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. 47(2)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F28** Words in s. 43(1) inserted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 42**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F29** Words in s. 43(1)(b) substituted (with effect in accordance with s. 8(2) of the amending Act) by National Insurance Contributions Act 2002 (c. 19), **Sch. 1 para. 38**
- F30** Word in s. 43(4) 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. 47(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F31** Words in s. 43(5) 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. 47(4)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F32** Word in s. 43(5) 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. 47(4)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 26/09/2007.*

*Changes to legislation: Pension Schemes Act 1993, Chapter II is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F33** Words in s. 43(6) 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. 47\(5\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F34** Word in s. 43(6) 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. 47\(5\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F35** S. 43(7) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\), ss. 15\(4\), 30\(2\)\(b\)\(3\), Sch. 4 para. 19](#) (with Sch. 4 Pt. 3)

#### Commencement Information

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

#### 44 Earner’s chosen scheme.

(1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the [<sup>F36</sup>Inland Revenue], in such manner and form and with such supporting evidence as may be prescribed—

- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 43;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,

[<sup>F37</sup>then, unless the [<sup>F36</sup>Inland Revenue][<sup>F38</sup>reject] the notice on either or both of the grounds mentioned in subsection (1A)] that scheme is the earner’s chosen scheme for the purposes of section 43 as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner’s chosen scheme for those purposes.

[<sup>F39</sup>(1A) The grounds referred to in subsection (1) are that the [<sup>F36</sup>Inland Revenue][<sup>F40</sup>are] of the opinion—

- (a) that section 31(5) is not being complied with in respect of any members of the scheme,
- (b) that, having regard to any other provisions of sections 26 to 32 and 43 to 45, it is inexpedient to allow the scheme to be the chosen scheme of any further earners]

(2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the [<sup>F36</sup>Secretary of State][<sup>F36</sup>Inland Revenue] at such time and in such manner and form as may be prescribed.

(3) When a notice under subsection (2) is given, the scheme ceases to be the earner’s chosen scheme as from a date determined in accordance with regulations and specified in the notice.

#### Textual Amendments

- F36** Words in s. 44 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. 48\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F37** Words in s. 44(1) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(a\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2

*Status: Point in time view as at 26/09/2007.*

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- F38** Word in s. 44(1) 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. 48\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F39** S. 44(1A) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 164\(b\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F40** Word in s. 44(1A) 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. 48\(4\)](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

**Commencement Information**

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

**45 Amount of minimum contributions.**

[<sup>F41</sup>(1) In relation to any tax week falling within a period for which the [<sup>F42</sup>Inland Revenue are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly)].

<sup>F43</sup>(2) .....

(3) Regulations may make provision—

- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
- (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;

<sup>F44</sup>(d) .....

- (e) 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 <sup>F45</sup>... ;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[<sup>F46</sup>(4) For the purposes of this section “the appropriate age-related percentage”, in relation to a tax year beginning before the abolition date, is the percentage (or percentages) specified as such for that tax year in an order made under section 45A (as it had effect prior to that date).]

**Textual Amendments**

- F41** S. 45(1) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), ss. 138\(2\), 180\(1\)](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F42** Words in s. 45(1) 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. 49](#); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Status: Point in time view as at 26/09/2007.*

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- F43** S. 45(2) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 138(3), 180(1), [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F44** S. 45(3)(d) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 43, [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F45** Words in s. 45(3)(e) omitted (6.4.1997) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. 138(4), 180(1), [Sch. 7 Pt. III](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2
- F46** S. 45(4) inserted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 21](#) (with [Sch. 4 Pt. 3](#))

#### Commencement Information

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

### [<sup>F47</sup> 45A Determination and alteration of rates of minimum contributions under section 45

- (1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—
- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits [<sup>F48</sup>(or parts of benefits) which, in accordance with section 48A below and Schedule 4A to the Social Security Contributions and Benefits Act 1992,] are foregone by or in respect of members of appropriate personal pension schemes,
  - (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
  - (c) a draft of an order under subsection (2).
- (2) An order under this subsection—
- (a) shall have effect in relation to a period of tax years (not exceeding five), and
  - (b) may, for each of the tax years for which it has effect, specify different percentages in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 45).
- (3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.
- (4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.
- (5) Subsection (2) is without prejudice to the generality of section 182]

#### Textual Amendments

- F47** S. 45A inserted (13.3.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), ss. 138(5), 180(1); [S.I. 1996/778](#), art. 2(1), Sch. Pt. 1; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

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**F48** Words in s. 45A(1)(a) substituted (25.1.2001 for specified purposes, 6.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), ss. 34, 86(1)(b)(2) (with s. 83(6)); S.I. 2001/153, art. 2(a)

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

**C3** S. 45A(2) modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 7(2), 89(5)(a) (with ss. 7(3), 8); S.I. 2000/1047, art. 2(2)(c), Sch. Pt. 3

**[<sup>F49</sup>45B Money purchase and personal pension schemes: verification of ages**

- (1) Regulations may make provision for the manner in which an earner's age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).
- (2) Information held by the Secretary of State [<sup>F50</sup>or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State [<sup>F50</sup>or the Inland Revenue]—
  - (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
  - (b) to such other persons as may be prescribed,
 in connection with the making of payments under section 42A(3) or the payment of minimum contributions.]

**Textual Amendments**

**F49** S. 45B 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. 139, 180(1); S.I. 1996/778, art. 2(5)(a), Sch. Pt. V; S.I. 1997/664, art. 2(3), Sch. Pt. II

**F50** Words in s. 45B(2) inserted (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. 50; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

*Effect of entitlement to guaranteed minimum pensions on payment of social security benefits***46 Effect of entitlement to guaranteed minimum pensions on payment of social security benefits.**

- (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>F51</sup>, a widowed parent's allowance] [<sup>F52</sup>or a widow's pension] under the <sup>M2</sup>Social Security Contributions and Benefits Act 1992; and
  - (b) to one or more guaranteed minimum pensions,
 the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—
  - (i) [<sup>F53</sup>to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day], or
  - (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

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whichever is the less.

<sup>F54</sup>(2) .....

[<sup>F55</sup>(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992,

for that period an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions shall be deducted from any increase payable under regulations under section 30B(7) of that Act and he shall be entitled to such an increase only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

(4) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M2</sup> Social Security Contributions and Benefits Act 1992; 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) the additional pension; and
- (b) 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 46(1) of the Pension Schemes Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the <sup>M2</sup> Social Security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

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 section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

(6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled—
  - <sup>F56</sup>(i) .....
  - (ii) to a Category A retirement pension under section 44 of that Act; or
  - (iii) to a Category B retirement pension under [<sup>F57</sup>section 48A [<sup>F58</sup>, 48B or 48BB]] of that Act; and



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(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 substituted for sub-paragraph (3)—

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

- (a) the additional pension; and
- (b) 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 46(1) of the Pension Schemes Act 1993.”.

(7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to any of the pensions under the <sup>M2</sup> Social Security Contributions and Benefits Act 1992 mentioned in subsection (6)(b); 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 paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- <sup>F59</sup>(a) . . . . .
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 15(1).

<sup>F60</sup>(9) . . . . .

**Textual Amendments**

- F51** Words in s. 46(1) inserted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 18(2)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. 1
- F52** Words in s. 46(1) substituted (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), **Sch. 1 para. 56(2)**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F53** S. 46(1)(i) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 44**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F54** S. 46(2) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(3), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F55** S. 46(3) substituted (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), **Sch. 1 para. 56(4)**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F56** S. 46(6)(b)(i) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(5), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F57** Words in s. 46(6)(b)(iii) substituted (19.7.1995) by Pensions Act 1995 (c. 26), s. 180(2)(a), **Sch. 4 para. 22**



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- F58** Words in s. 46(6)(b)(iii) substituted (24.4.2000 for specified purposes, 9.4.2001 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 8 para. 18(3)**; S.I. 2000/1047, art. 2(2)(a), Sch. Pt. 1
- F59** S. 46(8)(a) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(6), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4
- F60** S. 46(9) repealed (13.4.1995) by Social Security (Incapacity for Work) Act 1994 (c. 18), s. 16(3), Sch. 1 para. 56(7), **Sch. 2**; S.I. 1994/2926, art. 2(4), Sch. Pt. 4

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

- C4** Ss. 46-48 modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **49(1)**

#### Commencement Information

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

#### Marginal Citations

- M2** 1992 c. 4.

### 47 Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 46.

- (1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower [<sup>F61</sup>or surviving civil partner] of an earner [<sup>F62</sup>in any case where he is entitled to a benefit other than a widowed parent’s allowance]<sup>F63</sup> ... only if—
- [<sup>F64</sup>(a) he is also entitled to a Category B retirement pension by virtue of the earner’s contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits Act 1992); or]
- (b) he is also entitled to a Category A retirement pension by virtue of [<sup>F65</sup>section 41(5)] of [<sup>F65</sup>that Act].
- (2) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as a result of which—
- (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
- (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member’s [<sup>F66</sup>widow, widower or surviving civil partner] under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
- (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

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- (ii) it was 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 company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of—
- (i) any relevant policies and annuity contracts, and
  - (ii) any cash sums paid or alternative arrangements made under the [<sup>F67</sup>Financial Services Compensation Scheme],
- are inadequate to provide the whole of the amount secured,
- the member and the member's [<sup>F66</sup>widow, widower or surviving civil partner] shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member's or, as the case may be, the member's [<sup>F68</sup>widow's, widower's or surviving civil partner's] guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).
- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.
- (5) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or
  - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).
- [<sup>F69</sup>(6) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for [<sup>F70</sup>section 14(2A) and] any reduction under section 15A.]
- [<sup>F71</sup>(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.]
- [<sup>F72</sup>(8) For the purposes of section 46, a person shall be treated as entitled to a guaranteed minimum pension to which he would have been entitled but for the fact that the trustees or managers were discharged from their liability to provide that pension on the Board of the Pension Protection Fund assuming responsibility for the scheme.]

#### Textual Amendments

- F61** Words in s. 47(1) inserted (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. 14(a)**
- F62** Words in s. 47(1) inserted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 18(a)**, 22(3); S.I. 2002/2248, art. 2
- F63** Words in s. 47(1) repealed (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. 16(3), Sch. 1 para. 57, **Sch. 2**; S.I. 1994/2926, art. 2(4), **Sch. Pt. IV**
- F64** S. 47(1)(a) substituted (3.9.2002) by [State Pension Credit Act 2002 \(c. 16\)](#), **ss. 18(b)**, 22(3); S.I. 2002/2248, art. 2

*Status: Point in time view as at 26/09/2007.*

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- F65** Words in s. 47(1)(b) substituted (3.9.2002) by State Pension Credit Act 2002 (c. 16), ss. 18(c), 22(3); S.I. 2002/2248, art. 2
- F66** Words in s. 47(3) 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. 14(b)(i)**
- F67** Words in s. 47(3)(d) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **120**
- F68** Words in s. 47(3) 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. 14(b)(ii)**
- F69** S. 47(6) added (11.11.1999 for specified purposes, 1.12.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), ss. 32(4), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4
- F70** Words in s. 47(6) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 22(4)**; S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F71** S. 47(7) added (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 6**; S.I. 2002/153, art. 2(g)
- F72** S. 47(8) inserted (6.4.2006) by Pensions Act 2004 (c. 35), ss. 165(3), 322(1) (with s. 313); S.I. 2006/560, art. 2(3), Sch. Pt. 3

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

- C4** Ss. 46-48 modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **49(1)**
- C5** S. 47(2)(b) applied (with modifications) (6.4.1997) by The Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461), regs. 1(1), **6(3)**

#### Commencement Information

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

## 48 Reduced benefits where minimum payments or minimum contributions paid.

- (1) Subject to subsection (3), this subsection applies where for any period—
- (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner’s employment, or
  - (b) minimum contributions have been paid in respect of an earner under section 43.
- (2) Where subsection (1) applies then, for the purposes of section 46—
- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
  - <sup>F73</sup>(b) .....
  - (c) in prescribed circumstances <sup>F74</sup>... any [<sup>F75</sup>widow, widower or surviving civil partner] of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of [<sup>F76</sup>section] 47(2) of the Social Security Contributions and Benefits Act 1992<sup>M3</sup> and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.

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- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.

#### Textual Amendments

- F73** S. 48(2)(b) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. [140\(2\)](#), [180\(1\)](#), [Sch. 7 Pt. III](#); [S.I. 1996/778](#), art. 2(2), Sch. Pt. 2
- F74** Words in s. 48(2)(c) omitted (13.3.1996 for specified purposes, 1.4.1996 in so far as not already in force) by virtue of [Pensions Act 1995 \(c. 26\)](#), ss. [140\(2\)](#), [180\(1\)](#), [Sch. 7 Pt. III](#); [S.I. 1996/778](#), art. 2(2), Sch. Pt. 2
- F75** Words in s. 48(2)(c) 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. 15](#)
- F76** Word in s. 48(2) substituted (13.4.1995) by [Social Security \(Incapacity for Work\) Act 1994 \(c. 18\)](#), s. [16\(3\)](#), [Sch. 1 para. 58](#); [S.I. 1994/2926](#), art. 2(4), Sch. Pt. 4

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

- C4** Ss. 46-48 modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), regs. [1\(1\)](#), [49\(1\)](#)
- C6** S. 48 excluded (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), ss. [140\(3\)](#), [180\(1\)](#); [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2 (with art. 10)

#### Commencement Information

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

#### Marginal Citations

- M3** [1992 c. 4](#).

*<sup>F77</sup>Effect of reduced contributions and rebates on social security benefits*

#### Textual Amendments

- F77** S. 48A 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. [140\(1\)](#), [180\(1\)](#); [S.I. 1996/778](#), art. 2(5)(a), Sch. Pt. 5; [S.I. 1997/664](#), art. 2(3), Sch. Pt. 2

### 48A Additional pension and other benefits

- (1) In relation to any tax week where—
- (a) the amount of a Class 1 contribution [<sup>F78</sup>attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992] in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 [<sup>F79</sup>or 42A][<sup>F79</sup>or, in the case of a week falling before the abolition date, under section 42A (as it then had effect)], or

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- (b) [<sup>F80</sup>an amount is paid under section 45(1)] [<sup>F80</sup>in the case of a week falling before the abolition date, an amount is paid under section 45(1) (as it then had effect)] in respect of the earnings paid to or for the benefit of an earner, section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no [<sup>F81</sup>such] primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).
- (2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).
- (3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.
- (4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).
- (5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) [<sup>F82</sup>or (5A)] of that Act.]

#### Textual Amendments

- F78** Words in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(a\)](#)
- F79** Words in s. 48A(1)(a) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 23\(2\)](#) (with [Sch. 4 Pt. 3](#))
- F80** Words in s. 48A(1)(b) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 23\(3\)](#) (with [Sch. 4 Pt. 3](#))
- F81** Word in s. 48A(1) inserted (with effect in accordance with s. 8(2) of the amending Act) by [National Insurance Contributions Act 2002 \(c. 19\)](#), [Sch. 1 para. 39\(b\)](#)
- F82** Words in s. 48A(5) inserted (28.7.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [ss. 38\(1\)](#), 86(1)(b)(2) (with [ss. 38\(2\)](#), 83(6))

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

- C7** S. 48A(1) modified (6.4.1997) by [Occupational Pension Schemes \(Contracting-out\) Regulations 1996 \(S.I. 1996/1172\)](#), [regs. 1\(1\)](#), [49\(1\)](#)
- C8** S. 48A(5) modified (1.11.2000) by [The Social Security \(Contracting-out and Qualifying Earnings Factor and Revision of Relevant Pensions\) Regulations 2000 \(S.I. 2000/2736\)](#), [regs. 1\(1\)](#), [3\(1\)](#)

*[<sup>F83</sup>Women, married women and widows]*

#### Textual Amendments

- F83** S. 49 and cross heading substituted (19.7.1995) by [Pensions Act 1995 \(c. 26\)](#), s. 180(2)(a), [Sch. 4 para. 16](#)

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[<sup>F83</sup> **49 Women, married women and widows.**

The Secretary of State may make regulations modifying, in such manner as he thinks proper—

- (a) this Chapter in its application to women born on or after 6th April 1950, and
- (b) sections 41, 42, 46(1), 47(2) and (5) and 48, in their application to women who are or have been married]

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**Commencement Information**

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

**Status:**

Point in time view as at 26/09/2007.

**Changes to legislation:**

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