



# 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

*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>F1</sup>Inland Revenue] shall, except in such circumstances [<sup>F2</sup>or in respect of such periods] as may be prescribed, pay 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>F3</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.

*Status: Point in time view as at 26/09/2007.*

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- (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>F1</sup>Inland Revenue<sup>F4</sup> are required to pay minimum contributions, the duty of the <sup>F1</sup>Inland Revenue to pay them shall cease as from a date determined in accordance with regulations.
- (5) If the <sup>F1</sup>Inland Revenue<sup>F5</sup> pay an amount by way of minimum contributions which <sup>F6</sup>they<sup>F5</sup> are not required to pay, <sup>F6</sup>they may recover it—
- (a) from the person to whom <sup>F6</sup>they paid it, or
  - (b) from any person in respect of whom <sup>F6</sup>they paid it.
- (6) If the <sup>F1</sup>Inland Revenue<sup>F7</sup> pay in respect of an earner an amount by way of minimum contributions which <sup>F8</sup>they<sup>F7</sup> are required to pay, but <sup>F7</sup>do not pay it to the trustees or managers of the earner’s chosen scheme, <sup>F8</sup>they may recover it from the person to whom <sup>F8</sup>they paid it or from the earner.
- <sup>F9</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

- F1** 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)
- F2** 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**
- F3** 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**
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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**

*Status: Point in time view as at 26/09/2007.*

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#### 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>[F10]</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>[F11]</sup>then, unless the <sup>[F10]</sup>Inland Revenue<sup>[F12]</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>[F13]</sup>(1A) The grounds referred to in subsection (1) are that the <sup>[F10]</sup>Inland Revenue<sup>[F14]</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>[F10]</sup>Secretary of State<sup>[F10]</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

**F10** 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)

**F11** 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

**F12** 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)

**F13** 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

**F14** 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

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

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#### **45 Amount of minimum contributions.**

[<sup>F15</sup>(1) In relation to any tax week falling within a period for which the [<sup>F16</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>F17</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>F18</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>F19</sup>... ;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[<sup>F20</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**

- F15** 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
- F16** 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)
- F17** 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
- F18** 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
- F19** 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
- F20** 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**

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

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**[<sup>F21</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>F22</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**

- F21** 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
- F22** 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)**

- C1** 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>F23</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).

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- (2) Information held by the Secretary of State [<sup>F24</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>F24</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

- F23** 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**
- F24** 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)

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**Changes to legislation:**

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