



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### [<sup>F1</sup>PART IIIA

#### SAFEGUARDED RIGHTS

##### Textual Amendments

- F1** Pt. 3A inserted (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. 36, 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

#### **68A Safeguarded rights.**

- (1) Subject to subsection (2), the safeguarded rights of a member of an occupational pension scheme or a personal pension scheme are such of his rights to future benefits under the scheme as are attributable (directly or indirectly) to a pension credit in respect of which the reference rights are, or include, contracted-out rights or safeguarded rights.
- (2) If the rules of an occupational pension scheme or a personal pension scheme so provide, a member's safeguarded rights are such of his rights falling within subsection (1) as—
  - (a) in the case of rights directly attributable to a pension credit, represent the safeguarded percentage of the rights acquired by virtue of the credit, and
  - (b) in the case of rights directly attributable to a transfer payment, represent the safeguarded percentage of the rights acquired by virtue of the payment.
- (3) For the purposes of subsection (2)(a), the safeguarded percentage is the percentage of the rights by reference to which the amount of the credit is determined which are contracted-out rights or safeguarded rights.
- (4) For the purposes of subsection (2)(b), the safeguarded percentage is the percentage of the rights in respect of which the transfer payment is made which are contracted-out rights or safeguarded rights.

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: Pension Schemes Act 1993, Part IIIA is up to date with all changes known to be in force on or before 19 July 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)*

(5) In this section—

“contracted-out rights” means such rights under, or derived from—

- (a) an occupational pension scheme contracted-out by virtue of section 9(2) [<sup>F2</sup>or (3)] [<sup>F2</sup>or a money purchase contracted-out scheme], or
- (b) an appropriate personal pension scheme,

as may be prescribed;

“reference rights”, in relation to a pension credit, means the rights by reference to which the amount of the credit is determined.

#### Textual Amendments

- F2** Words in s. 68A(5) substituted (26.9.2007 for specified purposes) by [Pensions Act 2007 \(c. 22\)](#), ss. 15(4), 30(2)(b)(3), [Sch. 4 para. 27](#) (with [Sch. 4 Pt. 3](#))

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

- C1** S. 68A modified (27.4.2005) by [The Occupational and Personal Pension Schemes \(Pension Liberation\) Regulations 2005 \(S.I. 2005/992\)](#), regs. 1(1), [2\(2\)\(3\)](#)
- C2** S. 68A(2)(a) applied (1.5.2001) by [The National Health Service Pension Scheme Regulations 1995 \(S.I. 1995/300\)](#), [Sch. 2A para. 2](#) (as inserted by S.I. 2001/1428, reg. 1, [Sch. 1 para. 3](#))
- C3** S. 68A(2)(a) applied (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Scotland\) Regulations 1995 \(S.I. 1995/365\)](#), [Sch. 1A para. 5](#) (as inserted by S.S.I. 2001/465, reg. 1(2), [Sch. 1 para. 4](#))
- C4** S. 68A(2)(a) applied (6.4.2005) by [The Armed Forces Pension Scheme Order 2005 \(S.I. 2005/438\)](#), art. 1, [Sch. 1 rule D.13\(2\)](#)
- C5** S. 68A(2)(a) applied (1.4.2008) by [The National Health Service Pension Scheme Regulations 2008 \(S.I. 2008/653\)](#), regs. 1.A.01(2), [2.D.17\(2\)](#)
- C6** S. 68A(2)(a) applied (1.4.2008) by [The National Health Service Pension Scheme Regulations 2008 \(S.I. 2008/653\)](#), regs. 1.A.01(2), [3.D.13\(2\)](#)

### 68B Requirements relating to safeguarded rights.

Regulations may prescribe requirements to be met in relation to safeguarded rights by an occupational pension scheme or a personal pension scheme [<sup>F3</sup>including provision for such rights to be extinguished or reduced in consequence of a civil recovery order made in respect of such rights].

#### Textual Amendments

- F3** Words in s. 68B inserted (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 22\(5\)](#); S.I. 2003/120, art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

### 68C Reserve powers in relation to non-complying schemes.

(1) This section applies to—

- (a) any occupational pension scheme, other than a public service pension scheme, and
- (b) any personal pension scheme.

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*Status: Point in time view as at 01/04/2008.*

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- (2) If any scheme to which this section applies does not comply with a requirement prescribed under section 68B and there are any persons who—
  - (a) have safeguarded rights under the scheme, or
  - (b) are entitled to any benefit giving effect to such rights under the scheme,the Inland Revenue may direct the trustees or managers of the scheme to take or refrain from taking such steps as they may specify in writing for the purpose of safeguarding the rights of persons falling within paragraph (a) or (b).
- (3) A direction under subsection (2) shall be final and binding on the trustees or managers to whom the direction is given and any person claiming under them.
- (4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (2) at the instance of the trustees or managers, or any person claiming under them.
- (5) A direction under subsection (2) shall be enforceable—
  - (a) in England and Wales, in a county court, as if it were an order of that court, and
  - (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order.

#### **68D Power to control transfer or discharge of liability.**

Regulations may prohibit or restrict the transfer or discharge of any liability under an occupational pension scheme or a personal pension scheme in respect of safeguarded rights except in prescribed circumstances or on prescribed conditions.]

**Status:**

Point in time view as at 01/04/2008.

**Changes to legislation:**

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