



Pension Schemes Act 1993

1993 CHAPTER 48

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Avoidance of certain transactions and provisions

159 Inalienability of guaranteed minimum pension ^{F1}....

(1) Where—

- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme ^{F2}... ; and
- (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;

then—

- (i) every assignment of or charge on that pension ^{F3}... , and
- (ii) every agreement to assign or charge that pension ^{F3}... ,

shall be void.

(2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b).

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

^{F4}(4)

[^{F5}(4A) Where a person is entitled or prospectively entitled as is mentioned in subsection (1), no order shall be made by any court the effect of which would be that he would be restrained from receiving anything the assignment of which is or would be made void by that subsection.]

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[^{F6}(4B) Subsection (4A) does not prevent the making of an attachment of earnings order under the Attachment of Earnings Act 1971.]

^{F7}(5)

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

- (a) references to assignment shall be construed as references to assignation and “assign” shall be construed accordingly; and
- (b) the reference to a person’s bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the ^{M1}Solicitors (Scotland) Act 1980.

Textual Amendments

- F1** Words in s. 159 sidenote omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(17)(a)** (as amended by [S.I. 2012/709](#), arts. 1(2), **2(4)**)
- F2** Words in s. 159(1)(a) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(17)(b)** (as amended by [S.I. 2012/709](#), arts. 1(2), **2(4)**)
- F3** Words in s. 159(1) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(17)(c)** (as amended by [S.I. 2012/709](#), arts. 1(2), **2(4)**)
- F4** S. 159(4) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(17)(d)** (as amended by [S.I. 2012/709](#), arts. 1(2), **2(4)**)
- F5** S. 159(4A) substituted (6.4.2012) by [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(17)(e)** (as amended by [S.I. 2012/709](#), arts. 1(2), **2(4)**)
- F6** S. 159(4A)(4B) inserted (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), **Sch. 3 para. 41**; [S.I. 1997/664](#), art. 2(3), **Sch. Pt. 2**
- F7** S. 159(5) repealed (6.4.2002) by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 13 Pt. I**; [S.I. 2002/153](#), art. 2(l)(i)

Modifications etc. (not altering text)

- C1** S. 159 excluded by [1985 c. 66](#), s. 36C(1) (as inserted (6.4.1996 for specified purposes) by [Pensions Act 1995 \(c. 26\)](#), **ss. 95(2)**, 180(1) (with s. 121(5)); [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. 5**)
- C2** S. 159 excluded by [Insolvency Act 1986 \(c. 45\)](#), **s. 342C(1)** (as inserted (6.4.1996 for specified purposes) by [Pensions Act 1995 \(c. 26\)](#), **ss. 95(1)**, 180(1) (with s. 121(5)); [S.I. 1996/778](#), art. 2(5)(a), **Sch. Pt. 5**)
- C3** S. 159 excluded (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Insolvency Act 1986 \(c. 45\)](#), **s. 342C(2)** (as substituted by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 15**, 89(5)(a); [S.I. 2002/153](#), **art. 2(e)**)
- C4** S. 159 excluded (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [1985 c. 66](#), s. 36C(2) (as substituted by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), **ss. 16**, 89(5)(a); [S.I. 2002/153](#), **art. 2(f)**)
- C5** S. 159 excluded (26.3.2002 for specified purposes, 6.4.2002 in so far as not already in force) by [1985 c. 66](#), s. 36F(2)(a) (as inserted by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 12 para. 69**; [S.I. 2002/818](#), **art. 3(b)**)
- C6** S. 159 excluded (26.3.2002 for specified purposes, 6.4.2002 in so far as not already in force) by [Insolvency Act 1986 \(c. 45\)](#), **s. 342F(5)(a)** (as inserted by [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), s. 89(1), **Sch. 12 para. 71**; [S.I. 2002/818](#), **art. 3(b)**)

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- C7** S. 159 excluded (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 273\(5\)\(a\)](#), 458(1); S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- C8** S. 159 excluded (1.1.2006) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005 \(S.I. 2005/3181\)](#), arts. 1, **184(5)(a)**
- C9** S. 159(4)(4A) excluded (1.8.1996) by [Pensions Act 1995 \(c. 26\), ss. 166](#), 180(1); S.I. 1996/1675, **art. 3(b)**
- C10** S. 159(4)(4A) excluded (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. 44\(1\)](#), 89(5)(a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. 4

Commencement Information

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

Marginal Citations

- M1** 1980 c. 46.

[^{F8}159A No forfeiture on bankruptcy of rights under personal pension schemes.

- (1) A person's rights under a personal pension scheme cannot be forfeited by reference to his bankruptcy.
- (2) For the purposes of this section—
- (a) a person shall be treated as having a right under a personal pension scheme where—
- (i) he is entitled to a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (sharing of rights on divorce etc. [^{F9}or on dissolution etc. of a civil partnership]),
- (ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part IV of that Act), and
- (iii) the person so responsible has not discharged his liability in respect of the credit; and
- (b) forfeiture shall be taken to include any manner of deprivation or suspension.]

Textual Amendments

- F8** S. 159A inserted (11.11.1999 for specified purposes, 6.4.2002 in so far as not already in force) by [Welfare Reform and Pensions Act 1999 \(c. 30\), ss. 14\(1\)](#), 89(5)(a); S.I. 2002/153, art. 2(d)
- F9** Words in s. 159A(2)(a)(i) inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 17**

160 Terms of contracts of service or schemes restricting choice to be void.

- (1) Subject to such exceptions as may be prescribed—
- (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—
- (i) of a personal or occupational pension scheme,
- (ii) of a particular personal or occupational pension scheme, or
- (iii) of one or other of a number of particular personal or occupational pension schemes,

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shall be void; and

- (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—
 - (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
 - (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,
 shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.

- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—
 - (a) to make contributions to a personal or occupational pension scheme; or
 - (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

Commencement Information

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

161 Provisions excluding Chapter II of Part VII to be void.

Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII of this Act; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

Commencement Information

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

162 Removal of restrictions on friendly societies' pension business.

- (1) The Secretary of State may make such regulations as he thinks appropriate for enabling a friendly society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.
- (2) The power to make regulations under this section shall extend to enabling friendly societies to conduct group insurance business freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.
- (3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—

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- (a) “the relevant legislation” means the ^{M2}Friendly Societies Act 1974, the ^{M3}Friendly Societies Act 1992 and section 464 of the ^{M4}Income and Corporation Taxes Act 1988;
- (b) “friendly society”, has the same meaning as in the Friendly Societies Act 1992; and
- (c) “group insurance business” means—
 - (i) in relation to a registered friendly society, group insurance business within the meaning of section 65A of the Friendly Societies Act 1974, and
 - (ii) in relation to an incorporated friendly society, group insurance business within the meaning of section 11 of the Friendly Societies Act 1992,and in this paragraph “registered friendly society” and “incorporated friendly society” have the same meaning as in that Act of 1992.

Commencement Information

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

Marginal Citations

M2 1974 c. 46.

M3 1992 c. 40.

M4 1988 c. 1.

163 Exemption of certain schemes from rule against perpetuities.

[^{F10}(1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.

(2) This section applies to—

- (a) a public service pension scheme;
- (b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;

^{F11}(c) ; and

- (d) an occupational or personal pension scheme which satisfies prescribed requirements.

(3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the ^{M5}Perpetuities and Accumulations Act 1964 (“wait and see”)) already require to be treated as void before this section applies to the scheme.

(4) Regulations under subsection (2)(d) may require a scheme—

- (a) to contain provisions in any prescribed form, or to any prescribed effect; or

[^{F12}(b) to be a registered pension scheme under section 153 of the Finance Act 2004 or to be a scheme that may be expected to satisfy the conditions for registration.]

^{F13}(5)

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- (6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the ^{F14}... [^{F14}Secretary of State]^{F14}... [^{F14}considers] to be reasonable in the case of a particular scheme.
- (7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.
- (8) Subsection (7) is without prejudice to any rights which vested while this section applied.
- ^{F15}(9) Regulations may provide for a scheme, whose fund was registered under the ^{M6}Superannuation and other Trust Funds (Validation) Act 1927 immediately before the repeal of that Act took effect, to retain the benefit of that Act subject to prescribed conditions and either indefinitely or for a prescribed period.]]

Textual Amendments

- F10** S. 163 repealed (6.4.2010) by [Perpetuities and Accumulations Act 2009 \(c. 18\)](#), ss. 4(c), 22(2), [Sch.](#) (with ss. 15(1)(4), 17, 18); S.I. 2010/37, art. 2
- F11** S. 163(2)(c) 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. 31](#), [Sch. 7 Pt. 6](#) (with [Sch. 4 Pt. 3](#)); S.I. 2011/1267, art. 2(a)
- F12** S. 163(4)(b) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, [7\(6\)\(a\)](#)
- F13** S. 163(5) omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, [7\(6\)\(b\)](#)
- F14** Word in s. 163(6) substituted (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), [Sch. 5 para. 21](#); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. 5](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)
- F15** S. 163(9) omitted (temp. until the coming into force of what remains of 1973 c. 38, s. 69(7)) (7.2.1994) by virtue of [Pension Schemes Act 1993 \(c. 48\)](#), s. 193(2), [Sch. 9 paras. 1, 2](#) (with ss. 6(8), 164); S.I. 1994/86, [art. 2](#)

Marginal Citations

- M5** 1964 c. 55.
M6 1927 c. 41.

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