



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART IV

#### PROTECTION FOR EARLY LEAVERS

#### [<sup>F1</sup>CHAPTER 5

##### EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS

#### [<sup>F1</sup>101A] Rights under section 101AB: further provisions

- (1) A member of an occupational pension scheme loses any right acquired by him under section 101AB—
  - (a) if the scheme is wound up, or
  - (b) subject to subsection (2), if he fails to exercise the right on or before the reply date.
- (2) If the member has failed to exercise any such right on or before the reply date, the trustees or managers of the scheme may allow him to exercise it on or before such later date as they may determine on the application of the member.
- (3) Where the trustees or managers determine a later date under subsection (2)—
  - (a) they must give a notice in writing to that effect to the member, and
  - (b) subsection (1)(b) applies in relation to the member as if the reference to the reply date were a reference to the later date.
- (4) For the purposes of subsection (3) and sections 101AC(2) and 101AD(2), a document or notice may be given to a person—
  - (a) by delivering it to him,
  - (b) by leaving it at his proper address, or
  - (c) by sending it by post to him at that address.

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*Status: Point in time view as at 03/01/2012. This version of this provision has been superseded.*

*Changes to legislation: Pension Schemes Act 1993, Section 101AI is up to date with all changes known to be in force on or before 04 September 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)*

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- (5) For the purposes of subsection (4), and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to that subsection, the proper address of a person is—
- (a) in the case of a body corporate, the address of the registered or principal office of the body, and
  - (b) in any other case, the last known address of the person.
- (6) This Chapter is subject to any provision made by or under section 61 (deduction of contributions equivalent premium from refund of scheme contributions)—
- (a) permitting any amount to be deducted from any payment of a contribution refund, or
  - (b) requiring the payment of a contribution refund to be delayed.
- (7) In this Chapter, except where the context otherwise requires, the following expressions have the following meanings—
- “the applicable rules” means—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
  - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
  - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of this Part;
- “member” has the meaning given in section 101AA(5);
- “permitted way”, in relation to a cash transfer sum, means any of the ways specified in section 101AE(2) in which the sum may be used;
- “relevant benefits” means benefits which are not attributable (directly or indirectly) to a pension credit;
- “reply date”, in relation to a member whose pensionable service has terminated, has the meaning given in section 101AC(3)(c).
- (8) For the purposes of subsection (7)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
    - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
    - (ii) this Chapter or Chapter 2, 3 or 4 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
    - (iii) Part 4A of this Act or regulations made under that Part;
    - (iv) section 110(1) of this Act;
    - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
    - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
    - (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
  - (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—

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- (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
- (ii) section 129(1) of this Act;
- (iii) section 117(1) of the Pensions Act 1995;
- (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
- (v) section 306(1) of the Pensions Act 2004.]

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**Textual Amendments**

- F1** Pt. IV Ch. 5 inserted (1.1.2006 for specified purposes, 6.4.2006 in so far as not already in force) by Pensions Act 2004 (c. 35), ss. 264, 322(1) (with s. 313); S.I. 2005/3331, art. 2(5)(a)(b), Sch. Pt. 5

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

- C1** Ss. 101AA-101AI modified (30.12.2005) by The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I. 2005/3381), regs. 1, 14, **Sch. 2 para. 3**

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