



Pension Schemes Act 1993

1993 CHAPTER 48

PART III

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

CHAPTER III

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS: STATE SCHEME PREMIUMS

State scheme premiums

61 Deduction of contributions equivalent premium from refund of scheme contributions

- (1) This section applies where—
 - (a) an earner's service in contracted-out employment is terminated; and
 - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
 - (c) a contributions equivalent premium falls to be paid by any person in respect of him.
- (2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.
- (3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.

- (4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.
- (5) Where the refund—
- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
 - (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,
- the amount which may be recovered under this section shall be increased by such amount as may be prescribed.
- (6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.
- (7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.
- (8) Where—
- (a) an earner's service in contracted-out employment is terminated;
 - (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
 - (c) a contributions equivalent premium falls to be paid in respect of him; and
 - (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment,
- then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to service in the employment on the termination of which the premium falls to be paid (and subsection (7) shall apply accordingly).
- (9) This section shall apply in relation to such a refund as is referred to in subsection (1) (b) which becomes payable after the termination of an earner's service in contracted-out employment as it applies to such a refund becoming payable on the termination of an earner's service in such employment.
- (10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).
- (11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—
- (a) is made or to be made otherwise than out of the resources of the scheme; or

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- (b) is made or to be made out of those resources but by way of distribution on a winding up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.