



Pension Schemes Act 1993

1993 CHAPTER 48

PART III

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

CHAPTER I

CERTIFICATION

General requirements for certification

9 Requirements for certification of schemes: general.

- (1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) or (3).
- (2) ^[F1]An occupational pension scheme satisfies this subsection only if—
 - (a) in relation to any earner's service before the principal appointed day, it satisfies the conditions of subsection (2A), and
 - (b) in relation to any earner's service on or after that day, it satisfies the conditions of subsection (2B).
- (2A) The conditions of this subsection are that—
 - (a) the scheme complies in all respects with sections 13 to 23 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and
 - (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.
- (2B) The conditions of this subsection are that the ^[F2]Inland Revenue^[F3]are satisfied] that—
 - (a) the scheme complies with section 12A,

Status: Point in time view as at 01/07/2005. This version of this provision has been superseded.

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- (b) restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,
 - (c) the scheme satisfies such other requirements as may be prescribed (which—
 - (i) must include requirements as to the amount of the resources of the scheme and,
 - (ii) may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and
 - (d) the scheme does not fall within a prescribed class or description, and ^{F3}are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.
- (2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.]
- (3) An occupational pension scheme satisfies this subsection only if—
 - (a) the requirements imposed by or by virtue of sections ^{F4}... 26 to 32 and such other requirements as may be prescribed are satisfied in its case
 - ^{F5}(aa) the [^{F6}Inland Revenue are] satisfied that the scheme does not fall within a prescribed class or description]; and
 - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
 - (4) Where there are two or more occupational pension schemes in force in relation to an earner’s employment, none of which can by itself be a contracted-out scheme, the [^{F7}Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.
 - (5) A personal pension scheme can be an appropriate scheme only if—
 - (a) the requirements imposed by or by virtue of sections 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
 - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- ^{F8}(5A) Regulations about pension schemes made under this Chapter may contain provisions framed by reference to whether or not a scheme—
- (a) is approved under Chapter 1 (retirement benefit schemes) of Part 14 of the Income and Corporation Taxes Act 1988, or is a relevant statutory scheme within the meaning of that Chapter, or
 - (b) is approved under Chapter 4 (personal pension schemes) of that Part.]
- (6) In this section “relevant requirements” means—
 - (a) the requirements of any regulations prescribing the form and content of rules of contracted-out or, as the case may be, appropriate schemes; and
 - (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the [^{F9}Secretary of State] as a condition of contracting-out or, as the case may be, of being an appropriate scheme, either generally or in relation to a particular scheme.

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Textual Amendments

- F1** S. 9(2)-(2C) substituted for s. 9(2) (6.4.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 136(3)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), **Sch. Pt. V**
- F2** Words in s. 9(2B) 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. 35(2)(a)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F3** Words in s. 9(2B) 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. 35(2)(b)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F4** Words in s. 9(3) repealed (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), Sch. 5 para. 24, **Sch. 7 Pt. III**; S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F5** S. 9(3)(aa) 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. 136(4)**, 180(1); S.I. 1996/778, art. 2(5)(a)(7), Sch. Pt. 5
- F6** Words in s. 9(3)(aa) 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. 35(3)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F7** Words in s. 9(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. 35(4)**; S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F8** S. 9(5A) inserted (1.7.2005) by Pensions Act 2004 (c. 35), **ss. 283**, 322(1) (with s. 313); S.I. 2005/1720, art. 2(9)
- F9** Words in s. 9 substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 21**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

Modifications etc. (not altering text)

- C1** Pt. III: power to modify conferred (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 149(1)**, 180(1); S.I. 1996/778, **art. 2(6)**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- C2** Pt. III applied (with modifications) (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), **2(4)(a)-(f)**
- C3** Pt. III applied (with modifications) (6.4.1997) by The Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462), regs. 1(1), 12, 13, **Sch. 2** (with reg. 14, Sch. 4)
- C4** Pt. III: power to amend conferred (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), **ss. 23**, 28(3); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- C5** Pt. III: power to transfer functions conferred (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), **ss. 23**, 28(3); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- C6** S. 9 excluded (1.6.1996 for specified purposes, 6.4.1997 in so far as not already in force) by Pensions Act 1995 (c. 26), **ss. 149(1)**, 180(1); S.I. 1996/778, art. 2(6); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- C7** S. 9(2) excluded (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), **2(3)**
- C8** S. 9(2B) modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **27**
- C9** S. 9(2B)(b) modified (6.4.1997) by Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172), regs. 1(1), **48(5)(d)**
- C10** S. 9(3) excluded (6.4.1997) by The Occupational Pension Schemes (Mixed Benefit Contracted-out Schemes) Regulations 1996 (S.I. 1996/1977), regs. 1(1), **2(3)**

Commencement Information

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

Status:

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