



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART III

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

### CHAPTER II

#### REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

#### *Preliminary*

#### **36 Scope of Chapter II**

This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the Department in respect of earners who are members of appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

*Reduced rates of state scheme Class 1 contributions*

**37 Reduced rates of Class 1 contributions for earners in contracted-out employment**

- (1) Where the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, the amount of a Class 1 contribution in respect of so much of the earnings paid in that week as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced—
  - (a) in the case of a primary Class 1 contribution, by an amount equal to 1.8 per cent. of that part of those earnings; and
  - (b) in the case of a secondary Class 1 contribution, by an amount equal to 3 per cent. of that part of those earnings.
- (2) Where—
  - (a) an earner has ceased to be employed in an employment; and
  - (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased,
 that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.
- (3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (reduced rates for married women and widows).

**38 Alteration of rates of contributions under s. 37**

- (1) Whenever the Secretary of State makes an order under section 42 of the Pension Schemes Act 1993 altering, with effect from any date, either or both of the contracted-out percentages for the time being applying under section 41 of that Act, the Department may make a corresponding order for Northern Ireland altering, with effect from the same date, either or both of the contracted-out percentages applying under section 37.
- (2) An order under subsection (1) may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 3 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

*Minimum contributions: members of appropriate personal pension schemes*

**39 Payment of minimum contributions to personal pension schemes**

- (1) Subject to the following provisions of this Part, the Department shall, except in such circumstances as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—
  - (a) is over the age of 16 but has not attained pensionable age;

- (b) is not a married woman or widow who has made an election which is still operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate; and
  - (c) is a member of an appropriate personal pension scheme which is for the time being the earner's chosen scheme.
- (2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner's chosen scheme.
- (3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.
- (4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the Department is required to pay minimum contributions, the duty of the Department to pay them shall cease as from a date determined in accordance with regulations.
- (5) If the Department pays an amount by way of minimum contributions which it is not required to pay, the Department may recover it—
- (a) from the person to whom the Department paid it, or
  - (b) from any person in respect of whom the Department paid it.
- (6) If the Department pays in respect of an earner an amount by way of minimum contributions which the Department is required to pay, but does not pay it to the trustees or managers of the earner's chosen scheme, the Department may recover it from the person to whom the Department paid it or from the earner.

#### **40 Earner's chosen scheme**

- (1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the Department, in such manner and form and with such supporting evidence as may be prescribed—
- (a) that the earner is, or intends to become, a member of the scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 39;
  - (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,
- that scheme is the earner's chosen scheme for the purposes of section 39 as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner's chosen scheme for those purposes.
- (2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the Department at such time and in such manner and form as may be prescribed.
- (3) When a notice under subsection (2) is given, the scheme ceases to be the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice.

#### **41 Amount of minimum contributions**

- (1) Subject to subsection (2), in relation to any tax week falling within a period for which the Department is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the aggregate amount of the

reductions in Class 1 contributions which would fall to be made under section 37(1) if any employment of his which is not contracted-out were contracted-out employment.

(2) Where—

- (a) subsection (1) applies;
- (b) the tax year in which the tax week falls ends before such date as may be prescribed; and
- (c) the earner was over the age of 30 on the 6th April with which the tax year began,

there shall be added to the amount payable under that subsection an amount equal to 1 per cent. of so much of those earnings as respects which those reductions would fall to be made.

(3) Regulations may make provision—

- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
- (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;
- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
- (d) for the manner in which an earner's age is to be verified for the purposes of subsection (2);
- (e) for this section to have effect in prescribed cases as if for any reference to a tax week there were substituted a reference to a prescribed period, and for the references to a tax week in section 37(1) to have effect accordingly so far as they apply for the purposes of this section;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

*Effect of entitlement to guaranteed minimum pensions on payment of social security benefits*

## **42 Effect of entitlement to guaranteed minimum pensions on payment of social security benefits**

(1) Where for any period a person is entitled both—

- (a) to a Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or a widower's invalidity pension under the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—

- (i) to its additional pension, or
- (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

whichever is the less.

(2) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;

- (b) he is also entitled to an invalidity pension under section 33 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his invalidity pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 34 of that Act shall have effect as if the following subsection were substituted for subsection (5)—

“(5) In this section “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to an invalidity pension under section 33 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his invalidity pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the appropriate weekly rate of invalidity allowance and he shall be entitled to invalidity allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.

(4) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

- (6) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions;
  - (b) he is also entitled—
    - (i) to an invalidity pension under section 33 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
    - (ii) to a Category A retirement pension under section 44 of that Act; or
    - (iii) to a Category B retirement pension under section 49 of that Act; and
  - (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 42(1) of the Pension Schemes (Northern Ireland) Act 1993.”.

- (7) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions;
  - (b) he is also entitled to any of the pensions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 mentioned in subsection (6)(b); and
  - (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

- (8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—
- (a) in the case of subsection (3), reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of subsection (1); and
  - (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 11(1).

- (9) Where subsection (3) applies, section 34(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 shall have effect as if for the words

“subsection (4) above” there were substituted the words “section 42(3) of the Pension Schemes (Northern Ireland) Act 1993”.

#### **43 Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 42**

- (1) The reference in section 42(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner in any case where he is entitled to a widower's invalidity pension, but where he is entitled to any other benefit that reference shall be so construed only if—
- (a) at the time of the earner's death she and her husband had both attained pensionable age; or
  - (b) he is also entitled to a Category A retirement pension by virtue of section 41(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (2) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
- (a) if its commencement had not been postponed, as mentioned in section 9(4); or
  - (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 16 as a result of which—
    - (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
    - (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.
- (3) Where—
- (a) guaranteed minimum pensions provided for a member or the member's widow or widower under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 15; and
  - (b) either—
    - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
    - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
  - (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
  - (d) the combined proceeds of—
    - (i) any relevant policies and annuity contracts, and
    - (ii) any cash sums paid or alternative arrangements made under the Policyholders Protection Act 1975,
 are inadequate to provide the whole of the amount secured,
- the member and the member's widow or widower shall be treated for the purposes of section 42 as only entitled to such part (if any) of the member's or, as the case may be, the member's widow's or widower's guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).

- (4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 15 applies.
- (5) For the purposes of section 42 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—
  - (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 17(1); or
  - (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 17(2).

#### **44 Reduced benefits where minimum payments or minimum contributions paid**

- (1) Subject to subsection (3), this subsection applies where for any period—
  - (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or
  - (b) minimum contributions have been paid in respect of an earner under section 39.
- (2) Where subsection (1) applies then, for the purposes of section 42—
  - (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
  - (b) in prescribed circumstances if the earner dies after reaching pensionable age any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a); and
  - (c) in prescribed circumstances if the earner dies before reaching pensionable age any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies, paragraphs (a) to (c) of this subsection apply also for the purposes of sections 34(4) and 47(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words "in that employment".
- (3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.
- (4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.

#### *Married women and widows*

#### **45 Married women and widows**

The Department may make regulations modifying sections 37, 38, 42(1), 43(2) and (5) and 44 in such manner as it thinks proper, in their application to women who are or have been married.