



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART XI **N.I.**

#### GENERAL AND MISCELLANEOUS PROVISIONS

##### *Modification powers*

#### **149 Power to modify certain provisions of this Act. **N.I.****

- (1) The Department may by regulations direct that Chapters II, III and IV of Part IV <sup>F1</sup> . . . shall have effect, in such cases as it may specify in the regulations, subject to such modifications as it may specify.
- (2) Regulations may modify Chapter I of Part IV—
  - (a) in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment;
  - (b) in such manner as the Department thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up;
  - (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Department considers to be necessary for particular cases or classes of case;

and regulations under paragraph (a) may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.

<sup>F2</sup>(3) . . . . .

<sup>F2</sup>(4) . . . . .

<sup>F3</sup>(5) . . . . .

*Status: Point in time view as at 06/04/2005.*

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<sup>F3</sup>(6) .....

<sup>F3</sup>(7) .....

- (8) The Department may by order provide that any enactment in Chapter II of Part VII which is specified in the order shall not apply to persons or to employments of such classes as may be prescribed in the order.

In this subsection “employments” has the same meaning as in that Chapter.

#### Textual Amendments

- F1** Words in s. 149(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 31(a), **Sch. 5 Pt. I**; S.R. 1997/192, **art. 2(b)**
- F2** S. 149(3)(4) repealed (1.1.1996) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 31(b), **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1995/477, art. 2(b), **Sch. Pt. II**
- F3** S. 149(5)-(7) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 31(b), **Sch. 5 Pt. I**; S.R. 1997/192, **art. 2(b)**

### **150 Application of enactments as respects personal pension schemes. N.I.**

- (1) Regulations may provide that any provision of this Act [<sup>F4</sup>or of Articles 22 to 26 and 40 of the Pensions (Northern Ireland) Order 1995] which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.
- (2) This subsection applies to <sup>F5</sup> . . . section 107 so far as it relates to occupational pension schemes (and Part VIII and section 149 so far as they have effect for the purposes of section 107 as it so relates), sections 113, 119 to 123, 151, 153, 156 and 157.

#### Textual Amendments

- F4** Words in s. 150(1) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, **Sch. 1 para. 32**; S.R. 1997/192, **art. 2(b)**
- F5** Words in s. 150(2) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 168, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

#### *Information about schemes*

### **[<sup>F6</sup>151 Requirement to give information to the Department, Secretary of State or Inland Revenue for the purposes of certain provisions. N.I.**

- (1) Regulations may require the furnishing by prescribed persons to the Department, the Secretary of State or the Inland Revenue of such information as it or he requires or they require for the purposes of Part III, section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), section 113 and section 155 (so far as it relates to protected rights payments).
- (2) In this section “regulations” means regulations made by the Department or, as the case may be, the Secretary of State and “prescribed” shall be construed accordingly.]

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#### Textual Amendments

- F6** S. 151 substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 70**; S.R. 1999/149, art. 2(c), **Sch. 2**

### [<sup>F7</sup>152 Information for purposes of contracting-out **N.I.**

- (1) The Department or the Inland Revenue may give to the trustees or managers of an occupational pension scheme or appropriate scheme such information as appears to the Department or Inland Revenue appropriate to give to them for the purpose of enabling them to comply with their obligations under Part III.
- (2) The Department or Inland Revenue may also give to such persons as may be prescribed any information that they could give under subsection (1) to trustees or managers of a scheme.]

#### Textual Amendments

- F7** S. 152 substituted (1.1.2001) by 2000 c. 4 (N.I.), s. 52, **Sch. 5 Pt. I para. 6** (with s. 66(6)); S.R. 2000/374, art. 2(a), **Sch. Pt. II**

### 153 Power of Department to obtain information in connection with applications under s. 120. **N.I.**

- (1) Where an application is made to the Department under section 120 in respect of contributions to an occupational pension scheme or personal pension scheme falling to be made, by an employer the Department may require—
  - (a) the employer to provide it with such information as the Department may reasonably require for the purpose of determining whether the application is well founded; and
  - (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Department any such document in that person's custody or under his control which is of such a description as the Department may require.
- (2) Any such requirement shall be made by notice in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.
- (3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) This section shall be construed as if it were in Chapter II of Part VII.

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**154 Disclosure of information between government departments, etc. N.I.**

(1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—

- (a) to the Department,
- (b) to the Secretary of State, or
- (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act (except Chapter II of Part VII and sections 153 and 157) or of any corresponding legislation in Great Britain.

<sup>F8</sup>(1A) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held for the purposes of Part III of this Act from being disclosed—

- (a) to the Department,
- (b) to the Secretary of State,
- (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act or of any corresponding Great Britain legislation.]

(2) .....

<sup>F9</sup>(3) .....

(4) In relation to persons who are carrying on or have carried on <sup>F10</sup> wholly or partly in the United Kingdom ] a trade, profession or vocation income from which is chargeable to tax under <sup>F11</sup> Part 2 of the Income Tax (Trading and Other Income) Act 2005 or ] Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade profession or vocation, but sufficient information may also be given to identify the persons concerned.

(5) <sup>F12</sup>Subsections (1) and (1A)]<sup>F13</sup>extend] only to disclosure by or under the authority of the Inland Revenue.

(6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1) <sup>F14</sup>or (1A)], <sup>F15</sup>. . . shall not be further disclosed to any other person, except where the further disclosure is made—

- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
- (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 153 and 157); or
- (c) for the purposes of <sup>F16</sup>Chapter II of Part II of the Social Security (Northern Ireland) Order 1998] or any corresponding provisions of legislation in Great Britain; <sup>F17</sup>or
- (ca) for the purposes of Part III of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 or any corresponding Great Britain legislation.]. . .

<sup>F18</sup>(d) .....

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(7) The Department, [<sup>F19</sup>and the Inland Revenue] may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—

(a) persons employed in the Department, [<sup>F20</sup>or]

(b) persons employed in relation to the Inland Revenue, <sup>F21</sup> . . .

<sup>F21</sup>(c) . . . . .

shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.

<sup>F22</sup>(8) . . . . .

### Textual Amendments

- F8** S. 154(1A) inserted (1.4.1999) by S.I. 1999/671, art. 6, **Sch. 5 para. 7(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F9** S. 154(2)(3) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 56(a), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)
- F10** Words in s. 154(4) inserted (with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5)**, s. 883(1), **Sch. 1 para. 470(a)** (with Sch. 2)
- F11** Words in s. 154(4) inserted (with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5)**, s. 883(1), **Sch. 1 para. 470(b)** (with Sch. 2)
- F12** Words in s. 154(5) substituted (1.4.1999) by S.I. 1999/671, art. 6, **Sch. 5 para. 7(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F13** Word in s. 154(5) inserted (*retrospective* to 1.4.1999) by 1999 c. 30, s. 81, **Sch. 11 para. 25(1)(2)**
- F14** Words in s. 154(6) inserted (1.4.1999) by S.I. 1999/671, art. 6, **Sch. 5 para. 7(4)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F15** Words in s. 154(6) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 56(c), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)
- F16** Words in s. 154(6)(c) substituted (5.7.1999 and 29.11.1999 for specified purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 97**; S.R. 1999/310, art. 2(b), **Sch. 1**; S.R. 1999/472, art. 2(1)(a), **Sch. 1** (subject to art. 2(2) of the said S.R. 1999/472)
- F17** S. 154(6)(ca) and the preceding word “or” inserted (1.4.1999) by S.I. 1999/671, art. 6, **Sch. 5 para. 7(4)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F18** S. 154(6)(d) and the preceding “or” repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 56(c), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)
- F19** Words in s. 154(7) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 56(d)(i)**; S.R. 1997/192, art. 2(b)
- F20** Word in s. 154(7) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 56(d)(ii)**; S.R. 1997/192, art. 2(b)
- F21** S. 154(7)(c) and the preceding “or” repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 56(d)(iii), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)
- F22** S. 154(8) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 56(e), **Sch. 5 Pt. III**; S.R. 1997/192, art. 2(b)

### [<sup>F23</sup>154A Other disclosures by the Department. **N.I.**

(1) The Department may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on the Department or on persons employed in it, disclose [<sup>F24</sup>any regulated information] to any person specified in the first column of the following Table if it considers that the disclosure would enable or assist the person

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to discharge the functions specified in relation to the person in the second column of the Table.

TABLE

<b>Persons</b>	<b>Functions</b>
F25	F25
...	...
The Bank of England.	[ <sup>F26</sup> Any of its functions.]
[ <sup>F27</sup> The Financial Services Authority]	[ <sup>F28</sup> Functions under the legislation relating to friendly societies, under the Building Societies Act 1986, or under the Financial Services and Markets Act 2000.]
The Regulatory Authority.	Functions under this Act [ <sup>F29</sup> , the Pensions (Northern Ireland) Order 1995, the Welfare Reform and Pensions (Northern Ireland) Order 1999 or the Pensions (Northern Ireland) Order 2005 or any enactment in force in Great Britain corresponding to any of them.]
[ <sup>F30</sup> The Pensions Ombudsman.	Functions conferred by or by virtue of this Act or any enactment in force in Great Britain corresponding to it.
The Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part III of the Pensions (Northern Ireland) Order 2005 or any enactment in force in Great Britain corresponding to that Part.
The Ombudsman for the Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part III of the Pensions (Northern Ireland) Order 2005 or any enactment in force in Great Britain corresponding to that Part.]
[ <sup>F31</sup> A person appointed under— (a)section 167 of the Financial Services and Markets Act 2000 (b)subsection (3) or (5) of section 168 of that Act, or (c)section 284 of that Act,to conduct an investigation.	Functions in relation to that investigation.
A body designated under section 326(1) of the Financial Services and Markets Act 2000.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.]

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F25	F25
...	...
F25	F25
...	...
F25	F25
...	...
F25	F25
...	...
F25	F25
...	...
F25	F25
...	...

[ In subsection (1) “regulated information” means information received by the <sup>F32</sup>(1AA) Department in connection with its functions under—

- (a) this Act;
- (b) the Pensions (Northern Ireland) Order 1995, or
- (c) the Pensions (Northern Ireland) Order 2005 or the Pensions Act 2004,

other than information supplied to it under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement purposes etc.).]

[ The Inland Revenue may, in spite of any obligation as to secrecy or confidentiality <sup>F33</sup>(1A) imposed by statute or otherwise on them or on their officers, disclose any information received by them in connection with their functions under Part III of this Act to any person specified in the first column of the Table in subsection (1) if they consider that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.]

(2) The Department may by order—

- (a) amend the Table in subsection (1) by—
  - (i) adding any person exercising regulatory functions and specifying functions in relation to that person,
  - (ii) removing any person for the time being specified in the Table, or
  - (iii) altering the functions for the time being specified in the Table in relation to any person, or
- (b) restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any person for the time being specified in the Table.]

#### Textual Amendments

- F23** S. 154A inserted (6.4.1996) by [S.I. 1995/3213](#) (NI 22), art. 165, Sch. 4 para. 9; [S.R. 1996/91](#), art. 2(c), [Sch. Pt. III](#)
- F24** Words in s. 154A(1) substituted (6.4.2005) by [The Pensions \(Northern Ireland\) Order 2005](#) (S.I. 2005/255 (N.I. 1), art. 1(2), [Sch. 10 para. 21\(2\)](#)); [S.R. 2005/48](#), art. 2(7), Sch. Pt. 7 (with art. 5(2))
- F25** Entries in the Table in s. 154A(1) repealed (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 136\(2\)](#)
- F26** Words in the Table to s. 154A(1) substituted (1.6.1998) by [1998 c. 11](#), s. 23, [Sch. 5 Pt. IV Chapter II para. 70\(3\)](#); [S.I. 1998/1120](#), [art. 2](#)

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- F27** Entry in the Table to s. 154A(1) inserted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. IV Chapter II para. 70(3)**; S.I. 1998/1120, **art. 2**
- F28** Words in the Table in s. 154A(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 136(3)**
- F29** Words in s. 154A(1) substituted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 21(3)(a)**); S.R. 2005/48, art. 2(7), Sch. Pt. 7 (with art. 5(2))
- F30** Words in s. 154A(1) substituted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 21(3)(b)**); S.R. 2005/48, art. 2(7), Sch. Pt. 7 (with art. 5(2))
- F31** Entries in the Table in s. 154A(1) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1, 136(4)**
- F32** S. 154A(1AA) inserted (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 21(4)**); S.R. 2005/48, art. 2(7), Sch. Pt. 7 (with art. 5(2))
- F33** S. 154A(1A) inserted (1.4.1999) by S.I. 1999/671, art. 1(3), **Sch. 5 para. 8**; S.R. 1999/149, art. 2(c), **Sch. 2**

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

- C1** S. 154A amended (*temp.*) (3.9.2001) by S.I. 2001/2966, **art. 11**
- C2** S. 154A(1) modified (*temp.*) (24.2.2005) by The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005/48), **art. 5(2)**

*Avoidance of certain transactions and provisions*

**155 Inalienability of guaranteed minimum pension and protected rights payments. N.I.**

- (1) Where—
- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; 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 or those payments, and
  - (ii) every agreement to assign or charge that pension or those payments, 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 15(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.
- (4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.

<sup>F34</sup>(4A) Where a person—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
- (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),



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no order shall be made by any court or the Enforcement of Judgments Office 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 either of those subsections.

(4B) Subsection (4A) does not prevent the making of an attachment of earnings order under the Judgments Enforcement (Northern Ireland) Order 1981.]

(5) <sup>F35</sup> .....

#### Textual Amendments

**F34** S. 155(4A)(4B) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, Sch. 1 para. 33 (with art. 118(5)(6)); S.R. 1997/192, art. 2(b)

**F35** S. 155(5) repealed (6.4.2002) by S.I. 1999/3147 (N.I. 11), art. 76, Sch. 10 Pt. I (with transitional provisions in art. 75(2)); S.R. 2002/25, art. 2(d)(i)

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

**C3** S. 155 excluded (1.12.1999 for certain purposes and 6.4.2002 otherwise) by S.I. 1989/19 (N.I.), art. 315C(2)(a) (as amended (1.12.1999 for certain purposes and 6.4.2002 otherwise) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 15 (with transitional provisions in art. 75(1))); S.R. 2002/25, art. 2(a)

**C4** S. 155 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. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

**C5** S. 155 excluded (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 277(8), 458(1); S.I. 2003/120, art. 2, Sch. (with arts. 34) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

**C6** S. 155(4) excluded (1.8.1996) by S.I. 1995/3213 (N.I. 22), art. 162(5)(a); S.R. 1996/284, art. 3(b)  
S. 155(4) excluded (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 41(a); S.R. 2000/133, art. 2(3), Sch. Pt. IV

**C7** S. 155(4A) excluded (1.8.1996) by S.I. 1995/3213 (N.I. 22), art. 162(5)(a); S.R. 1996/284, art. 3(b)  
S. 155(4A) excluded (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 41(a); S.R. 2000/133, art. 2(3), Sch. Pt. IV

#### [<sup>F36</sup>155A] **No forfeiture on bankruptcy of rights under personal pension schemes.** **N.I.**

(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 Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (sharing of rights on divorce etc.),

(ii) he is so entitled as against the person responsible for the scheme (within the meaning of Chapter I of Part V of that Order), 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.]

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### Textual Amendments

**F36** S. 155A inserted (1.12.1999 for certain purposes and otherwise *prosp.*) by **S.I. 1999/3147 (N.I. 11)**, **arts. 1(5)(a), 14(1)** (with transitional provisions in **art. 75(1)**)

## 156 Terms of contracts of service or schemes restricting choice to be void. **N.I.**

- (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 occupational pension scheme, or
    - (iii) of one or other of a number of particular personal or occupational pension schemes,
 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.

## 157 Provisions excluding Chapter II of Part VII to be void. **N.I.**

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; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

## 158 Removal of restrictions on friendly societies’ pension business. **N.I.**

- (1) The Department may make such regulations as it thinks appropriate for enabling a registered 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 registered societies to conduct such business as is mentioned in subsection (1) freed from any restrictions of the relevant legislation as to the amounts which a member, or a person

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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 Department considers to be necessary or expedient for achieving the purposes referred to in subsection (1).
- (4) In this section—
  - (a) “the relevant legislation” means the <sup>M1</sup>Friendly Societies Act 1974,
  - (b) “registered society” has the same meaning as in that Act, and
  - (c) “group insurance business” has the same meaning as in section 65A(2) of that Act.

#### Marginal Citations

M1 1974 c. 46.

### 159 Exemption of certain schemes from rule against perpetuities. **N.I.**

- (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;
  - (c) a personal pension scheme which is an appropriate scheme; 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 <sup>M2</sup>Perpetuities Act (Northern Ireland) 1966 (“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
  - (b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.
- (5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.
- (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 [<sup>F37</sup>Department][<sup>F38</sup>considers] to be reasonable in the case of a particular scheme.

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- (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.
- (9) Regulations may provide for a scheme, whose fund was registered under the <sup>M3</sup>Superannuation and other Trust Funds (Validation) Act (Northern Ireland) 1928 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

- F37** Word in s. 159 substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(a)**, Table; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F38** Word in s. 159(6) substituted (6.4.1996 for certain purposes only otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 paras. 13, **14(b)**, Table; S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192 art. 2(b)

#### Marginal Citations

- M2** 1966 c. 2 (N.I.).
- M3** 1928 c. 6 (N.I.).

### *Special classes of earner*

#### 160 Crown employment. **N.I.**

- (1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—
  - (a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;
  - (b) the remaining provisions of this Act, except for—
    - (i) sections <sup>F39</sup> . . . 149(2), 154(1) to (5), 158, 159 <sup>F40</sup> . . . and 171;
    - (ii) Chapter II of Part VII and sections 153 and 157;
    - (iii) section 162 and the provisions mentioned in subsection (2).
- (2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 3, 5, 22 to 30, 34, 39 to 41 (so far as they relate to personal pension schemes), section 44 (so far as it relates to minimum contributions), section 46 (so far as it relates to personal pension schemes), section 50, <sup>F41</sup> . . . section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162.
- (3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.

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- (4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the provisions within subsection (1)(b) and those within subsection (2) (except for sections 150 and 162) as an employed earner in respect of his membership of those forces.
- (5) The Secretary of State may make regulations modifying sections 37, 38, 42(1), 43(2) and (5) and 44 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.
- (6) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State, being establishments and organisations in which persons serve under the control of the Defence Council.

#### Textual Amendments

- F39** Words in s. 160(1)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 165, 168, Sch. 4 para. 10, Sch. 5 Pt. IV; S.R. 1997/192, art. 2(b)
- F40** Words in s. 160(1)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 57(a), Sch. 5 Pt. III; S.R. 1997/192, art. 2(b)
- F41** Words in s. 160(2) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 57(b), Sch. 5 Pt. III; S.R. 1997/192, art. 2(b)

#### 161 Application of certain provisions to cases with foreign element. **N.I.**

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Department [<sup>F42</sup>or, as the case may be, the Secretary of State] thinks proper, in their application to any person who is, or has been, or is to be—
  - (a) employed on board any ship, vessel, hovercraft or aircraft;
  - (b) outside Northern Ireland at any prescribed time or in any prescribed circumstances; or
  - (c) in prescribed employment in connection with continental shelf operations.
- (2) The provisions referred to in subsection (1) are—
  - (a) [<sup>F43</sup>Part III], section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162; and
  - (b) sections 37 and 38, subsections (1), (6) and (7) of section 42 (and subsection (8) of that section so far as it has effect for the purposes of those subsections) and sections 43(2) and (5) and 44.
- (3) Subject to subsection (4), regulations under subsection (1) may in particular provide—
  - (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
  - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
  - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Northern Ireland;

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- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Northern Ireland, by a British consular official or such other person as may be determined in accordance with regulations.
- (4) Subsection (3)(b) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of subsection (3) do not apply as respects the application of those provisions to such persons as are mentioned in subsection (1) (b) or (c).
- (5) Without prejudice to the generality of section 149(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.
- (6) Chapter II of Part VII and section 153 do not apply—
- (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
  - (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel;
- and sections 120 and 121 do not apply to employment as a merchant seaman, but section 137 of the <sup>M4</sup>Employment Protection (Consolidation) Act 1978 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 153 as it does to the legislation mentioned in section 137(1)(b) of that Act.
- (7) In this section—
- “continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the <sup>M5</sup>Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section;
- “employment as a merchant seaman” has the meaning given in [<sup>F44</sup>Article 242(5) of the Employment Rights (Northern Ireland) Order 1996].
- [<sup>F45</sup>“regulations” means regulations made by the Department or, as the case may be, the Secretary of State and “prescribed” shall be construed accordingly.]

#### Textual Amendments

- F42** Words in s. 161(1) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 72(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F43** Words in s. 161(2)(a) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 58**; S.R. 1997/192, **art. 2(b)**
- F44** Words in the definition of “employment as a merchant seaman” in s. 161(7) substituted (24.9.1996) by S.I. 1996/1919 (N.I. 16), arts. 1(2), 255, **Sch. 1** (with 256, **Sch. 2**)
- F45** S. 161(7): Definition of “regulations” added (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 72(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**

#### Marginal Citations

- M4** 1978 c. 44.  
**M5** 1982 c. 23.

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### *Reciprocity with other countries*

## **162 Reciprocity with other countries. N.I.**

- (1) For the purpose of giving effect—
- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
  - (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Northern Ireland, the government of the United Kingdom has made to the other government in question,
- the Secretary of State may by order make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.
- (2) An order made by virtue of subsection (1) may, instead of or in addition to making specific modifications or adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.
- (3) The modifications of this Act which may be made by virtue of subsection (1) include provision—
- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit);
  - (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
  - (c) for making any necessary financial adjustments.
- (4) An order made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 160 may, in particular, provide for the Department to make payments for any period beginning on or after 6th April 1987 and may make provision with respect to any matters relating to payments so made.
- (5) References in this section to this Act do not include references to Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections <sup>F46</sup> . . . 149(2), 153, 154(1) to (5), 157, 158, 159 <sup>F47</sup> . . . and 171.

#### **Textual Amendments**

**F46** Words in s. 162(5) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 165, 168, Sch. 4 para. 11, **Sch. 5 Pt. IV**; S.R. 1997/192, **art. 2(b)**

**F47** Words in s. 162(5) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 59, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

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*Application of provisions relating to social security administration*

**163 Application of general provisions relating to administration of social security. N.I.**

- (1) The <sup>M6</sup>Social Security Administration (Northern Ireland) Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 160(1)(b) of this Act (in this section referred to as “the relevant provisions”).
- (2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration (Northern Ireland) Act 1992—
- section 110 (legal proceedings)
- section 118 (regulations as to notification of deaths)
- <sup>F48</sup> . . .
- section 156 (payment of travelling expenses by the Department).
- [<sup>F49</sup>section 156A (payment of travelling expenses by Inland Revenue).]
- (3) . . . . .
- <sup>F50</sup>(4) . . . . .
- (5) Section 120 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

**Textual Amendments**

- F48** Words in s. 163(2) repealed (2.12.1999) by 1998 c. 47, s. 100(2), **Sch. 15** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**
- F49** Words in s. 163(2) inserted (1.4.1999) by S.I. 1999/671, arts. 1(3), 17, **Sch. 6 para. 12(2)**; S.R. 1999/149, art. 2(c), **Sch. 2** (with art. 14(1)(2)(b))
- F50** S. 163(4) repealed (5.7.1999) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1)(2), **Sch. 6 para. 98(2)**, **Sch. 7**; S.R. 1999/310, art. 2(b)(iv), **Sch. 1**

**Marginal Citations**

- M6** 1992 c. 8.

*General provisions as to offences*

[<sup>F51</sup>**164 Breach of regulations. N.I.**

- (1) Regulations under any provision of this Act (other than Chapter II of Part VII) may make such provision as is referred to in subsection (2) or (4) for the contravention of any provision contained in regulations made or having effect as if made under any provision of this Act.
- (2) The regulations may provide for the contravention to be an offence under this Act and for the recovery on summary conviction of a fine not exceeding level 5 on the standard scale.



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- (3) An offence under any provision of the regulations may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence under such a provision by reference to any period of time following the preceding conviction of the offence.
- (4) The regulations may provide for a person who has contravened the provision to pay to the Regulatory Authority, within a prescribed period, a penalty not exceeding an amount specified in the regulations; and the regulations must specify different amounts in the case of individuals from those specified in other cases and any amount so specified may not exceed the amount for the time being specified in the case of individuals or, as the case may be, others in Article 10(2)(a) of the Pensions (Northern Ireland) Order 1995.
- (5) Regulations made by virtue of subsection (4) do not affect the amount of any penalty recoverable under that subsection by reason of an act or omission occurring before the regulations are made.
- (6) Where—
  - (a) apart from this subsection, a penalty under subsection (4) is recoverable from a body corporate by reason of any act or omission of the body as a trustee of a trust scheme, and
  - (b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any persons mentioned in subsection (7),such a penalty is recoverable from each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.
- (7) The persons referred to in subsection (6)(b) are—
  - (a) any director, manager, secretary, or other similar officer of the body corporate, or a person purporting to act in any such capacity, and
  - (b) where the affairs of the body corporate are managed by its members, any member in connection with his functions of management.
- (8) Where the Regulatory Authority require any person to pay a penalty by virtue of subsection (6), they may not also require the body corporate in question to pay a penalty in respect of the same act or omission.
- (9) A penalty under subsection (4) is recoverable by the Authority and any such penalty recovered by the Authority must be paid to the Department.
- (10) Where by reason of the contravention of any provision contained in regulations made, or having effect as if made, under this Act—
  - (a) a person is convicted of an offence under this Act, or
  - (b) a person pays a penalty under subsection (4),then, in respect of that contravention, he shall not, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (a), be liable to pay such a penalty or, in a case within paragraph (b), be convicted of such an offence.]
- [<sup>F52</sup>(11) In this section “regulations” means regulations made by the Department or, as the case may be, the Secretary of State and “prescribed” shall be construed accordingly.]

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#### Textual Amendments

- F51** Ss. 164, 164A substituted (6.4.1996 for certain purposes, 23.7.1996 for other certain purposes otherwise 6.4.1997) for s. 164 by S.I. 1995/3213 (N.I. 22), **art. 151(1)**; S.R. 1996/91, **art. 2(d)**, **Sch. Pt. IV**; S.R. 1996/307, **art. 2(a)**, **Sch. Pt. I**; S.R. 1997/192, **art. 2(b)**
- F52** S. 164(11) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, **arts. 1(2)(b)**, **3(1)**, **Sch. 1 para. 73**; S.R. 1999/149, **art. 2(c)**, **Sch. 2**

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

- C8** S. 164 extended (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a)**, **42(2)**; S.R. 2000/133, **art. 2(3)**, **Sch. Pt. IV**

### <sup>F54</sup><sup>F53</sup> **164 Offence in connection with the Registrar.** **N.I.**

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#### Textual Amendments

- F53** Ss. 164, 164A substituted (6.4.1996 for certain purposes, 23.7.1996 for other certain purposes otherwise 6.4.1997) for s. 164 by S.I. 1995/3213 (N.I. 22), **art. 151(1)**; S.R. 1996/91, **art. 2(d)**, **Sch. Pt. IV**; S.R. 1996/307, **art. 2(a)**, **Sch. Pt. I**; S.R. 1997/192, **art. 2(b)**
- F54** S. 164A repealed (6.4.2005) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), **art. 1(2)**, **Sch. 11**; S.R. 2005/166, **art. 2(6)**, **Sch. 1**

#### *General provisions as to determinations and appeals*

### <sup>F55</sup> **165 Decisions and appeals.** **N.I.**

- (1) Article 4 (use of computers) of the Social Security (Northern Ireland) Order 1998 (“the 1998 Order”) applies as if, for the purposes of paragraph (1) of that Article, this Act were a relevant statutory provision.

[ It shall be for an officer of the Inland Revenue—

- <sup>F56</sup>(2) (a) to make any decision that falls to be made under or by virtue of Part III of this Act, other than a decision which under or by virtue of that Part falls to be made by the Department;
- (b) to decide any issue arising in connection with payments under Article 9 of the Social Security (Northern Ireland) Order 1986 <sup>F57</sup> (occupational pension schemes becoming contracted-out between 1986 and 1993); and
- (c) to decide any issue arising by virtue of regulations made under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 <sup>F58</sup> (continuing in force of certain enactments repealed by the Social Security Act 1973 <sup>F59</sup>).

- (3) In the following provisions of this section a “relevant decision” means any decision which under subsection (2) falls to be made by an officer of the Inland Revenue, other than a decision under section 49 or 50.

- (4) Articles 10 and 11 of the 1998 Order (revision of decisions and decisions superseding earlier decisions) apply as if—

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- (a) any reference in those Articles to a decision of the Department under Article 9 of that Order included a reference to a relevant decision; and
  - (b) any other reference in those Articles to the Department were, in relation to a relevant decision, a reference to an officer of the Inland Revenue.
- (5) Regulations may make provision—
- <sup>F60</sup>(a) I generally with respect to the making of relevant decisions;
  - (b) with respect to the procedure to be adopted on any application made under Article 10 or 11 of the 1998 Order by virtue of subsection (4); and
  - (c) generally with respect to such applications, revisions under Article 10 and decisions under Article 11;]
- but may not prevent [<sup>F61</sup>a revision under Article 10 or decision under Article 11] being made without such an application.
- (6) Article 13 of the 1998 Order (appeal to appeal tribunal) applies as if, for the purposes of paragraph (1)(b) of that Article, a relevant decision were a decision of the Department falling within Schedule 3 to the 1998 Order.
- (7) The following provisions (which relate to decisions and appeals)—
- section 22 of, and Schedule 2 to, the Social Security Administration (Northern Ireland) Act 1992,
  - Articles 14 to 18 of the 1998 Order,
  - Articles 25 and 26 of that Order,
  - Article 28 of that Order,
  - Schedule 4 to that Order,
- shall apply in relation to any appeal under Article 13 of the 1998 Order by virtue of subsection (6) as if any reference to the Department were a reference to an officer of the Inland Revenue.]]

#### Textual Amendments

- F55** S. 165 substituted (10.3.1999, 5.7.1999 for specified purposes and otherwise prosp.) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 99**; S.R. 1999/102, art. 2(a), **Sch. Pt. I**; S.R. 1999/310, art. 2(b)(iv), **Sch. 1**; S. 165(1)(c): words "Financial Services Compensation Scheme" substituted (3.7.2002) for "Policyholders Protection Act 1975" by Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002, {art. 21}
- F56** S. 165(2)-(7) substituted for s. 165(2)-(4) (15.6.1999 for certain purposes and otherwise 5.7.1999) by S.I. 1999/671, **art. 15(2)**; S.R. 1999/271, art. 2, **Sch. Pts. I, II**
- F57** S.I. 1986/1888 (N.I. 18).
- F58** 1992 c. 9.
- F59** 1973 c. 38.
- F60** S. 165(5)(a)-(c) substituted for s. 165(a)(b) (11.11.1999) by 1999 c. 30, ss. 81, 89(4)(d), **Sch. 11 para. 26(a)**
- F61** Words in s. 165(5) substituted (11.11.1999) by 1999 c. 30, ss. 81, 89(4)(d), **Sch. 11 para. 26(b)**

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

- C9** S. 165(1) modified (28.3.1997) by S.R. 1997/192, **art. 4(2)** (with art. 9)  
S. 165(1): functions transferred (5.7.1999) by S.I. 1999/671, **art. 15(1)**; S.R. 1999/271, art. 2(b), **Sch. Pt. II**

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## 166 Questions arising in proceedings. **N.I.**

- (1) Where in any proceedings—
- (a) for an offence under this Act; or
  - (b) involving any question as to the payment of a [<sup>F62</sup>contributions equivalent] premium;
- [<sup>F63</sup>any relevant decision as defined by section 165(3) is made by the Inland Revenue, the decision] shall be conclusive for the purpose of the proceedings.
- [<sup>F64</sup>(2) If—
- (a) any such decision is necessary for the determination of the proceedings, and
  - (b) the decision of the Inland Revenue has not been obtained or an application with respect to the decision has been made under Article 8 or 9 of the Social Security (Northern Ireland) Order 1998,
- the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II of Part II of that Order.
- (3) Subsection (1) does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined,
  - (b) an application for leave to appeal has been made but not determined,
  - (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
  - (d) an application has been made under Article 8 or 9 of that Order.
- (4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings.]

### Textual Amendments

- F62** Words in s. 166(1)(b) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 61; S.R. 1997/192, art. 2(b)
- F63** Words in s. 166(1) substituted (5.7.1999) by S.I. 1999/671, art. 17, Sch. 6 para. 13(2); S.R. 1999/271, art. 2(b), Sch. Pt. II
- F64** S. 166(2)-(4) substituted for s. 166(2)(3) (5.7.1999) by S.I. 1999/671, art. 17, Sch. 6 para. 13(3); S.R. 1999/271, art. 2(b), Sch. Pt. II

### Modifications etc. (not altering text)

- C10** S. 166(1) modified (28.3.1997) by S.R. 1997/192, art. 4(2) (with art. 9)

## [<sup>F65</sup>166A] Reports by Inland Revenue. **N.I.**

- (1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 165(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998.
- (2) Any report under this section—
- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or

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- (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998<sup>F66</sup>.
- (3) A copy of every report under this section shall be laid before each House of Parliament unless the report is included in, or annexed to, a report of which a copy is so laid.]

**Textual Amendments**

- F65** S. 166A inserted (5.7.1999) by S.I. 1999/671, art. 17, **Sch. 6 para. 14**; S.R. 1999/271, art. 2(b), **Sch. Pt. II**
- F66** 1998 c. 14.

<sup>F67</sup>**167** ..... **N.I.**

**Textual Amendments**

- F67** S. 167 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 62, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**; s. 167(1)(b) also expressed to be repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 168, **Sch. 5 Pt. IV**; S.R. 1997/192, **art. 2(b)**

<sup>F68</sup>**168** **N.I.**

**Textual Amendments**

- F68** S. 168 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, 168, Sch. 3 para. 62, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

*Financial provisions*

**169 Grants by the Board to advisory bodies, etc.** **N.I.**

- (1) The [<sup>F69</sup>Regulatory Authority] may make grants on such terms and conditions as they think fit to any person providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.
- (2) The Department may pay the [<sup>F69</sup>Regulatory Authority] such sums as the Department may think fit towards any expenditure of theirs in making grants under this section.

**Textual Amendments**

- F69** Words in s. 169 substituted (1.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 63**; S.R. 1997/192, **art. 2(a)**

[<sup>F70</sup>**170 Levies towards certain expenditure.** **N.I.**

- (1) For the purpose of meeting expenditure—

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- <sup>F71</sup>(a) .....
- (b) under Part X and section 169, <sup>F72</sup>...
- [<sup>F73</sup>(c) of the Regulatory Authority (including the establishment of the Authority under the Pensions Act 2004), or
- (d) of the Lord Chancellor in meeting the costs of the legal assistance scheme established by virtue of section 106 of the Pensions Act 2004 (legal assistance in connection with proceedings before the Pensions Regulator Tribunal),]

regulations may make provision for imposing levies in respect of prescribed occupational or prescribed personal pension schemes.

- (2) Any levy imposed under subsection (1) is payable to the Department by or on behalf of—
  - (a) the administrators of any prescribed public service pension scheme,
  - (b) the trustees or managers of any other prescribed occupational or prescribed personal pension scheme, or
  - (c) any other prescribed person,
 at prescribed rates and at prescribed times.

- (3) Regulations made by virtue of subsection (1)—
  - (a) in determining the amount of any levy in respect of the Regulatory Authority, must take account (among other things) of <sup>F74</sup>...
    - [ any amounts paid to the Department under section 164(4) of this Act <sup>F74</sup>(i) or Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties), and
    - (ii) any fees paid to the Regulatory Authority under paragraph 25 of Schedule 1 to the Pensions Act 2004 (fees for applications), and]
  - (b) in determining the amount of expenditure in respect of which any levy is to be imposed, may take one year with another and, accordingly, may have regard to expenditure estimated to be incurred in current or future periods and to actual expenditure incurred in previous periods (including periods ending before the coming into operation of this subsection).

<sup>F75</sup>(4) .....

<sup>F75</sup>(5) .....

<sup>F75</sup>(6) .....

<sup>F75</sup>(7) .....

[<sup>F76</sup>(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Department, and an amount so payable shall be recoverable by the Department accordingly or, if the Department so determines, by the Regulatory Authority on its behalf.]

- (9) Without prejudice to the generality of [<sup>F77</sup>subsection (1)], regulations under this section may include provision relating to—
  - (a) the collection and recovery of amounts payable by way of levy under this section, or
  - (b) the circumstances in which any such amount may be waived.]

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#### Textual Amendments

- F70** S. 170 substituted (19.11.1996 for certain purposes otherwise 1.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 161**; S.R. 1996/534, **art. 2(a)**; S.R. 1997/192, **art. 2(a)**
- F71** S. 170(1)(a) repealed (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 11**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3
- F72** Word in s. 170(1)(b) repealed (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), Sch. 1 para. 3(2), **Sch. 11**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3
- F73** S. 170(1)(c)-(d) substituted for s. 170(1)(c) (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 1 para. 3(2)**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3
- F74** Words in s. 170(3)(a) substituted (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 1 para. 3(3)**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3
- F75** S. 170(4)-(7) repealed (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 11**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3
- F76** S. 170(8) substituted (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 23(a)**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3 (with art. 6)
- F77** Words in s. 170(9) substituted (25.2.2005 for specified purposes, 1.4.2005 for all other purposes) by The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), art. 1(2), **Sch. 10 para. 23(b)**; S.R. 2005/48, art. 2(3)(a), Sch. Pt. 3

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

- C11** S. 170 modified (24.3.2005) by The Pensions (2005 Order) (Commencement No. 2 and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005/166), **Sch. 2 para. 1**
- C12** S. 170(4)-(9) applied (with modifications) (1.12.1999 for certain purposes and otherwise 1.10.2000) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 8(3), **Sch. 1 para. 1(2)(a)**; S.R. 2000/133, art. 2(3)(c), **Sch. Pt. III**
- C13** S. 170(8) continued (24.2.2005) by The Pensions (2005 Order) (Commencement No. 1 and Consequential and Transitional Provisions) Order (Northern Ireland) 2005 (S.R. 2005/48), **art. 6**

## 171 Fees for official services to schemes. **N.I.**

Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme [<sup>F78</sup>by the Department], the Department may require the payment of fees for the provision of those services.

#### Textual Amendments

- F78** Words in s. 171 substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 64**; S.R. 1997/192, **art. 2(b)**

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## 172 General financial arrangements. **N.I.**

- (1) There shall be paid out of the National Insurance Fund—
- [<sup>F79</sup>(za) payments by the [<sup>F80</sup>Inland Revenue] under section [<sup>F81</sup>(section 37(1D) or section 38A(2C) or (3));]
    - (a) minimum contributions paid by the [<sup>F82</sup>Inland Revenue] under section 39;
    - (b) payments by [<sup>F83</sup>the Department] under section 120.
- (2) Subject to subsection (3), there shall be paid out of the National Insurance Fund into the Consolidated Fund—
- (a) sums equal to the amount of any expenses incurred by the Department (or by persons acting on its behalf) in exercising its functions under Chapter II of Part VII and section 153;
  - (b) such sums as the Department may estimate to be the amount of the administrative expenses of the Department or any government department in carrying into effect the remaining provisions of this Act, other than—
    - (i) Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections <sup>F84</sup> . . . 149(2), 154(1) to (5), 158, 159 <sup>F85</sup> . . . and 171;
    - (ii) sections 3, 5, 22 to 30, 34 and 46 (so far as they relate to personal pension schemes), section 44 (so far as it relates to minimum contributions), section 46 (so far as it relates to personal pension schemes), section 50, <sup>F86</sup> . . . section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 and section 155 (so far as it relates to protected rights payments) and sections 156 and 162.
- (3) The sums payable under subsection (2)(b)—
- (a) shall be estimated in accordance with any directions given by the Department of Finance and Personnel and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as that Department may direct, or any enactment may require, to be so excluded; and
  - (b) shall be payable at such times and in such manner as the Department of Finance and Personnel may direct.
- [<sup>F87</sup>(3A) There shall be paid out of the National Insurance Fund into the Consolidated Fund of the United Kingdom—
- (a) such sums as the Inland Revenue may estimate to be the amount of their administrative expenses in exercising their functions under Part III; and
  - (b) such sums as the Secretary of State may estimate to be to the amount of his administrative expenses in exercising his functions under this Act.]
- (4) Subject to subsection (5), there shall be paid into the Consolidated Fund any sum recovered by the Department under the provisions within subsection (2)(b)(ii).
- (5) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (6) There shall be paid into the Consolidated Fund of the United Kingdom—
- (a) [<sup>F88</sup>subject to subsection (5), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Inland Revenue under the provisions within subsection (2)(b)(ii); and
  - (b) all fees paid to the Registrar.]



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- (7) There shall also be paid into the National Insurance Fund—
- (a) sums recovered under section [<sup>F89</sup>section 37(1E), 38A(2D) or (5) or] 39(5) or (6);
  - <sup>F90</sup>(b) . . .
  - (c) any sum recovered by the Department in exercising any right or pursuing any remedy which is the Department's by virtue of section 123; and
  - (d) any sums received by [<sup>F91</sup>the Inland Revenue] by way of such payments as are mentioned in paragraph 5(4) of Schedule 1.
- [<sup>F92</sup>(8) Subject to the foregoing provisions of this section, all expenses incurred by the Secretary of State or the Inland Revenue shall be paid out of money provided by Parliament, except so far as they may be required by any enactment to be paid or borne in any other way.]

#### Textual Amendments

- F79** S. 172(1)(za) inserted (25.2.1999) by 1999 c. 2, **ss. 20(2)(a), 28(2)(d)**
- F80** Words in s. 172(1)(za) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b)(3), 3(1), 19, **Sch. 1 para. 74(2)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F81** Words in s. 172(1)(za) substituted (22.12.1999 for certain purposes and otherwise 6.4.2000) by 1999 c. 30, s. 74, **Sch. 10 para. 8(2)**; S.I. 1999/3420, **art. 2**
- F82** Words in s. 172(1)(a) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(2)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F83** Words in s. 172(1)(b) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(2)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F84** Words in s. 172(2)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 165, 168, Sch. 4 para. 12, **Sch. 5 Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F85** Words in s. 172(2)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 65(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F86** Words in s. 172(2)(b)(ii) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 65(a)(ii), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F87** S. 172(3A) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F88** S. 172(6)(a)(b) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(4)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F89** Words in s. 172(7)(a) substituted (22.12.1999 for certain purposes and otherwise 6.4.2000) by 1999 c. 30, s. 74, **Sch. 10 para. 8(3)**; S.I. 1999/3420, **art. 2**
- F90** S. 172(7)(b) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 65(b), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F91** Words in s. 172(7)(d) substituted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F92** S. 172(8) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 74(6)**; S.R. 1999/149, art. 2(c), **Sch. 2**

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