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Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XII

SUPPLEMENTARY PROVISIONS

Interpretation

173 Managers of schemes.

The Department may by regulations provide who is to be treated as a manager of an occupational pension scheme for any of the purposes of the provisions of this Act (except Chapter II of Part VII or section 153), the Social Security Acts (Northern Ireland) 1975 to 1991, ^{F1} . . . Part VI of the ^{M1} Social Security Administration (Northern Ireland) Act 1992 [^{F2} or of Articles 22 to 26 of the Pensions (Northern Ireland) Order 1995].

Textual Amendments

- F1** Word in s. 173 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 35, **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**
- F2** Words in s. 173 inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, **Sch. 1 para. 35** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**

Marginal Citations

- M1** 1992 c. 8.

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174 Linked qualifying service.

- (1) Subject to subsections (2) to (4), for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—
 - (a) under the rules of a scheme applying to him in the earlier period of service—
 - (i) there was made a transfer of his accrued rights under that scheme (including any transfer credits allowed under the scheme) to another scheme applying to him in the later period of service; or
 - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service; and
 - (b) in consequence of the transfer of his accrued rights to the second scheme, there are (or were) allowed to him transfer credits under the rules of that other scheme.
- (2) For any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.
- (3) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.
- (4) For the purposes of Chapter I of Part IV, as respects any case where the rules of the scheme provide—
 - (a) that an earner is not entitled to become a member unless he satisfies specified conditions, but
 - (b) that, if he becomes a member, rights are to accrue to him in respect of periods of service before he satisfied any such conditions,
 regulations may provide for any such periods to be treated, in such cases and to such extent as may be prescribed, as linked qualifying service with later periods of service.

175 Normal pension age.

- (1) In this Act “normal pension age”, in relation to a scheme and a member's pensionable service under it, means—
 - (a) in a case where the scheme provides for the member only a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies; and
 - (b) in any other case, the earliest age at which the member is entitled to receive benefits (other than a guaranteed minimum pension) on his retirement from such employment.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

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VALID FROM 01/12/2001

[^{F3}175A Insurer and long-term insurance business

- (1) In this Act “insurer” means—
 - (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
- (2) In this Act “long term insurance business” means business which consists of the effecting or carrying out of contracts of long-term insurance.
- (3) This section must be read with—
 - (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.]

Textual Amendments

F3 S. 175A inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 137(1)

176 General interpretation.

- (1) In this Act—

^{F4}

“age”, in relation to any person, shall be construed so that—

- (a) he is over or under a particular age if he has or, as the case may be, has not attained that age;
- (b) he is between two particular ages if he has attained the first but not the second;

“appropriate scheme certificate” and references to an appropriate scheme shall be construed in accordance with section 3;

“the Assembly” means the Northern Ireland Assembly;

^{F5}

“Category A retirement pension” and “Category B retirement pension” mean the retirement pensions of those descriptions payable under Part II of the ^{M2}Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“contract of service” has the same meaning as in section 121(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“contracted-out employment” shall be construed in accordance with section 4;

^{F6}

“contracting-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 3;

“contributions equivalent premium” has the meaning given in section [^{F7}51(2)];

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“the Department” means the Department of Health and Social Services for Northern Ireland;

“the Department of Finance and Personnel” means the Department of Finance and Personnel in Northern Ireland;

“earner” and “earnings” shall be construed in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

[^{F8}“employed earner” and “self-employed earner” have the meanings given by section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;]

“employee” means a person gainfully employed in Northern Ireland either under a contract of service or in an office (including an elective office) with emoluments chargeable to income tax under Schedule E;

“employer” means—

- (a) in the case of an employed earner employed under a contract of service, his employer;
- (b) in the case of an employed earner employed in an office with emoluments—
 - (i) such person as may be prescribed in relation to that office; or
 - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly except in the expression “employed earner”;

^{F9} . . .

“government department” includes a department of the government of the United Kingdom;

“guaranteed minimum pension” has the meaning given in section 4(2);

“independent trade union” has the meaning given in Article 2(2) of the ^{M3}Industrial Relations (Northern Ireland) Order 1992;

“industrial tribunal” means a tribunal established or having effect as if established under [^{F10}Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996];

“the Inland Revenue” means the Commissioners of Inland Revenue;

“insurance company” has the meaning given in section 96(1) of the ^{M4}Insurance Companies Act 1982;

^{F11} . . .

“linked qualifying service” has the meaning given in section 174;

“long-term benefit” has the meaning given in section 20(2) of the ^{M5}Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and “current”, in relation to those limits, means for the time being in force;

“minimum contributions” shall be construed in accordance with sections 39 to 41;

“minimum payment” has the meaning given in section 4(2);

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- “modifications” includes additions, omissions and amendments;
- “money purchase benefits”, in relation to a member of a personal or occupational pension scheme or the widow or widower of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and [^{F12}which fall within section 176B];
- “money purchase contracted-out scheme” has the meaning given in section 4(1)(a)(ii);
- [^{F13}“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;]
- “National Insurance Fund” means the Northern Ireland National Insurance Fund;
- “normal pension age” has the meaning given in section 175;
- “occupational pension scheme” has the meaning given in section 1;
- [^{F14}“pensionable age”—
- (a) so far as any provisions (other than sections 42 to 44) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and
 - (b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;]
- “pensionable service” has the meaning given in section 66(2);
- [^{F15}“pension debit” means a debit under Article 26(1)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;]
- F16
. . .
- F17
. . .
- “personal pension scheme” has the meaning given in section 1;
- “prescribe” means prescribe by regulations;
- F18
. . .
- “the preservation requirements” has the meaning given in section 65(2);
- [^{F19}“the principal appointed day” has the meaning assigned by section 3(2B);]
- “primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in section 6 of the ^{M6}Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- “protected rights” has the meaning given in section 6;
- “public service pension scheme” has the meaning given in section 1;
- “the register” has the meaning given in section 2;
- “the Registrar” has the meaning given in section 2;
- “regulations” means regulations made by the Department under this Act;
- [^{F20}“the Regulatory Authority” means the Occupational Pension Regulatory Authority;]
- “resources”, in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme are payable from time to time, including the proceeds of any policy of insurance taken out, or annuity contract entered into, for the purposes of the scheme;
- “rights”, in relation to accrued rights (within the meaning of section 69 ^{F21}. . . or 174) or transfer credits, includes rights to benefit and also options to have benefits paid in a particular form or at a particular time;

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[^{F22}“self-employed pension arrangement” means an approved personal pension scheme within the meaning of Chapter IV of Part XIV of the ^{M7}Income and Corporation Taxes Act 1988, being neither—

- (a) a contract or scheme approved under Chapter III of that Part, nor
- (b) a personal pension scheme within the meaning of this Act;]

“short service benefit” has the meaning given in section 67(2);

^{F23} . . .

“tax-exemption” and “tax-approval” mean respectively exemption from tax and approval of the Inland Revenue, in either case under any such provision of the Income Tax Acts as may be prescribed;

“tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day thereafter, the last day of a tax year (or, in a leap year, the last two days) being treated accordingly as a separate tax week;

“tax year” means the 12 months beginning with 6th April in any year;

“transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme (including any transfer credits allowed by that scheme);

^{F24} . . .

“voluntary contributions requirements” has the meaning given in section 107(2);

“week” means a period of seven days beginning with Sunday;

“working life” has the meaning given in paragraph 5(8) of Schedule 3 to the ^{M8}Social Security Contributions and Benefits (Northern Ireland) Act 1992.

- (2) References to employers in the provisions of this Act (other than sections 119 to 123, 153 [^{F25}and 156] (“the excluded provisions”)) are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those provisions.
- (3) Subject to any such regulations, references to an employer in any of the provisions of this Act (other than the excluded provisions or section 2, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections ^{F26}. . . 149(2), 154(1) to (5), 158, 159 ^{F27} . . . and 171) shall, in relation to an earner employed in an office with emoluments, be construed as references to—
 - (a) such person as may be prescribed in relation to that office; or
 - (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.
- (4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section 2, 23, 24, 25, 27, 28, 39, 40, 107, 156, 160 or 161) prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.
- (5) In sections 161 and 162—
 - (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and

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- (b) references to Northern Ireland include references to the territorial waters of the United Kingdom adjacent to Northern Ireland.
- (6) Any reference in section 180 or 181 to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with it; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.
- (7) The ^{M9}Interpretation Act (Northern Ireland) 1954 shall apply to this Act—
- (a) as it applies to a Measure of the Assembly;
- (b) as if any reference in that Act to an enactment or an Act included a reference to this Act.
- (8) For the purposes of Part III of the ^{M10}Northern Ireland Constitution Act 1973 (validity of Measures of the Assembly, including Orders in Council under the ^{M11}Northern Ireland Act 1974), provisions of this Act which re-enact provisions of such an Order are to be treated as provisions of such an Order.

Textual Amendments

- F4** Definition of “accrued rights premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F5** Definition of “the Board” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F6** Definition of “contracted-out protected rights premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F7** Words in the definition of “contributions equivalent premium” in s. 176(1) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 66(a)(ii)**; S.R. 1997/192, **art. 2(b)**
- F8** S. 176(1): Definition of “employed earner” substituted (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 17, **Sch. 2 para. 2(b)** (with transitional provisions in art. 75(1))
- F9** Definition of “equal access requirements” in s. 176(1) repealed (1.1.1996) by S.I. 1995/3213 (N.I. 22), arts. 119, 168, Sch. 1 para. 36(a)(i), **Sch. 5 Pt. I** (with art. 118(5)(6)); S.R. 1995/477, art. 2(b), **Sch. Pt. II**
- F10** Words in the definition of “industrial tribunal” in s. 176(1) substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), arts. 1(2), 26, **Sch. 1 para. 10**
- F11** Definition of “limited revaluation premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F12** Words in s. 176(1) substituted (retrospective to 1.1.1997) by Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)), **ss. 27(1)(5)**, 34(3); S.R. 2014/203, **art. 2**
- F13** Definition of “money purchase scheme” in s. 176(1) substituted (19.12.1995) by S.I. 1995/3213 (N.I. 22), art. 165, **Sch. 4 para. 13(a)**; S.R. 1995/477, art. 2(a), **Sch. Pt. I**
- F14** Definition of “pensionable age” in s. 176(1) substituted (16.12.1995) by S.I. 1995/3213 (N.I. 22), arts. 1(3)(a), 123, **Sch. 2 Pt. III para. 13**
- F15** S. 176(1): Definition of “pension debit” inserted (1.12.1999 for certain purposes and otherwise 1.12.2000) by S.I. 1999/3147 (N.I. 11), **arts. 1(5)(a)**, 29(5); S.R. 2000/133, art. 2(3), **Sch. Pt. IV**
- F16** Definition of “pensioner's rights premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F17** Definition of “personal pension protected rights premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 66(a)(i), **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F18** S. 176(1): Definition of “the prescribed equivalent” repealed (6.4.2000) by 1999 c. 30, s. 88, **Sch. 13 Pt. VII**; S.I. 1999/3420, **art. 4(c)(e)**

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- F19** Definition of “the principal appointed day” in s. 176(1) inserted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 66(a)(iii)**; S.R. 1997/192, **art. 2(b)**
- F20** Definition of “the Regulatory Authority” in s. 176(1) inserted (6.4.1996 for certain purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, **Sch. 1 para. 36(a)(ii)** (with art. 118(5)(6)); S.R. 1996/91, art. 2(d), **Sch. Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F21** Word in the definition of “rights” in s. 176(1) 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)**
- F22** S. 176(1): Definition of “self-employed pension arrangement” ceased to have effect (1.12.1999 for certain purposes and otherwise *prosp.*) by S.I. 1999/3147 (N.I. 11), arts. 1(5)(a), 17, **Sch. 2 para. 2(2)(c)** (with transitional provisions in art. 75(1))
- F23** Definition of “state scheme premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, **Sch. 3 para. 66(a)(i)**, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F24** Definition of “transfer premium” in s. 176(1) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, **Sch. 3 para. 66(a)(i)**, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**
- F25** Words in s. 176(2) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 119, **Sch. 1 para. 36(b)** (with art. 118(5)(6)); S.R. 1997/192, **art. 2(b)**
- F26** Words in s. 176(3) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 165, 168, **Sch. 4 para. 13(b)**, **Sch. 5 Pt. IV**; S.R. 1997/192, **art. 2(b)**
- F27** Words in s. 176(3) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, **Sch. 3 para. 66(b)**, **Sch. 5 Pt. III**; S.R. 1997/192, **art. 2(b)**

Marginal Citations

- M2** 1992 c. 7.
M3 S.I. 1992/807 (N.I. 5).
M4 1982 c. 50.
M5 1992 c. 7.
M6 1992 c. 7.
M7 1988 c. 1.
M8 1992 c. 7.
M9 1954 c. 33 (N.I.).
M10 1973 c. 36.
M11 1974 c. 28.

[^{F28}176B Money purchase benefits: supplementary

- (1) This section applies for the purposes of the definition of “money purchase benefits” in section 176(1).
- (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purpose of its provision to or in respect of the member.
- (3) A benefit which is a pension in payment falls within this section if—
 - (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
 - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
- (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.

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- (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).]

Textual Amendments

- F28** S. 176B inserted (retrospective to 1.1.1997) by [Pensions Act \(Northern Ireland\) 2012 \(c. 3 \(N.I.\)\)](#), [ss. 27\(2\)\(5\)](#), [34\(3\)](#); [S.R. 2014/203](#), [art. 2](#)

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