

*Status: Point in time view as at 12/04/2004.*

*Changes to legislation: Pension Schemes (Northern Ireland) Act 1993, SCHEDULE 5 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Sections 182, 183 and 184.

#### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

##### GENERAL PROVISIONS

- 1 In this Schedule “the repealed enactments” means the enactments repealed or revoked by this Act.
- 2 (1) The substitution of this Act for the repealed enactments does not affect the continuity of the law.
- (2) Anything done or having effect as if done under or for the purposes of a provision of the repealed enactments has effect, if it could have been done under or for the purposes of the corresponding provision of this Act, as if done under or for the purposes of that corresponding provision.
- (3) Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of this Act shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the repealed enactments has effect, a reference to that corresponding provision.
- (4) Any reference, whether express or implied, in any enactment, instrument or document to a provision of the repealed enactments shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of this Act.
- 3 Where—
- (a) this Act repeals an enactment relating to the coming into operation of another provision, including—
- (i) an enactment deeming a provision always to have had effect or to have had effect from a date earlier than that which would otherwise apply or enabling regulations or an order made under a provision to be framed so as to have such an effect, and
- (ii) an enactment conferring power by regulations to provide or make savings in preparation for or in connection with the coming into operation of a provision, and
- (b) the effect of that provision is reproduced in this Act,
- the repeal does not affect the operation of that enactment, in so far as it is not specifically reproduced in this Act but remains capable of having effect, in relation to the corresponding provision of this Act.
- 4 (1) The repeal or revocation by this Act of an enactment previously repealed or revoked subject to savings does not affect the continued operation of those savings.

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- (2) The repeal or revocation by this Act of a saving to which a previous repeal or revocation of an enactment is subject does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.
- 5 The repeal or revocation by this Act of an enactment which has effect as respects any provision of the repealed enactments (being a provision which is not reproduced in this Act but continues in effect by virtue of this Schedule or the <sup>M1</sup>Interpretation Act (Northern Ireland) 1954) does not affect its operation as respects that provision.

#### Marginal Citations

**M1** 1954 c. 33 (N.I.).

- 6 Any document made, served or issued after this Act comes into operation which contains a reference to any of the repealed enactments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Act.

## PART II

### SPECIFIC PROVISIONS

#### *Contracting-out requirements for schemes providing guaranteed minimum pensions*

- 7 An occupational pension scheme which—
- (a) at any time before the coming into operation of the first regulations made under—
- (i) sub-paragraph (a) of paragraph (2) of Article 34 of the <sup>M2</sup>Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 5(2)(a) of this Act), or
- (ii) paragraph (8) of Article 37 of the Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 12(4) of this Act),
- did not satisfy that sub-paragraph or, as the case may be, that paragraph; but
- (b) would have satisfied it if those regulations had then been in operation,
- shall, for the purpose of determining whether the scheme satisfied that sub-paragraph or, as the case may be, that paragraph, be treated as if those regulations had been in operation at that time.

#### Marginal Citations

**M2** S.I. 1975/1503 (N.I. 15).

- 8 Any document the contents of which are in terms corresponding to those of paragraph (7) of Article 37 of the <sup>M3</sup>Social Security Pensions (Northern Ireland) Order 1975 as that paragraph stood immediately before the making of the <sup>M4</sup>Social Security (Northern Ireland) Order 1985 (which corresponded to section 12(2) and (3) of this Act, but with the substitution for the words from “is terminated before” onwards of the words “is terminated before he attains the scheme’s normal

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pension age shall be determined for the purposes of section 10(2) without reference to any order that comes into operation under Article 23 of the Social Security Pensions (Northern Ireland) Order 1975 after the relevant year in which his service ends”) shall be construed as if its contents were and always had been in terms corresponding to those of section 12(2) and (3) of this Act.

#### Marginal Citations

**M3** S.I. 1975/1503 (N.I. 15).

**M4** S.I. 1985/1209 (N.I. 16).

9 The requirement of the Social Security Pensions (Northern Ireland) Order 1975 that for an occupational pension scheme to be contracted-out in relation to an earner’s employment it must provide requisite benefits shall, except so far as it relates to guaranteed minimum pensions, be treated for the purposes of section 33 of this Act as if it had never existed.

10 (1) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme made an increase in the rate of pensions currently payable to the members of the scheme who had attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this sub-paragraph, they would be required to make under section 105 in the tax year 1990-91.

(2) Subsections (1) and (4) of section 106 shall apply to sub-paragraph (1) as they apply to subsections (2) and (3) of that section.

#### *Overriding effect of certain requirements for existing contracted-out and appropriate schemes*

<sup>F1</sup>11 .....

#### Textual Amendments

**F1** Sch. 5 para. 11 repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 72, **Sch. Pt. III**; S.R. 1997/192, **art. 2(b)**

12 If immediately before 14th August 1990—

(a) there was in force in relation to an occupational pension scheme a contracting-out certificate which stated that the scheme was contracted-out by virtue of Article 34(2A) of the Social Security Pensions (Northern Ireland) Order 1975, or

(b) there was in force in relation to a personal pension scheme an appropriate scheme certificate,

then, to the extent that the rules of the scheme are inconsistent with any provision of this Act derived from provision made by paragraph 16(1) or (2) or 17(1) to (3) of Schedule 6 to the <sup>M5</sup>Social Security (Northern Ireland) Order 1989 (by virtue of which—

(i) section 23(3) applies to all protected rights and not only such rights as are mentioned in section 6(2) or (3);

(ii) section 24 includes subsection (1) and, in subsection (3), the words “Subject to subsections (5) and (7)”, the words from “except” to “subsection (4)” and the word “shall”; and

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(iii) section 25 includes subsection (2)),  
they shall be overridden by that provision.

**Marginal Citations**

**M5** S.I. 1989/1342 (N.I. 13).

*Transactions discharging trustees*

- 13 Without prejudice to section 28 of the <sup>M6</sup>Interpretation Act (Northern Ireland) 1954—
- (a) as respects a transaction which took place before 1st January 1986, sections 15(1) and 77 have effect with the omission of paragraph (c), and
  - (b) as respects a transaction which took place before 1st November 1986, section 15 has effect with the substitution for the references to guaranteed minimum pensions of references to requisite benefits.

**Marginal Citations**

**M6** 1954 c. 33 (N.I.).

*Contributions equivalent premiums: earnings before 1987-88*

- 14 (1) Where an earner's earnings paid in any period before the tax year 1987-88—
- (a) exceeded the lower earnings limit; but
  - (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
- it shall be assumed for the purposes of sections 54(4) and 57(2) that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them; and in this paragraph "Bracket 3" has the meaning given in section 9(3) of the <sup>M7</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- (2) Section 59(3) applies for the purposes of sub-paragraph (1), in so far as it applies as respects section 54(4), as if the reference in paragraph (b) of section 59(3) to earnings included a reference to earnings relevant for any purpose of that sub-paragraph.
- (3) Where [<sup>F2</sup>Inland Revenue have] acted in pursuance of section 59(3) as applied by sub-paragraph (2) and [<sup>F3</sup>they subsequently ascertain] the amount of those earnings—
- (a) if [<sup>F4</sup>they] appears to the [<sup>F5</sup>Inland Revenue] that the amount of the contributions equivalent premium would have been less if the [<sup>F5</sup>Inland Revenue] had not made the calculation on the basis described in sub-paragraph (1), [<sup>F4</sup>they] shall refund the difference to the prescribed person, and
  - (b) if it appears to [<sup>F5</sup>Inland Revenue] that that premium would have been greater if [<sup>F4</sup>they] had not done so, the prescribed person shall pay the difference to [<sup>F6</sup>them].

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[<sup>F7</sup>(4) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.]

#### Textual Amendments

- F2** Words in Sch. 5 para. 14(3) 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. 78(2)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F3** Words in Sch. 5 para. 14(3) 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. 78(2)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F4** Words in Sch. 5 para. 14(3)(a)(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. 78(2)(c)(d)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F5** Words in Sch. 5 para. 14(3)(a)(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. 78(2)(c)(d)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F6** Word in Sch. 5 para. 14(3)(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. 78(2)(d)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F7** Sch. 5 para. 14(4) 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. 78(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**

#### Marginal Citations

- M7** 1992 c. 7.

#### Preservation

- 15 Without prejudice to paragraph 3, in any case where—
- the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending with 27th February 1991, otherwise than on the termination of his service in relevant employment, and
  - during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,
- paragraph 6(1) of Schedule 3 to the <sup>M8</sup>Social Security Pensions (Northern Ireland) Order 1975 (which corresponded to section 67(1) of this Act) shall be taken at all times on and after 6th April 1988 to have had effect in relation to the member and his rights under the scheme with the amendment made by paragraph 12(1) of Schedule 4 to the <sup>M9</sup>Social Security (Northern Ireland) Order 1990 (which substituted the words “pensionable service” for the words “service in relevant employment”).

#### Marginal Citations

- M8** S.I. 1975/1503 (N.I. 15).  
**M9** S.I. 1990/1511 (N.I. 15).

#### Anti-franking

- 16 (1) If before 23rd August 1989 an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Chapter III of Part IV shall apply in relation to him with the modifications set out in sub-paragraphs (2) and (3).

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- (2) In section 83—
- (a) in subsection (3) for the words “at any time” there shall be substituted the words “ on the relevant date and at any time thereafter ”;
  - (b) after that subsection there shall be inserted—
    - “(3A) In subsection (3) “relevant date”—
      - (a) in the application of that subsection to a case where a scheme provides for any part of the pension in excess of the earner’s guaranteed minimum to commence from a date not more than 3 months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age, is to be construed in relation to the part of the pension as to which such provision is made as a reference to the date on which by virtue of it that part of the pension begins to be paid; and
      - (b) in any other case means the commencement of payment date.”;
    - (c) subsection (4)(d) shall be omitted.
- (3) Section 86 shall be omitted.

*Modifications in consequence of making of Part II of  
 the Social Security (Northern Ireland) Order 1986*

- 17 (1) Regulations may provide that any provision of this Act to which section 150 applies shall have effect subject to such modifications (other than those which may be made by virtue of that section) as the Department may consider necessary or expedient in consequence of Part II of the <sup>M10</sup>Social Security (Northern Ireland) Order 1986 or any provision of this Act deriving from that Part.
- (2) Regulations may provide that any provision contained in a statutory provision to which this sub-paragraph applies shall have effect subject to such modifications as the Department, after consultation with the appropriate authority, may consider necessary or expedient in consequence of the provisions mentioned in sub-paragraph (1).
- (3) The statutory provisions to which sub-paragraph (2) applies are—
- (a) the <sup>M11</sup>Judicial Pensions Act (Northern Ireland) 1951;
  - (b) the <sup>M12</sup>County Courts Act (Northern Ireland) 1959;
  - (c) the <sup>M13</sup>Resident Magistrates’ Pensions Act (Northern Ireland) 1960;
  - (d) the <sup>M14</sup>Lands Tribunal and Compensation Act (Northern Ireland) 1964;
  - (e) the <sup>M15</sup>Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;
  - (f) the <sup>M16</sup>Police Act (Northern Ireland) 1970;
  - (g) the <sup>M17</sup>Superannuation (Northern Ireland) Order 1972;
  - (h) section 97(4) of, and paragraphs 5(2), 6 and 7A of, the <sup>M18</sup>Social Security (Northern Ireland) Act 1975;
  - (i) the <sup>M19</sup>Assembly Pensions (Northern Ireland) Order 1976;

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- (j) section 72(2) of, and Schedule 4 to, the <sup>M20</sup>Judicature (Northern Ireland) Act 1978;
  - (k) the <sup>M21</sup>Fire Services (Northern Ireland) Order 1984;
  - (l) the <sup>M22</sup>Judicial Pensions and Retirement Act 1993.
- (4) In this paragraph “the appropriate authority” means such Minister of the Crown or government department as the Secretary of State may by order designate in relation to any provision of a statutory provision to which sub-paragraph (2) applies; and regulations under that sub-paragraph modifying such a provision shall not be made without the consent of the appropriate authority so designated.

#### Marginal Citations

- M10** S.I. 1986/1888 (N.I. 18).
- M11** 1951 c. 20 (N.I.).
- M12** 1959 c. 25 (N.I.).
- M13** 1960 c. 2 (N.I.).
- M14** 1964 c. 29 (N.I.).
- M15** 1969 c. 7 (N.I.).
- M16** 1970 c. 9 (N.I.).
- M17** S.I. 1972/1073 (N.I. 10).
- M18** 1975 c. 15.
- M19** S.I. 1976/1779.
- M20** 1978 c. 23.
- M21** S.I. 1984/1821 (N.I. 11).
- M22** 1993 c. 8.

#### *Savings for statutory rules*

- 18 The repeal of Article 18A(2) of the <sup>M23</sup>Social Security (Northern Ireland) Order 1986 shall not affect the validity of any order containing such provision as there mentioned (provision for the Department to make payments in relation to the provisions contained in Part II of that Order for any period beginning on or after 6th April 1987).

#### Marginal Citations

- M23** S.I. 1986/1888 (N.I. 18).

#### *Provisions contained in Act by virtue of statutory rules*

- 19 Without prejudice to any express provision in this Act, where this Act repeals any provision contained in any statutory provision by virtue of any order or regulations (including a provision which has not come into operation at the time of the repeal) and the provision is reproduced in this Act, the Department shall have the like power to make orders or regulations repealing or amending the provision of this Act which reproduces the effect of the repealed provision as it had in relation to that provision.

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*Saving for application of general provisions relating to social security*

- 20 The repeals made by this Act do not affect the operation of Article 2(3) of the <sup>M24</sup>Social Security Pensions (Northern Ireland) Order 1975 (or of any other provision in that Order or any other enactment as it applies by virtue of that Article), so far as it is not given effect to in this Act but remains capable of having effect (and paragraph 10 of Schedule 3 to the <sup>M25</sup>Social Security (Consequential Provisions) (Northern Ireland) Act 1992 shall continue to have effect accordingly).

**Marginal Citations**

**M24** [S.I. 1975/1503 \(N.I. 15\)](#).

**M25** [1992 c. 9](#).

*Saving for Article 9 of the Social Security (Northern Ireland) Order 1986*

- 21 The repeal by this Act of Article 9 of the Social Security (Northern Ireland) Order 1986 (schemes becoming contracted-out between 1986 and 1993) or of any reference to that Article in another of the repealed enactments does not affect—
- (a) the operation of that Article so far as it is not reproduced in this Act but remains capable of having effect; or
  - (b) the operation of that enactment so far as the reference is not reproduced in the corresponding provision of this Act and that enactment remains capable of having effect in relation to that Article.



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