



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART III

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

#### CHAPTER II

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

*[<sup>F1</sup> Reduced rates of contributions, and rebates, for members of money purchase contracted-out schemes]*

#### **38A [<sup>F1</sup> Reduced rates of Class 1 contributions and rebates.]**

[<sup>F2</sup>(1) Subsections (2) to [<sup>F3</sup>(2D) and (3)] apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment; and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme,

and in subsections (2) and (2A) "the relevant part", in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not [<sup>F4</sup>the upper accrual point] (or the prescribed equivalents if the earner is paid otherwise than weekly).

[ The amount of any primary Class 1 contribution [<sup>F6</sup>attributable to section 8(1)(a) of the <sup>F5</sup>(2) Social Security Contributions and Benefits (Northern Ireland) Act 1992] in respect of

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the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R1”).

(2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of the earnings (“Amount R2”).

(2B) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsections (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of a primary or secondary Class 1 contribution in respect of earnings—

- (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and

- (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the <sup>M1</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992.]

(2C) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue, the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed by regulations made by the Secretary of State, pay to the secondary contributor an amount equal to the remaining balance.

But such regulations may make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed by such regulations.]

(3) [<sup>F7</sup>Subject to subsection (5A),] the [<sup>F8</sup>Inland Revenue] shall, except in prescribed circumstances or in respect of prescribed periods, pay in respect of that earner and that tax week to the [<sup>F9</sup>earner] or, in prescribed circumstances, to a prescribed person, the amount by which—

- (a) the appropriate age-related percentage of that part of those earnings, exceeds
- (b) the appropriate flat-rate percentage of that part of those earnings.

(4) Regulations [<sup>F10</sup>made by the Secretary of State] may make provisions—

- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
- (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,

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- (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.
- (5) If the [<sup>F8</sup>Inland Revenue][<sup>F11</sup>pay] an amount under subsection (3) which [<sup>F12</sup>they][<sup>F13</sup>are] not required to pay or [<sup>F13</sup>are] not required to pay to the person to whom, or in respect of whom, the [<sup>F8</sup>Inland Revenue][<sup>F11</sup>pay] it, the [<sup>F8</sup>Inland Revenue] may recover it from any person to whom, or in respect of whom, the [<sup>F8</sup>Inland Revenue] paid it.
- [<sup>F14</sup>(5A) Where a payment under subsection (3) is due in respect of an earner, HMRC are not required to make the payment if they determine that the cost to them of administering the payment would exceed the amount of the payment.]
- (6) Where—
- an earner has ceased to be employed in an employment, and
  - earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased, that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it
- (7) Subsection (3) of section 37 applies for the purposes of this section as it applies for the purposes of that.
- [<sup>F15</sup>(8) In subsections (3), (4) and (6) “prescribed” means prescribed by regulations made by the Secretary of State.]
- [<sup>F16</sup>(9) For the purposes of this section “the appropriate age-related percentage” and “the appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 38B (as it had effect prior to that date).]

#### Textual Amendments

- F1** S. 38A inserted (14.3.1996 for certain purposes and 6.4.1996 for other purposes otherwise 6.4.1997) by S.I. 1995/3213 (N.I. 22), **art. 134(4)**; S.R. 1996/91, art. 2(a)(d), **Sch. Pts. I IV**; S.R. 1997/192, **art. 2(b)**
- F2** S. 38A(1)-(2B) substituted (6.4.1999) for s. 38A(1) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 96**; S.R. 1999/72, **art. 2(b) Sch.**
- F3** Words in s. 38A(1) substituted (22.12.1999 for certain purposes and otherwise 6.4.2000) by 1999 c. 30, s. 74, **Sch. 10 para. 7(2)**; S.I. 1999/3420, **art. 2**
- F4** Words in s. 38A(1) substituted (with effect in accordance with Sch. 7 para. 11(2) of the amending Act) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(2), **Sch. 7 para. 11(1)** (with s. 73)
- F5** S. 38A(2)-(2D) substituted for s. 38A(2)-(2B) (22.12.1999 for certain purposes and otherwise 6.4.2000) by 1999 c. 30, s. 74, **Sch. 10 para. 7(3)**; S.I. 1999/3420, **art. 2**
- F6** Words inserted (8.7.2002) by National Insurance Contributions Act 2002 (c. 19), s. 6, **Sch. 1 para. 42**
- F7** Words in s. 38A(3) inserted (6.4.2012) by The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(b), **4(8)(a)**
- F8** Words in s. 38A(3)(5) 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. 52(2)(4)(a)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F9** Word in s. 38A(3) substituted (6.4.2015) by The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(d), **31(4)(a)**

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- F10** Words in s. 38A(4) 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. 52(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F11** Words in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F12** Word in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F13** Words in s. 38A(5) 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. 52(4)(b)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F14** S. 38A(5A) substituted (6.4.2015) by The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(d), **31(4)(b)**
- F15** S. 38A(8) 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. 52(5)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F16** S. 38A(9) added (6.4.2012) by Pensions Act (Northern Ireland) 2008 (c. 1), ss. 13(4), 21(1), **Sch. 4 para. 17** (with Sch. 4 Pt. 3); S.R. 2012/115, art. 2

### Marginal Citations

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