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 I

CERTIFICATION

Preliminary

4   Meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment"

(1) The employment of an earner in employed earner's employment is "contracted-out employment" in relation to him during any period in which he is under pensionable age and—

    (a)   either—

        (i) his service in the employment is for the time being service which qualifies him for a guaranteed minimum pension provided by an occupational pension scheme, or

        (ii) his employer makes minimum payments in respect of his employment to an occupational pension scheme which is contracted-out by virtue of satisfying section 5(3) (in this Act referred to as "a money purchase contracted-out scheme"); and

    (b)   there is in force a contracting-out certificate issued by the Board in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

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(2) In this Act—

"guaranteed minimum pension" means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 9 and 13 to the extent to which its weekly rate is equal to the earner's or, as the case may be, the earner's widow's or widower's guaranteed minimum as determined for the purposes of those sections respectively; and

"minimum payment", in relation to an earner's employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in that week as exceeds the current lower earnings limit but not the current upper earnings limit (or the prescribed equivalents if he is paid otherwise than weekly);

and for the purposes of this subsection "rebate percentage" means the sum of the percentages for the time being mentioned in paragraphs (a) and (b) of section 37(1).

(3) Regulations may make provision—

(a) for the manner in which, and time at which or period within which, minimum payments are to be made;

(b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;

(c) for calculating the amounts payable according to a scale prepared from time to time by the Department or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;

(d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;

(e) for securing that liability is not avoided or reduced by the payment of earnings being made in accordance with any practice which is abnormal for the employment in respect of which the earnings are paid;

(f) without prejudice to paragraph (e), for enabling the Department, where it is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;

(g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and

(h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.

(4) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

(5) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.