



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART I

#### NEW ARRANGEMENTS FOR JUDICIAL PENSIONS

##### *Additional voluntary contributions*

#### **10 Additional benefits from voluntary contributions.**

- (1) Regulations may make provision—
- (a) entitling any person to whom this Part applies to make voluntary contributions towards the cost of the provision of additional benefits, whether under the scheme constituted by this Part or otherwise; or
  - (b) imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a) above) which he may have to make any such voluntary contributions.
- (2) Regulations may make provision for the purpose of imposing, in a case where a person to whom this Part applies makes voluntary contributions, upper limits with respect to—
- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such person; and
  - (b) the amount which any such person may pay by way of such contributions;
- and, without prejudice to the generality of paragraph (b) above, any such regulations may, in particular, impose such an upper limit on the amount which a person may pay by way of voluntary contributions as will, so far as reasonably practicable, secure that the aggregate value referred to in paragraph (a) above will not exceed the limit prescribed under that paragraph.
- (3) Regulations may—
- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (2) above;

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- (b) confer on the administrators of the scheme constituted by this Part power to require a person to whom this Part applies who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
- (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—
  - (i) to, or to any officers of, the Commissioners of Inland Revenue; or
  - (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the voluntary contributions or the provision of the additional benefits in question.

(4) Regulations—

- (a) may not prohibit the payment of voluntary contributions;
- (b) may not impose any limit on the amount which a person may pay by way of voluntary contributions, other than either or both of the following, that is to say—
  - (i) such upper limit as may be imposed by virtue of subsection (2)(b) above; or
  - (ii) an upper limit corresponding to that for the time being fixed by or under section 594 of the <sup>M1</sup>Income and Corporation Taxes Act 1988 (exempt statutory schemes);
- (c) must secure that any voluntary contributions paid by a person are used to provide additional benefits for or in respect of him; and
- (d) must secure that the value of such additional benefits is reasonable, having regard to—
  - (i) the amount paid by way of voluntary contributions;
  - (ii) the value of the other benefits provided under the scheme constituted by this Part; and
  - [<sup>F1</sup>(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;]

but paragraphs (c) and (d) above have effect only in relation to a voluntary contributions scheme constituted by or under this Part.

(5) Regulations may, in particular—

- (a) provide that the value of additional benefits offered on payment of voluntary contributions shall be determined in accordance with prescribed rules based on tables prepared for the purposes of the regulations by the Government Actuary;
- (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceeds any such limit as is mentioned in subsection (4)(b) above;
- (c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
- (d) provide for the manner in which voluntary contributions are to be made;
- (e) make provision for, and in connection with, the valuation of a person's accrued rights—
  - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or

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- (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;
  - (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
  - (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
  - (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;
  - (j) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
  - (k) specify any authorised providers—
    - (i) who are to invest any prescribed voluntary contributions, or
    - (ii) who are to provide any prescribed additional benefits,and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.
- (6) Regulations may provide for such additional benefits arising under or by virtue of this section as may be prescribed—
- (a) to be charged on, and paid out of, the Consolidated Fund; or
  - (b) to be paid out of money provided by Parliament.
- (7) The power to make regulations under this section shall be exercisable by the appropriate Minister with the concurrence of the Treasury.
- (8) In this section—
- “aggregable benefits” means—
- (a) any pensions or other benefits under this Part, other than such additional benefits as are mentioned in subsection (1) above;
  - (b) such additional benefits so mentioned as may be prescribed; and
  - (c) such retained benefits as may be prescribed;
- [<sup>F2</sup>authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
  - (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) 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 invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (8B), (8C) or (8D); or
  - (c) an EEA firm of a 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 invest such sums or, as the case may be, to provide that benefit.]

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“employment” has the same meaning as it has in the [<sup>F3</sup>Pension Schemes Act 1993] (and accordingly includes employment as a self-employed earner, within the meaning of [<sup>F3</sup>section 2 of the Social Security Contributions and Benefits Act 1992]);

[<sup>F4</sup>“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 long-term insurance;
- (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 long-term insurance;]

“occupational pension scheme” has the meaning given by [<sup>F5</sup>section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [<sup>F6</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by [<sup>F7</sup>section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [<sup>F8</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“prescribed” means specified in, or determined in accordance with, regulations;

“regulations” means regulations under this section;

“relevant benefits” has the meaning given by section 612(1) of the [<sup>M2</sup>Income and Corporation Taxes Act 1988];

“retained benefits”, in the case of any person, means any rights retained by him to relevant benefits under any occupational or personal pension scheme which has, or which may be expected to qualify for, tax-exemption or tax-approval, being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (4) (b) above;

“tax-exemption” and “tax-approval” have the meaning given by [<sup>F9</sup>section 181(1) of the Pension Schemes Act 1993];

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) above are, or are to be, provided;

and, where a person’s voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

[<sup>F10</sup>(8A) In subsection (8), the definitions of “authorised provider” and “insurer” 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.

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- (8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
  - (b) that the firm is authorised by its home state authorisation to carry on that service.
- (8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
  - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions.
- (8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
  - (b) that the activity in question is one in relation to which an authority in the firm’s home State has regulatory functions; and
  - (c) that the firm also carries on the activity in question in its home State.
- (8E) Expressions used in subsections (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.]
- (9) Without prejudice to section 29(6) below, regulations under this section may make different provision for different classes or descriptions of voluntary contributions scheme.
- (10) Without prejudice to subsections (5)(c) and (d) and (6) above, there may be paid out of money provided by Parliament—
- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or
  - (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.
- (11) Any sums received under this section may be paid into the Consolidated Fund.

#### Textual Amendments

- F1** S. 10(4)(d)(iii) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(2\)](#)
- F2** Definition of “authorised provider” in s. 10(8) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(3\)\(a\)](#)
- F3** S. 10(8): words in the definition of “employment” substituted (7.2.1994) by [1993 c. 48](#), [s. 190](#), [Sch. 8 para. 46\(1\)\(a\)](#) (with [s. 6\(8\)](#)); [S.I. 1994/86](#), [art. 2](#)
- F4** Definition of “insurer” in s. 10(8) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(3\)\(b\)](#)
- F5** S. 10(8): words in the definition of “occupational pension scheme” substituted (7.2.1994) by [1993 c. 48](#), [s. 190](#), [Sch. 8 para. 46\(1\)\(b\)](#) (with [s. 6\(8\)](#)); [S.I. 1994/86](#), [art. 2](#)

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- F6** S. 10(8): words in the definition of “occupational pension scheme” substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(1)(a)**; S.R. 1994/17, **art. 2**
- F7** S. 10(8): words in the definition of “personal pension scheme” substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(1)(c)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- F8** S. 10(8): words in the definition of “personal pension scheme” substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(1)(b)**; S.R. 1994/17, **art. 2**
- F9** In S. 10(8) words in the definitions of “tax exemption” and “tax approval” substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(1)(d)** (with s. 6(8)); S.I.1994/86, **art. 2**
- F10** S. 10(8A)-(8E) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1, 112(4)**

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

- C1** S. 10(4) amended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 Pt. I para. 22(1)**

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**Marginal Citations**

- M1** 1988 c. 1.  
**M2** 1988 c. 1.

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