



Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

General

124 Interpretation of Part I.

(1) In this Part—

“active member”, in relation to an occupational pension scheme, means a person who is in pensionable service under the scheme,

“the actuary” and “the auditor”, in relation to an occupational pension scheme, have the meanings given by section 47,

[^{F1}“the Authority” means the Pensions Regulator,]

^{F2}

.....
“the Compensation Board” has the meaning given by section 78(1),

“the compensation provisions” has the meaning given by section 81(3),

“contravention” includes failure to comply,

“deferred member”, in relation to an occupational pension scheme, means a person (other than an active or pensioner member) who has accrued rights under the scheme,

“employer”, in relation to an occupational pension scheme, means the employer of persons in the description [^{F3}or category] of employment to which the scheme in question relates (but see section 125(3)),

“equal treatment rule” has the meaning given by section 62,

“firm” means a body corporate or a partnership,

“fund manager”, in relation to an occupational pension scheme, means a person who manages the investments held for the purposes of the scheme,

“independent trustee” has the meaning given by section 23(3),

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“managers”, in relation to an occupational pension scheme other than a trust scheme, means the persons responsible for the management of the scheme,

“member”, in relation to an occupational pension scheme, means any active, deferred [^{F4}, pensioner or pension credit] member (but see section 125(4)),

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“normal pension age” has the meaning given by section 180 of the ^{M1}Pension Schemes Act 1993,

“payment schedule” has the meaning given by section 87(2),

[^{F5}“pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation,]

[^{F5}“pension credit member”, in relation to an occupational pension scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit,]

[^{F5}“pension credit rights”, in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit,]

“pensionable service”, in relation to a member of an occupational pension scheme, means service in any description [^{F3}or category] of employment to which the scheme relates which qualifies the member (on the assumption that it continues for the appropriate period) for pension or other benefits under the scheme,

“pensioner member”, in relation to an occupational pension scheme, means a person who in respect of his pensionable service under the scheme or by reason of transfer credits, is entitled to the present payment of pension or other benefits ^{F6} ... ,

“prescribed” means prescribed by regulations,

“professional adviser”, in relation to a scheme, has the meaning given by section 47,

“public service pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993,

“regulations” means regulations made by the Secretary of State,

“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,

“Scottish partnership” means a partnership constituted under the law of Scotland,

“the Taxes Act 1988” means the ^{M2}Income and Corporation Taxes Act 1988,

“transfer credits” means rights allowed to a member under the rules of an occupational pension scheme by reference to [^{F7}—

- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than pension credit rights, or

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(b) a cash transfer sum paid under Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers) in respect of him, to the trustees or managers of the scheme,]

“trustees or managers”, in relation to an occupational pension scheme, means—

(a) in the case of a trust scheme, the trustees of the scheme, and

(b) in any other case, the managers of the scheme,

“trust scheme” means an occupational pension scheme established under a trust.

(2) For the purposes of this Part—

(a) the accrued rights of a member of an occupational pension scheme at any time are the rights which have accrued to or in respect of him at that time to future benefits under the scheme, and

(b) at any time when the pensionable service of a member of an occupational pension scheme is continuing, his accrued rights are to be determined as if he had opted, immediately before that time, to terminate that service;

and references to accrued pension or accrued benefits are to be interpreted accordingly.

[^{F8}(2A) In subsection (2)(a), the reference to rights which have accrued to or in respect of the member does not include any rights which are pension credit rights.]

(3) In determining what is “pensionable service” for the purposes of this Part—

(a) service notionally attributable for any purpose of the scheme is to be disregarded, and

(b) no account is to be taken of any rules of the scheme by which a period of service can be treated for any purpose as being longer or shorter than it actually is [^{F9}but, in its application for the purposes of section 51, paragraph (b) does not affect the operation of any rules of the scheme by virtue of which a period of service is to be rounded up or down by a period of less than a month.]

[^{F10}(3A) In a case of the winding-up of an occupational pension scheme in pursuance of an order of the Authority under section 11 or of an order of a court, the winding-up shall (subject to subsection (3E) [^{F11}and to sections 28, 154 and 219 of the Pensions Act 2004]) be taken for the purposes of this Part to begin—

(a) if the order provides for a time to be the time when the winding-up begins, at that time; and

(b) in any other case, at the time when the order comes into force.

(3B) In a case of the winding-up of an occupational pension scheme in accordance with a requirement or power contained in the rules of the scheme, the winding-up shall (subject to subsections (3C) to (3E) [^{F12}and to sections 154 and 219 of the Pensions Act 2004]) be taken for the purposes of this Part to begin—

(a) at the time (if any) which under those rules is the time when the winding-up begins; and

(b) if paragraph (a) does not apply, at the earliest time which is a time fixed by the trustees or managers as the time from which steps for the purposes of the winding-up are to be taken.

(3C) Subsection (3B) shall not require a winding-up of a scheme to be treated as having begun at any time before the end of any period during which effect is being given—

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- (a) to a determination under section 38 that the scheme is not for the time being to be wound up; or
 - (b) to a determination in accordance with the rules of the scheme to postpone the commencement of a winding-up.
- (3D) In subsection (3B)(b) the reference to the trustees or managers of the scheme shall have effect in relation to any scheme the rules of which provide for a determination that the scheme is to be wound up to be made by persons other than the trustees or managers as including a reference to those other persons.
- (3E) Subsections (3A) to (3D) above do not apply for such purposes as may be prescribed.]
- (4) In the application of this Part to Scotland, in relation to conviction on indictment, references to imprisonment are to be read as references to imprisonment for a term not exceeding two years.
- (5) Subject to the provisions of this Act, expressions used in this Act and in the ^{M3}Pension Schemes Act 1993 have the same meaning in this Act as in that.

Textual Amendments

- F1** Words in s. 124(1) substituted (6.4.2005) by Pensions Act 2004 (c. 35), **ss. 7(2)(b)**, 322(1) (with s. 313); S.I. 2005/275, art. 2(7), **Sch. Pt. 7** (with S.I. 2005/695, arts. 5(3), 6, Schs. 2, 3)
- F2** Words in s. 124(1) omitted (E.W.) (13.3.2014) by virtue of The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560), art. 1(2), **Sch. 1 para. 27**; and omitted (S.) (16.12.2014) by virtue of The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 13**
- F3** Words in s. 124(1) repealed (6.4.2006 for specified purposes, 6.4.2007 for specified purposes) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 13**; S.I. 2006/560, art. 2(3), Sch. Pt. 3; S.I. 2006/2272, art. 2(7), Sch. Pt. 2 (with art. 3)
- F4** Words in s. 124(1) substituted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 61(2)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F5** Words in s. 124(1) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 61(3)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F6** Words in s. 124(1) omitted (6.4.2006) by virtue of The Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745), arts. 1, **10(7)**
- F7** Words in s. 124(1) substituted (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 69(2)**; S.I. 2005/3331, art. 2(6), Sch. Pt. 6 (with savings in S.I. 2005/695, art. 6, Sch. 3)
- F8** S. 124(2A) inserted (1.12.2000) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(1), **Sch. 12 para. 61(4)**; S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV
- F9** Words in s. 124(3) inserted (11.11.1999 for specified purposes, 25.4.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 2 para. 18**; S.I. 2000/1047, art. 2(2)(b), Sch. Pt. II
- F10** S. 124(3A)-(3E) inserted (1.3.2002 for specified purposes, 1.4.2002 in so far as not already in force) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 49(2)**, 86(1)(b)(2) (with s. 83(6)); S.I. 2002/437, art. 3(1)(e)(2)
- F11** Words in s. 124(3A) inserted (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 69(3)**; S.I. 2005/3331, art. 2(6), Sch. Pt. 6
- F12** Words in s. 124(3B) inserted (6.4.2006) by Pensions Act 2004 (c. 35), s. 322(1), **Sch. 12 para. 69(4)**; S.I. 2005/3331, art. 2(6), Sch. Pt. 6

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Modifications etc. (not altering text)

- C1** S. 124 modified (11.11.1999 for specified purposes, 1.10.2000 in so far as not already in force) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(5)(a), **Sch. 1 para. 1(1)(2)(b)(xv)(5)**; S.I. 2000/1047, art. 2(2)(c), Sch. Pt. III
- C2** S. 124(3A)-(3D) excluded (1.4.2002) by The Occupational Pension Schemes (Winding Up Notices and Reports etc.) Regulations 2002 (S.I. 2002/459), regs. 1(1), **12** (with S.I. 2005/706, reg. 12)

Commencement Information

- I1** S. 124 in force at 4.12.1995 for specified purposes and 1.1.1996 for specified purposes by S.I. 1995/3104, **art. 2(1)(2)**
- I2** S. 124 in force at 6.4.1996 in so far as not already in force by S.I. 1996/778, art. 2(4), **Sch. Pt. IV**

Marginal Citations

- M1** 1993 c. 48.
- M2** 1993 c. 48.
- M3** 1993 c. 48.

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