

SCHEDULES

SCHEDULE 2

Section 18.

PENSIONS: MISCELLANEOUS AMENDMENTS

Income payments orders against pension payments

- 1 In section 32(2) of the Bankruptcy (Scotland) Act 1985 (vesting of estate, and dealings of debtor, after sequestration), at the beginning insert “Notwithstanding anything in section 11 or 12 of the Welfare Reform and Pensions Act 1999,”.
- 2 In section 310(7) of the Insolvency Act 1986 (bankrupt’s income against which income payments orders may be made includes certain payments under pension schemes), after “employment and” insert “(despite anything in section 11 or 12 of the Welfare Reform and Pensions Act 1999)”.

Extended meaning of “personal pension scheme”

- 3 (1) In the Pension Schemes Act 1993—
 - (a) in section 1 (categories of pension schemes), in the definition of “personal pension scheme”, for “employed earners” substitute “earners (whether employed or self-employed)”; and
 - (b) in section 181(1) (general interpretation), for the definition of “employed earner” substitute—

““employed earner” and “self-employed earner” have the meanings given by section 2 of the Social Security Contributions and Benefits Act 1992;”.
- (2) In consequence of sub-paragraph (1), the following provisions of that Act shall cease to have effect, namely—
 - (a) in subsection (2)(a)(ii) of section 73 (short service benefit), the words “or a self-employed pension arrangement” and “or arrangement”;
 - (b) in subsection (2)(a) of section 96 (exercise of option under section 95), sub-paragraph (iii) and the word “or” immediately preceding that sub-paragraph; and
 - (c) in subsection (1) of section 181 (general interpretation), the definition of “self-employed pension arrangement”.

Revaluation of earnings factors: meaning of “relevant year”

- 4 In section 16(5) of the Pension Schemes Act 1993 (revaluation of earnings factors for purposes of section 14: early leavers etc.), for the definition of “relevant year” substitute—

““relevant year” means any tax year in the earner’s working life,”.

Status: This is the original version (as it was originally enacted).

Interim arrangements

- 5 (1) Section 28 of the Pension Schemes Act 1993 (ways of giving effect to protected rights) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (aa) (but not the final “and”); and
 - (b) in paragraph (b), for “permitted” substitute “provided for”.
- (3) For subsection (1A) substitute—
- “(1A) Where the scheme is a personal pension scheme which provides for the member to elect to receive payments in accordance with this subsection, and the member so elects, effect shall be given to his protected rights during the interim period by the making of payments under an interim arrangement which—
- (a) complies with section 28A, and
 - (b) satisfies such conditions as may be prescribed;
- and in such a case subsections (2) to (4) accordingly apply as regards giving effect to his protected rights as from the end of that period.”
- (4) In subsection (3) for “(1A)(a) or” substitute “(1A) or”.

Effect of certain orders on guaranteed minimum pensions

- 6 In section 47 of the Pension Schemes Act 1993 (entitlement to guaranteed minimum pension for the purposes of the relationship with social security benefits), after subsection (6) (which is inserted by section 32(4) of this Act) add—
- “(7) For the purposes of section 46, a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled but for any order under section 342A of the Insolvency Act 1986 (recovery of excessive pension contributions) or under section 36A of the Bankruptcy (Scotland) Act 1985.”

Mandatory payment of contributions equivalent premiums

- 7 (1) In section 55 of the Pension Schemes Act 1993 (contributions equivalent premiums)—
- (a) in subsection (2), after “the prescribed person” insert “shall, if subsection (2B) applies, pay and otherwise”;
 - (b) in subsection (2A), omit the words following paragraph (e); and
 - (c) after that subsection insert—
- “(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.
- (2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.”
- (2) In section 51 of the Pension Schemes (Northern Ireland) Act 1993 (contributions equivalent premiums)—

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- (a) in subsection (2), after “the prescribed person” insert “shall, if subsection (2B) applies, pay and otherwise”;
- (b) in subsection (2A), omit the words following paragraph (e); and
- (c) after that subsection insert—

“(2B) Except in prescribed circumstances, this subsection applies in any case where the earner has no accrued right to any benefit under the scheme.

(2C) Where a contributions equivalent premium is required to be paid in respect of an earner by virtue of subsection (2), the prescribed person must notify the Inland Revenue of that fact within the prescribed period and in the prescribed manner.”

Payment by Secretary of State of unpaid pension contributions

- 8 (1) Paragraph 2 of Schedule 4 to the Pension Schemes Act 1993 (priority in bankruptcy for amounts paid by Secretary of State in respect of unpaid pension contributions) is amended as follows.

- (2) For sub-paragraphs (1) to (3) substitute—

“(1) This Schedule applies to any sum owed on account of an employer’s contributions to a salary related contracted-out scheme which were payable in the period of 12 months immediately preceding the relevant date.

(1A) The amount of the debt having priority by virtue of sub-paragraph (1) shall be taken to be an amount equal to the appropriate amount.

(2) This Schedule applies to any sum owed on account of an employer’s minimum payments to a money purchase contracted-out scheme falling to be made in the period of 12 months immediately preceding the relevant date.

(3) In so far as payments cannot from the terms of the scheme be identified as falling within sub-paragraph (2), the amount of the debt having priority by virtue of that sub-paragraph shall be taken to be an amount equal to the appropriate amount.

(3A) In sub-paragraph (1A) or (3) “the appropriate amount” means the aggregate of—

- (a) the percentage for non-contributing earners of the total reckonable earnings paid or payable, in the period of 12 months referred to in sub-paragraph (1) or (2) (as the case may be), to or for the benefit of non-contributing earners; and
- (b) the percentage for contributing earners of the total reckonable earnings paid or payable, in that period, to or for the benefit of contributing earners.”

- (3) In sub-paragraph (4), for “sub-paragraph (3)” substitute “sub-paragraph (3A)”.

Status: This is the original version (as it was originally enacted).

Supervision by the Occupational Pensions Regulatory Authority

- 9 In section 3(2)(b) of the Pensions Act 1995 (power of Authority to remove pension scheme trustee to whom section 3 applies by virtue of any other provision of Part I of the Act), for “this Part” substitute “this or any other Act”.
- 10 In section 8(4) of the Pensions Act 1995 (provision which may be contained in orders made by the Authority appointing pension scheme trustees), omit the word “or” at the end of paragraph (a).
- 11 In section 10 of the Pensions Act 1995 (imposition of civil penalties by the Authority), after subsection (8) insert—
- “(8A) Any penalty recoverable under this section—
- (a) shall, if a county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
 - (b) may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”

Occupational pension schemes: institutions who may hold money deposited by trustees etc.

- 12 (1) Section 49 of the Pensions Act 1995 (other responsibilities of trustees, employers, etc.) is amended as follows.
- (2) In each of subsections (1) and (5) (money to be kept by trustees or employers in accounts with institutions authorised under the Banking Act 1987), for “an institution authorised under the Banking Act 1987” substitute “a relevant institution”.
- (3) After subsection (1) insert—
- “(1A) In this section “relevant institution” means—
- (a) an institution authorised under the Banking Act 1987;
 - (b) an institution within any of paragraphs 1 to 6 of Schedule 2 to that Act (institutions not requiring authorisation); or
 - (c) a European authorised institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992 which may lawfully accept deposits in the United Kingdom in accordance with those regulations.”

Annual increase in rate of pension

- 13 In section 54(3) of the Pensions Act 1995 (supplementary provisions about annual increases in pensions), in the definition of “appropriate percentage”, for the words from “the revaluation period” onwards substitute “the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as that paragraph),”.

Status: This is the original version (as it was originally enacted).

Occupational pension schemes: certificates etc. relating to minimum funding requirement

- 14 (1) In section 58 of the Pensions Act 1995 (schedules of contributions), in subsection (6) (a) (certification by actuary of adequacy of rates of contributions to meet minimum funding requirement)—
- (a) for the words from “on the date” to “is met,” substitute “it appears to him that the minimum funding requirement was met on the prescribed date,”; and
 - (b) omit the words “continue to”.
- (2) In section 59 of that Act (determination of contributions: supplementary), in subsection (3) (duty of trustees etc. to prepare report of failure to meet minimum funding requirement), after “they must” insert “, within such further period as may be prescribed,”.

Excess assets of wound-up schemes

- 15 In section 77(5) of the Pensions Act 1995 (penalties for trustees who deal improperly with excess assets of wound-up occupational pension schemes), for “section 3 applies” substitute “sections 3 and 10 apply”.

Pensions Compensation Board

- 16 (1) In section 79(1) of the Pensions Act 1995 (annual reports of Pensions Compensation Board)—
- (a) for “the first twelve months of their existence, and a report for each succeeding period of twelve months,” substitute “each financial year of the Board”; and
 - (b) at the end insert—
“Sub-paragraph (4) of paragraph 17 of Schedule 2 (meaning of “financial year”) applies for the purposes of this subsection as for those of that paragraph.”
- (2) The amendments made by sub-paragraph (1) have effect in relation to the financial year beginning on the first 6th April falling after that sub-paragraph comes into force and to each subsequent financial year; and the period which begins with the last 1st August before, and ends with the 5th April immediately preceding, that 6th April shall be taken to be the last period in respect of which the Board are required to prepare a report under section 79(1) as originally enacted.

Diligence against pensions: Scotland

- 17 In section 94(3) of the Pensions Act 1995 (application of sections 91 and 92 to Scotland), at the end insert—
- “(f) after subsection 91(4) there is inserted—
“(4A) Subject to section 73(3)(d) of the Debtors (Scotland) Act 1987, nothing in this section prevents any diligence mentioned in section 46 of that Act being done against a pension under an occupational pension scheme.””

Status: This is the original version (as it was originally enacted).

Pensionable service

- 18 In section 124(3) of the Pensions Act 1995 (matters to be disregarded in determining “pensionable service”), at the end insert—

“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.”

Occupational pension schemes: rights of employee who is director of corporate trustee

- 19 (1) The Employment Rights Act 1996 is amended as follows.
- (2) In section 46 (employee who is a trustee of a pension scheme not to be subject to detriment referable to his carrying out his functions as such a trustee), after subsection (2) insert—
- “(2A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”
- (3) In section 58 (right to time off for pension scheme trustees), after subsection (2) insert—
- “(2A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”
- (4) In section 102 (unfair dismissal of pension scheme trustees), after subsection (1) insert—
- “(1A) This section applies to an employee who is a director of a company which is a trustee of a relevant occupational pension scheme as it applies to an employee who is a trustee of such a scheme (references to such a trustee being read for this purpose as references to such a director).”