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Changes to legislation: Pensions Act 2004, Cross Heading: Pension Schemes Act 1993 (c. 48) is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12

MINOR AND CONSEQUENTIAL AMENDMENTS

Pension Schemes Act 1993 (c. 48)

VALID FROM 06/04/2005

9 The Pension Schemes Act 1993 is amended as follows.

VALID FROM 06/04/2006

10 In section 53 (supervision: former contracted-out schemes), after subsection (1B) insert—

“(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under section 23 of the Pensions Act 2004 in relation to the scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order—

- (a) is not binding as described in subsection (1), and
- (b) is not enforceable as described in subsection (1B).”

VALID FROM 06/04/2006

11 (1) Section 56 (provision supplementary to provision relating to payment of state scheme premiums) is amended as follows.

(2) In subsection (4) for the words from the beginning to “another scheme” substitute—

“(4) Where under the rules of the scheme, transfer credits have been allowed—

- (a) in respect of the earner’s rights under another scheme, or
- (b) in respect of the earner by reference to the payment of a cash transfer sum (within the meaning of Chapter 5 of Part 4) to the trustees or managers of the scheme by the trustees or managers of another occupational pension scheme.”

(3) After subsection (6) insert—

“(7) Where a premium under section 55 is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the Pensions Act 2004 (effect of the Board assuming responsibility for an occupational

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pension scheme), then, subject to subsection (8), sections 55 to 68 apply with such modifications as may be prescribed in relation to that premium.

- (8) A premium under section 55 in respect of an earner ceases to be payable if—
- (a) the liability to pay the premium is transferred to the Board of the Pension Protection Fund by virtue of section 161 of the Pensions Act 2004, and
 - (b) prescribed requirements are met.”

VALID FROM 06/04/2006

12 In section 61 (deduction of contributions equivalent premium from refund of scheme contributions), after subsection (9) insert—

“(9A) Where under section 101AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.”

VALID FROM 06/04/2006

13 (1) Section 94 (right to cash equivalent) is amended as follows.

(2) In subsection (2), for the definition of “the applicable rules” substitute—

““the applicable rules” means—

- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision;
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme; and
- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with Chapter 1 of Part 4 of this Act;”.

(3) After that subsection insert—

“(2A) For the purposes of subsection (2)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
 - (ii) this Chapter or Chapters 2, 3 or 5 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
 - (iii) Part 4A of this Act or regulations made under that Part;
 - (iv) section 110(1) of this Act;
 - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;

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- (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
- (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
 - (ii) section 129(1) of this Act;
 - (iii) section 117(1) of the Pensions Act 1995;
 - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
 - (v) section 306(1) of the Pensions Act 2004.”

VALID FROM 06/04/2006

- 14 In section 99 (trustees' duties after exercise of option)—
- (a) in subsection (4) after “circumstances,” insert “ by direction ”, and
 - (b) in subsection (4A) for “in relation to applications for extensions under subsection (4)” substitute “ requiring applications for extensions under subsection (4) to meet prescribed requirements ”.

VALID FROM 06/04/2006

- 15 In section 101J (time for compliance with transfer notice)—
- (a) in subsection (2) after “circumstances,” insert “ by direction ”, and
 - (b) in subsection (6)(a) for “in relation to applications under subsection (2)” substitute “ requiring applications for extensions under subsection (2) to meet prescribed requirements ”.

VALID FROM 06/04/2006

- 16 In section 111A (monitoring of employers' payments to personal pension schemes) omit subsection (10).

VALID FROM 06/04/2006

- 17 In section 113 (disclosure of information about schemes to members etc), after subsection (2)(d) insert—
- “(e) persons of prescribed descriptions.”

VALID FROM 01/01/2006

- 18 After that section insert—

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“113A Disclosure of information about transfers etc

Regulations may provide that, where—

- (a) a payment is made out of an occupational pension scheme to the trustees or managers of another occupational pension scheme, and
- (b) transfer credits are allowed to a member of that other scheme in respect of the payment,

the trustees or managers of the first scheme must, in prescribed circumstances and in the prescribed manner, provide to the trustees or managers of the other scheme prescribed information relating to the payment.”

VALID FROM 22/09/2005

- 19 In section 123 (interpretation of Chapter 2 of Part 7) omit—
- (a) the definition of “occupational pension scheme” in subsection (3), and
 - (b) subsection (4).

VALID FROM 22/09/2005

- 20 In section 124 (duty of Secretary of State to pay unpaid contributions), after subsection (5) insert—
- “(6) In this section “on his own account”, in relation to an employer, means on his own account but to fund benefits for, or in respect of, one or more employees.”

VALID FROM 06/04/2006

- 21 In section 129(1) (overriding requirements),—
- (a) for “and IV” substitute “ , IV and V ”, and
 - (b) after “under” insert “ any of those Chapters or ”.

VALID FROM 06/04/2006

- 22 In section 130(b) (extra-statutory benefits), for “or IV” substitute “ , IV or V ”.

PROSPECTIVE

- 23 In section 145 (the Pensions Ombudsman), after subsection (1) insert—
- “(1A) Provisions conferring power on the Pensions Ombudsman to conduct investigations as mentioned in subsection (1) are to be read as conferring power that—

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- (a) in a case of a prescribed description, or
- (b) in a case involving a scheme that is prescribed or is of a prescribed description,

may be exercised whatever the extent of any connections with places outside the United Kingdom.

(1B) In subsection (1A) “scheme” means occupational pension scheme or personal pension scheme.

(1C) Subsection (1A) shall not be taken to prejudice any power of the Pensions Ombudsman apart from that subsection to conduct investigations in a case having connections with places outside the United Kingdom.”

VALID FROM 06/04/2005

24

In section 146 (functions of the Pensions Ombudsman)—

(a) for subsection (1)(f) substitute—

“(f) any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—

- (i) other trustees of the scheme, or
- (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, and”,

(b) after subsection (6) insert—

“(6A) For the purposes of subsection (6)(c)—

- (a) a description of complaint may be framed (in particular) by reference to the person making the complaint or to the scheme concerned (or to both), and
- (b) a description of dispute may be framed (in particular) by reference to the person referring the dispute or to the scheme concerned (or to both).”, and

(c) in subsection (8), in paragraph (a) of the definition of “independent trustee” for the words from “section 23(1)(b)” to the end substitute “section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)”.

Commencement Information

II Sch. 12 para. 24(a)(c) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

VALID FROM 06/04/2005

25

In section 149 (procedure on investigation by Pensions Ombudsman), in subsection (6)—

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- (a) for paragraph (b) substitute—
- “(b) the Board of the Pension Protection Fund,
 (ba) the Ombudsman for the Board of the Pension Protection Fund,” and
- (b) at the end insert—
- “(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.”

VALID FROM 06/04/2005

- 26 (1) Section 158A (other disclosures by the Secretary of State) is amended as follows.
- (2) In subsection (1), for the words from “any information” to “Pensions Act 1995” substitute “ any regulated information ”.
- (3) In the Table in that subsection—
- (a) in the entry for the Regulatory Authority in the second column of the Table for the words from “or the” to the end substitute “ , the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments. ”, and
- (b) for the entry for the Pensions Compensation Board substitute—
- | | |
|---|---|
| “The Pensions Ombudsman. | Functions conferred by or by virtue of this Act or any enactment in force in Northern Ireland corresponding to it. |
| The Board of the Pension Protection Fund. | Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part. |
| The Ombudsman for the Board of the Pension Protection Fund. | Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.” |
- (4) After that subsection insert—
- “(1AA) In subsection (1), “regulated information” means information received by the Secretary of State in connection with his functions under—
- (a) this Act,
 (b) the Pensions Act 1995, or
 (c) the Pensions Act 2004,
 other than information supplied to him under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement planning purposes etc).”

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VALID FROM 06/04/2006

27 In section 168(4) (penalties for contravention of regulations) after “the provision” insert “ to be required by notice in writing ”.

28 In section 175 (levies)—

(a) for subsection (8) substitute—

“(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Secretary of State, and an amount so payable shall be recoverable by the Secretary of State accordingly or, if the Secretary of State so determines, by the Regulatory Authority on his behalf.”, and

(b) in subsection (9) for “subsections (1) and (4)” substitute “ subsection (1) ”.

Commencement Information

I2 Sch. 12 para. 28 in force at 10.2.2005 for specified purposes by S.I. 2005/275, art. 2(2), Sch. Pt. 2 (with art. 4) (with further transitional provisions and savings in S.I. 2006/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

VALID FROM 06/04/2006

29 In section 178 (power to make regulations as to the persons to be regarded as trustees or managers of schemes for certain purposes), in paragraph (b) for “to 26C” substitute “ to 26 ”.

VALID FROM 06/04/2006

30 (1) Section 179 (linked qualifying service) is amended as follows.

(2) In subsection (1)(a)—

(a) for “the rules of a scheme” substitute “ Chapter 4 or 5 of Part 4 or under the rules of a scheme ”,

(b) for sub-paragraph (i) substitute—

“(i) there was made a transfer of his rights (including any transfer credits allowed) under that scheme, or a transfer payment in respect of those rights, to, or to the trustees or managers of, another scheme applying to him in the later period of service;”,

(c) for “and” at the end of sub-paragraph (ii), substitute “ or ”, and

(d) after that sub-paragraph insert—

“(iii) a cash equivalent (within the meaning of Chapter 4 of Part 4) or cash transfer sum (within the meaning of Chapter 5 of that Part) was paid in respect of him to the trustees or managers of another scheme applying to him in the later period of service; and”.

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(3) In subsection (1)(b), after “second scheme,” insert “ or the payment to the trustees or managers of that scheme, ”.

VALID FROM 06/04/2006

31 In section 181(1) (general interpretation), in the definition of “transfer credits”, for the words following “by reference to” substitute “—

- (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 rights attributable (directly or indirectly) to a pension credit, or
- (b) a cash transfer sum paid under Chapter 5 of Part 4 in respect of him, to the trustees or managers of the scheme;”.

VALID FROM 06/04/2006

32 In section 183(3) (sub-delegation), after “97(1)” insert “ , 101AF(1) ”.

VALID FROM 06/04/2006

33 In section 192(2) (provisions extending to Northern Ireland)—

- (a) for “section 145 (except subsections (4))” substitute “ section 145 (except subsections (4A) to (4C) ”, and
- (b) at the appropriate place insert— “ section 145A (except subsection (6) (b)), ”.

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