

Pension Schemes Act 1993

CHAPTER 48

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[5th November 1993]

PART I

PRELIMINARY

1. In this Act, unless the context otherwise requires—

“occupational pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

Categories of pensions schemes.

“personal pensions scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of earners [¹whether employed or self-employed] who have made arrangements with the trustees or managers of the scheme for them to become members of it;

“public service pension scheme” means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

- (a) all the particulars of which are set out in or in a legislative instrument made under, an enactment, Royal warrant or charter, or
- (b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,

and includes any occupational pension scheme established, with the concurrence of the Treasury, by or with the approval of any Minister of the Crown and any occupational pension scheme prescribed by regulations made by the Secretary of State and the Treasury jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Act.

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PART III

CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON MEMBERS’ STATE SCHEME RIGHTS AND DUTIES

CHAPTER I

CERTIFICATION

Preliminary

- 7.—(1) Regulations shall provide for the [²Inland Revenue] to issue certificates stating—

Issue of contracting-out and appropriate scheme certificates.

¹ 1999 (WRP) Sch. 2 para. 3(1) with effect on and after 25 April 2000 (by virtue of S.I. 2000 No. 1047 (C.29) Sch. Pt. II (not reproduced)).

² Words in s.7(1) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch.1, para. 33.

- (a) that the employment of an earner in employed earner’s employment is contracted-out employment by reference to an occupational pension scheme; or
- (b) that a personal pensions scheme is an appropriate scheme;

and in this Act a certificate under paragraph (a) is referred to as “a contracting-out certificate” and a certificate under paragraph (b) as “an appropriate scheme certificate”.

(2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—

- (a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and
- (b) the occupational pension schemes by reference to which those employments are to be so treated.

^[1] (2A) *The regulations may provide, in the case of contracting-out certificates issued before the principal appointed day, for their cancellation by virtue of the regulations—*

- (a) *at the end of a prescribed period beginning with that day, or*
- (b) *if prescribed conditions are not satisfied at any time in that period, but for them to continue to have effect until so cancelled; and the regulations may provide that a certificate having effect on and after that day by virtue of this subsection is to have effect, in relation to any earner’s service on or after that day, as if issued on or after that day.*

(2B) *In this Part, “the principal appointed day” means the day designated* by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act].*

* 6.4.97 (See art. 2(7) of S.I. 1996/778.)

(3) An occupational pension scheme is a contracted-out scheme in relation to an earner’s employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.

(4) A personal pension scheme is an appropriate scheme if there is in force an appropriate scheme certificate issued [²] in accordance with this Chapter that is such a scheme.

(5) An appropriate scheme certificate for the time being in force in relation to a scheme shall be conclusive that the scheme is an appropriate scheme.

(6) Regulations shall provide that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the [³Inland Revenue].

(7) Except in prescribed circumstances, no contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the certificate is issued.

Meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”.

⁴8.—(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—
 - [⁵(i) his service in the employment is for the time being service which qualifies him for guaranteed minimum pension provided by an occupational pension scheme],

¹ S.7 (2A) and (2B) to be inserted (6.4.96 for regulation-making purposes, 6.4.97 for all other purposes) by S.136(1) of Pensions Act 1995 (c.26).

² Words in s.7(4) deleted (6.4.97) by para. 22(b) of Sch. 5, and by Sch. 7 Part III, to Pensions Act 1995 (c.26)

³ Words in s.7(6) & s.8(1)(b) substituted, (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 33.

⁴ References to the Board in s.8 are replaced (6.4.97) with references to the Secretary of State by para. 21 of Sch. 5 to the Pensions Act 1995 (c.26).

⁵ S.8(1)(a)(i) as in force until amended by Pensions Act 1995 (c.26).

- [¹(i) his service in the employment is for the time begin service which qualifies him for a pension provided by an occupational pension scheme contracted out by virtue of satisfying section 9(2) (in this Act referred to as “a salary related contracted-out 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 9(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 [²Inland Revenue] in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

(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 13 and 17 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);

[³and for the purposes of this subsection “rebate percentage” means the appropriate flat rate percentage of the purposes of [⁴section 42A]].

The defn. of “guaranteed minimum pension” in s.8(2) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3 para. 1, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 3A, para. 1, w.e.f. 27.7.87.

The defn. of “guaranteed minimum pension” in s.8(2) is also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(2) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

(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 Secretary of State 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 [⁵Inland Revenue] where [⁵they are] 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;

¹ S.8(1)(a)(i) substituted (6.4.96 for regulation-making purposes, 6.4.97 for all other purposes) by s.136(2) of Pensions Act 1995 (c.26).

² Words in s.7(6) & s.8(1)(b) substituted, (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 33.

³ Words in s.8(2) substituted (6.4.97) by para. 23(a) of Sch. 5 to Pensions Act 1995 (c.26).

⁴ Words substituted in s. 8(2) (6.4.99) by Sch. 7, S. 126 of S.S. Act 1998 (c.8).

⁵ Words in s.8(f) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 34(b).

- (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)...¹

General requirements for certification

Requirements for certification of schemes: general.

²9.—(1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) or (3).

[³(2) An occupational pension scheme satisfies this subsection only if—

- (a) it complies in all respects with sections 13 to 24, or in such cases or classes of case as may be prescribed, with those sections as modified by regulations; and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.]

[⁴(2) *An occupational pension scheme satisfies this subsection only if—*

- (a) *in relation to any earner's service before the principal appointed day, it satisfies the conditions of subsection (2A), and*
- (b) *in relation to any earner's service on or after that day, it satisfies the conditions of subsection (2B).*

(2A) *The conditions of this subsection are that—*

- (a) *the scheme complies in all respects with section 13 to 23 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations, and*
- (b) *the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.*

(2B) *The conditions of this subsection are that the [Inland Revenue] [are satisfied] that—*

- (a) *the scheme complies with section 12A,*
- (b) *restrictions imposed under section 40 of the Pensions Act 1995 (restriction on employer-related investments) apply to the scheme and the scheme complies with those restrictions,*
- (c) *the scheme satisfies such other requirements as may be prescribed (which*
 - (i) *must include requirements as to the amount of the resources of the scheme and,*
 - (ii) *may include a requirement that, if the only members of the scheme were those falling within any prescribed class or description, the scheme would comply with section 12A); and*
- (d) *the scheme does not fall within a prescribed class or description, and [are satisfied] that the rules of the scheme are framed so as to comply with the relevant requirements.*

¹ S.8(5) deleted (6.4.97) by para. 23(b) of Sch. 5 and by Sch. 7 Part III, to Pensions Act 1995 (c.26).

² References to the Board in s.9 are replaced (6.4.97) with references to the Secretary of State, together with a grammatical consequential in s.9(4), by para. 21 of Sch. 5 to the Pensions Act 1995 (c.26).

³ S.9(2) as in force until amended by Pensions Act 1995 (c.26).

⁴ S.9(2)-9(2C) substituted for s.9(2) (6.4.96 for regulation making purposes and 6.4.97 for all other purposes) by s.136(3) of Pensions Act 1995 (c.26).

⁵ Words in s.9(2B) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 35(2)(a) & (b).

(2C) Regulations may modify subsection (2B)(a) and (b) in their application to occupational pension schemes falling within a prescribed class or description.]

- (3) An occupational pension scheme satisfies this subsection only if—
- (a) the requirements imposed by or by virtue of sections [¹] 26 to 32 and such other requirements as may be prescribed are satisfied in its case;
 - [²(aa) the [³Inland Revenue are] satisfied that the scheme does not fall within a prescribed case or description];* and
 - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.

(4) Where there are two or more occupational pension schemes in force in relation to an earner's employment, none of which can by itself be a contracted-out scheme, the [⁴Inland Revenue may, if they think] fit, treat them for contracting-out purposes as a single scheme.

- (5) A personal pension scheme can be an appropriate scheme only if—
- (a) the requirements imposed by or by virtue of sections 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
 - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- (6) In this section “relevant requirements” means—
- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out or, as the case may be, appropriate schemes; and
 - (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Secretary of State as a condition of contracting-out or, as the case may be, of being an appropriate scheme, either generally or in relation to a particular scheme.

10.—(1) Subject to subsections (2) and (3), the protected rights of a member of a pension scheme are his rights to money purchase benefits under the scheme.

Protected rights and money purchase benefits.

(2) If the rules of an occupational pension scheme so provide, a member's protected rights are—

- (a) his rights under the scheme which derive from the payment of minimum payments [⁵and payments under section 42A(3)] together with any payments by the [⁶Inland Revenue] to the scheme under section 7 of the Social Security Act 1986 in respect of the member;
- (b) any rights of the member to money purchase benefits which derive from protected rights under another occupational pension scheme or under a personal pensions scheme which have been the subject of a transfer payment; and (c) such other rights as may be prescribed.

1986 c.50.

(3) If the rules of a personal pension scheme so provide, a member's protected rights are—

- (a) his rights under the scheme which derive from any payment of minimum contributions to the scheme; and
- (b) any rights of his to money purchase benefits which derive from protected rights under another personal pension scheme or protected rights, under an occupational pension scheme which have been the subject of a transfer payment; and
- (c) such other rights as may be prescribed.

¹ Words in s.9(3)(a) deleted (6.4.97) by para. 24 of Sch. 5. and by Sch. 7 Part III. to Pensions Act 1995 (c.26).

² S.9(3)(aa) to be inserted (6.4.96 for regulation making purposes, 6.4.97 for all other purposes) by s.136(4) of Pensions Act 1995 (c.26).

³ Words in s.9(3)(aa) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 35(3).

⁴ Words in s.9(4) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 35(4).

⁵ Words in s.10(2)(a) inserted (6.4.97) by para. 25 of Sch. 5 to Pensions Act 1995 (c.26).

⁶ Words in s.10(2) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 36

Elections as to employments covered by contracting-out certificates.

¹11.—(1) Subject to the provisions of this Part, and employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise.

(2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

(3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.

(4) If the [²Inland Revenue consider] that an employer is contravening subsection (3) in relation to any scheme, [²they] may—

- (a) refuse to give effect to any election made by him in relation to that scheme; or
- (b) cancel any contracting-out certificate held by him in respect of it.

(5) Regulations may make provision—

- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
- (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme
 - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
 - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
 - (iii) to the trustees and managers of the scheme; and
 - (iv) to such other persons as may be prescribed;
- (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
- (d) for empowering the [²Inland Revenue] to refuse to give effect to an election made by an employer unless [²they are] satisfied that he has complied with the requirements of the regulations;
- (e) for referring to an industrial tribunal any question—
 - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
 - (ii) whether the requirements of the regulations as to consultation have been complied with.

Determination of basis on which scheme is contracted-out

12.—(1) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or (3) of section 9.

(2) Where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of those subsections as the subsection by virtue of which they wish the scheme to be contracted-out.

(3) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other except in prescribed circumstances.

¹ References to the Board in s.11 are replaced (6.4.97) with references to the Secretary of State, together with grammatical consequentials, by para. 21 of Sch. 5 to the Pensions Act 1995 (c.26). (For regulation-making purposes only, the relevant substitutions in s.11(5)(d) came into force on 6.4.96).

² Words in s.11(4) & (5) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 37(2) & (3).

¹Requirements for certification of occupational pension schemes applying from the principal appointed day of the Pensions Act 1995

The statutory standard

12A.—(1) Subject to the provisions of this Part, the scheme must, in relation to the provision of pensions for earners in employed earner's employment, and for their widows or widowers, satisfy the statutory standard.

(2) Subject to regulations made by virtue of section 9(2B)(c)(ii), in applying this section regard must only be had to—

- (a) earners in employed earner's employment, or
- (b) their widows or widowers,

collectively, and the pensions to be provided for persons falling within paragraph (a) or (b) must be considered as a whole.

(3) For the purposes of this section, a scheme satisfies the statutory standard if the pensions to be provided for such persons are broadly equivalent to, or better than, the pensions which would be provided for such persons under a reference scheme.

(4) Regulations may provide for the manner of, and criteria for, determining whether the pensions to be provided for such persons under a scheme are broadly equivalent to, or better than the pensions which would be provided for such persons under a reference scheme.

(5) Regulations made by virtue of subsection (4) may provide for the determination to be made in accordance with guidance prepared from time to time by a prescribed body and approved by the Secretary of State.

(6) The pensions to be provided for such persons under a scheme are to be treated as broadly equivalent to or better than the pensions which would be provided for such persons under a reference scheme if and only if an actuary (who, except in prescribed circumstances, must be the actuary appointed for the scheme in pursuance of section 47 of the Pensions Act 1995) so certifies.

12B.—(1) This section applies for the purposes of section 12A.

Reference scheme.

(2) A reference scheme is an occupational pension scheme which—

- (a) complies with each of subsections (3) and (4), and
- (b) complies with any prescribed requirements.

(3) In relation to earners employed in employed earner's employment, a reference scheme is one which provides—

- (a) for them to be entitled to a pension under the scheme commencing at a normal pension age of 65 and continuing for life, and
- (b) for the annual rate of the pension at that age to be—
 - (i) 1/80th of average qualifying earnings in the last three tax years preceding the end of service, multiplied by
 - (ii) the number of years service, not exceeding such number as would produce an annual rate equal to half the earnings on which it is calculated.

(4) In relation to widows or widowers, a reference scheme is one which provides—

- (a) for the widows or widowers of earners employed in employed earner's employment (whether the earners die before or after attaining the age of 65) to be entitled, except in prescribed circumstances, to pensions under the scheme, and

¹ Ss. 12A–12D to be inserted (6.4.96 for regulation-making purposes, 6.4.97 for all other purposes) by s.136(5) of Pensions Act 1995 (c.26).

¹[(b) for entitlements to those pensions to commence on the day following the death of the earners, and

(c) except in prescribed circumstances, for the annual rate of those pensions to be—

(i) if the earners die on or after their normal pension age, 50 per cent. of the annual rate which a reference scheme was required to provide to the deceased earners immediately before their death, or

(ii) if the earners die before their normal pension age, 50 per cent. of the annual rate which a reference scheme would have been required to provide to the deceased earners if the date of their death had been their normal pension age, and

(d) if those pensions are payable in respect of earners who die—

(i) otherwise than in pensionable service under the scheme, and

(ii) before their own entitlements to pensions under the scheme have commenced,

for those pensions to be revalued in accordance with section 84 as though they were such benefits as are mentioned in section 83(1)(a).]

(5) For the purposes of this section, an earner's qualifying earnings in any tax year are 90 per cent. of the amount by which the earner's earnings—

(a) exceed the qualifying earnings factor for that year, and

(b) do not exceed the upper earnings limit for that year multiplied by fifty-three.

(6) Regulations may modify subsections (2) to (5).

(7) In this section—

“normal pension age”, in relation to a scheme, means the age specified in the scheme as the earliest age at which pension becomes payable under the scheme (apart from any special provision as to early retirement on grounds of ill-health or otherwise),

1992 c.4.

“qualifying earnings factor”, in relation to a tax year, has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992, and

“upper earnings limit”, in relation to a tax year, means the amount specified for that year by regulations made by virtue of section 5(3) of that Act as the upper earnings limit for Class 1 contributions.

Transfer, commutation,
etc. Entitlement to benefit

12C.—(1) Regulations may prohibit or restrict—

(a) the transfer of any liability

(i) for the payment of pensions under a relevant scheme, or

(ii) in respect of accrued rights to such pensions,

(b) the discharge of any liability to provide pensions under a relevant scheme, or

(c) the payment of a lump sum instead of a pension payable under a relevant scheme,

except in prescribed circumstances or on prescribed conditions.

(2) In this section “relevant scheme” means a scheme contracted out by virtue of section 9(2B) of this Act and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner's service on or after the principal appointed day.

(3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.

¹ S.12B substituted (6.4.97) by reg. 2 of S.I. 1997/819.

12D. *In the case of a scheme contracted out by virtue of section 9(2B) of this Act, regulations may make provision as to the ages by reference to which benefits under the scheme are to be paid].* Entitlement to benefit

Requirements for certification of occupational pension schemes providing guaranteed minimum pensions

13.—(1) Subject to the provisions of this Part, the scheme must—

- (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
- (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.

Minimum pensions for earners.

(2) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the Social Security Contributions and Benefits Act 1992, subject to the provisions of this Part, the scheme must—

1992 c.4.

- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age^[1]; and
- (b) satisfy such other conditions as may be prescribed.

(3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.

(4) Subject to subsection (5), the scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.

(5) The scheme must provide for the earner's consent to be required—

- (a) for any such postponement by virtue of employment to which the scheme does not relate; and
- (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.

(6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.

(7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—

- (a) was for him non-participating employment under that legislation; and
- (b) was not on its termination the subject of any payment in lieu of contributions;

but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.

(8) In this section “the former legislation” means Part III of the National Insurance Act 1965 and the previous corresponding enactment's.

1965 c.51.

14.—(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme if in any tax week in a relevant year, earnings in excess of the current lower earnings limit (or the prescribed equivalent if he is paid otherwise than weekly) have been paid to or for his benefit in respect of employment which is contracted-out by reference to the scheme.

Earners' guaranteed minimum.

S.14(1) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3 para. 3, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 3.4, para. 23, w.e.f. 27.7.87.

S.14(1) is also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(4) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

¹ Words in s.13(2)(a) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 26 and Sch. 7, Part III.

(2) Subject to section 15(1), the guaranteed minimum shall be the weekly equivalent of an amount equal to the appropriate percentage of the total of the earner's earnings factors for the relevant years, so far as derived from earnings such as are mentioned in subsection (1) upon which primary Class 1 contributions have been paid or treated as paid.

(3)...¹

(4) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) and the [²Inland Revenue are] satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, [²they] may for that purpose—

- (a) compute, in such manner as [²they] [²think] fit, an amount which shall be regarded as the amount of those earnings; or
- (b) take their amount to be such sum as [²they] may specify in the particular case.

(5) In subsection (2) the “appropriate percentage” means—

- (a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88—
 - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;
 - (ii) in any other case 25/N per cent.;
- (b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent years—
 - (i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;
 - (ii) in any other case 20/N per cent.; where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978.

(6) Regulations may prescribe rules as to the circumstances in which earnings factors are derived from earnings for the purposes of subsection (2).

(7) For the purposes of subsection (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52.

(8) In this section “relevant year” means any tax year in the earner's working life (not being earlier than the tax year 1978-79 [³or later than the tax year ending immediately before the principal appointed day*]).

* 6.4.97. (See art. 2(7) of S.I. 1996/778 (C.13).)

Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.

15.—(1) Where in accordance with section 13(4) the commencement of an earner's guaranteed minimum pension is postponed for any period and there are at least seven complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by one-seventh per cent.—

- (a) of the amount of that minimum apart from this subsection; or
- (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.

(2) In subsection (1) “week” means any period of seven consecutive days.

(3) Where an earner's guaranteed minimum is increased under subsection(1), the increase of that part of it which is attributable to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.

¹ S.14(3) deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 5, para. 27(a) and by Sch. 7, Part III.

² Words in s.14(4) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 38(a) to (c).

³ Words in s.14(8) inserted (6.4.97) by para. 27(b) of Sch. 5 to Pensions Act 1995 (c.26).

(4) Where one or more orders have come into force under section 109 during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the guaranteed minimum for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.

16.—(1) Subject to subsection (2), for the purpose of section 14(2) the earner's earnings factor for any relevant year (so far as derived as mentioned in that section) shall be taken to be that factor as increased by the same percentage as that prescribed for the increase of that factor by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the final relevant year.

Revaluation of earnings factors for purposes of s.14: early leavers etc.

1975 c.60.

S.16(1) modified, for certain transfers of guaranteed minimum pension rights, by S.I. 1984/380, reg. 44(a).

S.16(1) also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes where minimum contributions have been paid, by reg. 4(5) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

(2) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before the final relevant year shall be determined for the purposes of section 14(2) by reference to the last such order to come into force before the end of the tax year in which that service ends ("the last service tax year").

(3) Where a scheme provides as mentioned in subsection (2) the scheme shall provide for the weekly equivalent mentioned in section 14(2) to be increased by at least [¹the prescribed percentage for each relevant year after the last service tax year; and the provisions included by virtue of this subsection may also conform with such additional requirements as may be prescribed].

S. 16(2) and (3) modified, for certain transfers of guaranteed minimum pension rights, by S.I. 1984/380, reg. 44(b).

S.16(2) is also modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(6) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

(4) Except in such cases or classes of case as may be prescribed, the provision made by virtue of subsections (2) and (3) must be the same for all members of the scheme.

S.16(4) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 4. w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 34, para. 3, w.e.f. 27.7.87.

S.16(4) is also modified for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(7) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

(5) In this section—

[²“relevant year” means any tax year in the earner's working life,]

[³“final relevant year” means the last tax year in the earner's working life].

17.—(1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a widow or widower (whether before or after attaining pensionable age), the widow or widower will be entitled to a guaranteed minimum pension under the scheme.

Minimum pensions for widows and widowers.

(2) The scheme must contain a rule to the effect that—

(a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow's pension will be not less than the widow's guaranteed minimum;

(b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower's pension will be not less than the widower's guaranteed minimum.

(3) The widow's guaranteed minimum shall be half that of the earner.

¹ Words in s.16(3) substituted (6.4.96 for regulation-making purposes. 6.4.97 for other purposes) by para. 28(a) of Sch. 5 to Pensions Act 1995 (c.26).

² 1999(WRP) Sch. 2 para. 4 with effect on and after 25 April 2000 (by virtue of S.I. 2000 No. 1047 (C.29) Sch. Pt. II (not reproduced)).

³ Defn. in s.16(5) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5. para. 28(b).

(4) The widower's guaranteed minimum shall be one-half of that part of the earner's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(5) The scheme must provide for the widow's pension to be payable to her for any period for which a Category B retirement pension, widowed mothers allowance or widow's pension is payable to her by virtue of the earner's contributions or for which a Category B retirement pension would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension).

(6) The scheme must provide for the widower's pension to be payable to him in the prescribed circumstances and for the prescribed period.

(7) The trustees or managers of the scheme shall supply to the [¹Inland Revenue] any such information as [¹the Inland Revenue] may require relating to the payment of pensions under the scheme to widowers [²or widows].

Treatment of insignificant amounts.

18.—(1) Where an amount is required to be calculated in accordance with the provisions of sections 14(7), 15(1) or 17(2), (3) or (4) and, apart from this subsection, the amount so calculated is less than 0.5p, then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking 0.5p as nearest to the next whole penny above.

(2) Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988-89 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by—

- (a) applying subsection (1) separately to the amount attributable to the period before the tax year 1988-89 and to the amount attributable to that and subsequent tax years, and
- (b) aggregating the two amounts so calculated.

Discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts.

19.—(1) A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person guaranteed minimum pensions—

- (a) if it is carried out not earlier than the time when that person's pensionable service terminates; and
- (b) if and to the extent that it results in guaranteed minimum pensions for or in respect of that person being appropriately secured; and
- (c) if and to the extent that the requirements set out in paragraph (a), (b) or (c) of subsection (5) are satisfied.

(2) This section applies to the following transactions—

- (a) the taking out of a policy of insurance or a number of such policies;
- (b) the entry into an annuity contract or a number of such contracts;
- (c) the transfer of the benefit of such a policy or policies or such a contract or contracts.

(3) In this section “appropriately secured” means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract.

(4) A policy of insurance or annuity contract is appropriate for the purposes of this section if—

- (a) the insurance company with which it is or was taken out or entered into—
 - (i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and
 - (ii) satisfies, or at the relevant time satisfied, prescribed requirements; and

¹ Words in s.17(7) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch.1, para. 39.

² Words in s.17(7) added (6.4.97) by para. 29 of Sch. 5 to Pensions Act 1995 (c.26).

- (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed; and
- (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed; and
- (d) it satisfies such other requirements as may be prescribed.

(5) The requirements referred to in subsection (1) are—

- (a) that the arrangement for securing the amount by means of the policy or contract was made—
 - (i) at the written request of the earner or, if the earner has died, of the earner’s widow or widower; or
 - (ii) with the consent of the earner or the widow or widower given in writing in a prescribed form;
- (b) that—
 - (i) the case is one such as is mentioned in section 96(2); and
 - (ii) the policy or contract only secures guaranteed minimum pensions;
- (c) that—
 - (i) the case is not one such as is mentioned in section 96(2);and
 - (ii) such conditions as may be prescribed are satisfied.

(6) In subsection (4)(a), “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.

(7) In this section “ordinary long-term insurance business” has the same meaning as in the Insurance Companies Act 1982.

1982 c. 50.

20.—(1) Regulations may prescribe circumstances in which and conditions subject to which—

- (a) a transfer of or a transfer payment in respect of—
 - (i) an earner’s accrued rights to guaranteed minimum pensions under a contracted-out scheme;
 - (ii) an earner’s accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
 - (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them,

may be made by an occupational pension scheme to another such scheme or to a personal pension scheme;

- (b) a transfer of or a transfer payment in respect of an earner’s accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 19 may be made to an occupational pension scheme or a personal pension scheme.

(2) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.

(3) Regulations under subsection (1) may provide that any provision of this Part (other than sections 18,19 and 43 to 45, and sections 26 to 33 so far as they apply to personal pension schemes) or of Chapter III of Part IV or Chapter II of Part V shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.

(4) Regulations under subsection (1) shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which taken place after they come into force.

(5) The power conferred by subsection (1) is without prejudice to the generality of section 182(2).

(6) In the provisions mentioned in subsection (3) “accrued rights”, in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for the earner and the earner’s widow or widower in accordance with sections 13 and 17, and references to an earner’s accrued rights to guaranteed minimum pensions shall be construed accordingly.

S.20(6) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 5, w.e.f. 23.9.85, and, where such rights have been transferred from appropriate policies, by S.I. 1985/1323, Sch. 34, para. 4, w.e.f. 27.7.87.

Commutation, surrender and forfeiture.

21.—(1) Where the annual rate of a pension required to be provided by a scheme in accordance with section 13 or 17 would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension.

(2) Neither section 13 nor section 17 shall preclude a scheme from providing for the earner’s or the earner’s widow’s or widower’s guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

22.repealed by 1995 c.26, see Annex 1

23.—(1)¹

(b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;

and generally as to the arrangements in force or to be in force from time to time for securing those pensions.]

* (2) Subject to subsection (3), the scheme must contain a rule by which any liabilities of the scheme in respect of—

- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (b) any such benefits as are excluded by section 13(6) from earners’ guaranteed minimum pensions;
- (c) pensions and other benefits (whether or not within paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and
- (d) state scheme premiums,

are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect.

* (3) The rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which—

- (a) he will be entitled on ceasing to be in employment, or
- (b) the earner’s widow or widower or any dependant of the earner’s will be entitled on the earner’s death.

* *Para. 31 of Sch. 5 to Pensions Act 1995 (c.26) provides that s.23(2) and (3) will not apply where the winding up is begun on or after the principal appointed day (designated as 6.4.97 by art. 2(7) of S.I. 1996/778 (C.13).)*

(4) Subsections [2(2) and (3)] do not apply to public service pension schemes.

(5) ...³

(6) Subsections (2) and (3) do not apply to schemes falling within any category or description prescribed as being exempt from the requirements of those subsections.

¹ S.23(1) deleted (6.4.97) by para. 31(a) of Sch. 5, and by Sch. 7 Part III, to Pensions Act 1995 (c.26).

² Words in S.23(4) substituted (6.4.97) by para. 31(b) of Sch. 5 to Pensions Act 1995 (c.26).

³ S.23(5) deleted (6.4.97) by para. 31(a) of Sch. 5 and by Sch. 7 Part III to Pensions Act 1995 (c.26).

(7) If the scheme provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, it must make provision so that there may be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

24.— repealed by 1995 c.26, see Annex 1

Sufficiency of resources.

Discretionary requirements

25.—(1)¹

Power for board to impose conditions as to investments and resources.

[²(2) A salary related contracted-out scheme must, in relation to any earner's service before the principal appointed day, comply with any requirements prescribed for the purpose of securing that—

- (a) the [³Inland Revenue] is kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme, and
- (b) the resources of the scheme are brought to and are maintained at a level satisfactory to the [³Inland Revenue]].

(3) ...⁴

Requirements for certification of occupational and personal money purchase schemes

26. The Secretary of State may prescribe descriptions of persons by whom or bodies by which the scheme may be established and, if he does so, the scheme may only be established by a person or body of a prescribed description.

Persons who may establish scheme.

27.—(1) Where the rules of the scheme make such provision as is mentioned in section 10(2) or (3), they must also make provision for the identification of the protected rights.

Identification and valuation of protected rights.

(2) The value of such protected rights as are mentioned in section 10(2) or (3) must be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated.

(3) Subject to subsection (2), the value of protected rights must be calculated and verified in such manner as may be prescribed.

28.—(1) The rules of the scheme must provide for effect to be given to the protected rights of a member—

Ways of giving effect to protected rights.

- (a) in any case where subsection (3) so requires, by the purchase of such an annuity as is mentioned in that subsection,

[⁵(aa) in any such case where subsection (1A) so requires, by the making of such payments as are mentioned in that subsection,] and

- (b) in any other case, in such of the ways permitted by the following subsections as the rules may specify,

and they must not provide for any part of a member's protected rights to be discharged otherwise than in accordance with those subsections.

[⁶(1A) In the case of a personal pension scheme, where the member so elects effect shall be given to his protected rights—

- (a) during the interim period, by the making of payments under an interim arrangement which—
 - (i) complies with section 28A,

¹ S.25(1) repealed (6.4.97) by para. 33(a) of Sch. 5 to, and by Sch. 7 Part III to Pensions Act 1995 (c.26).

² S.25(2) substituted (6.4.97) by para. 33(b) of Sch. 5 to Pensions Act 1995 (c.26).

³ Words in s.25(2) substituted (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, para. 40(a) & (b).

⁴ S. 25(3) repealed (6.4.97) by para. 33(a) of Sch. 5 to, and by Sch. 7 Part III to Pensions Act 1995 (c.26).

⁵ S.28(1)(aa) inserted (13.3.96 for regulation-making purposes. 6.4.96 for all other purposes) by s.142(2) of Pensions Act 1995 (c.26).

⁶ S.28(1A) inserted (13.3.96 for regulation-making purposes. 6.4.96 for all other purposes) by s.142(3) of Pensions Act 1995 (c.26).

- (ii) satisfies such conditions as may be prescribed, and
- (b) at the end of the interim period, in such of the ways permitted by the following subsections as the rules of the scheme may specify.]

(2) Effect may be given to protected rights—

- (a) by the provision by the scheme of a pension which—
 - (i) complies with the pension requirements (within the meaning of section 29(1)), and
 - (ii) satisfies such conditions as may be prescribed; or
- (b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment
 - (i) in the case of an occupational pension scheme, to another occupational pension scheme or to a personal pension scheme, and
 - (ii) in the case of a personal pension scheme, to another personal pension scheme or to an occupational pension scheme,
 where the scheme to which the payment is made satisfies such requirements as may be prescribed.

(3) Subject to subsections (5) and (7), if—

- (a) the rules of the scheme do not provide for a pension; or
- (b) the member [¹ or, where section 28A(2) applies, the member's widow or widower] so elects,

then, except to the extent that effect is given to protected rights in accordance with subsection [¹(1A)(a) or] (4), effect shall be given to them by the purchase by the scheme of an annuity which—

- (i) complies with the annuity requirements (within the meaning of section 29(3)), and
- (ii) satisfies such conditions as may be prescribed.

(4) Effect may be given to protected rights by the provision of a lump sum if—

- (a) the lump sum is payable on a date which is—
 - (i) in the case of an occupational pension scheme, a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of [²65 or such later date as has been agreed by him, or
 - (ii) in the case of a personal pension scheme, where the member has elected to receive payments under an interim arrangement, the date by reference to which the member elects to terminate that arrangement, and otherwise such date as has been agreed by him and is not earlier than his 60th birthday nor later than his 75th birthday.]
- (b) the annual rate of a pension under subsection (2) or an annuity under subsection (3) giving effect to the protected rights and commencing on the date on which the lump sum is payable would not exceed the prescribed amount;
- (c) the circumstances are such as may be prescribed; and
- (d) the amount of the lump sum is calculated in [³the prescribed manner] by reference to the amount of the pension or annuity.

(5) If the member has died without effect being given to protected rights under subsection [⁴(1A)] (2), (3) or (4), effect may be given to them in such manner as may be prescribed.

¹ Words in s.28(3) inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.142(4) of Pensions Act 1995 (c.26).

² S.28(4)(a) (part) substituted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.142(5) of Pensions Act 1995 (c.26).

³ Words in s.28(4)(d) substituted (6.4.97) by para. 34(a) of Sch. 5 to Pensions Act 1995 (c.26).

⁴ Reference in s.28(5) inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s. 142(6) of Pensions Act 1995 (c.26).

(6) No transaction is to be taken to give effect to protected rights unless it falls within this section.

[¹(7) ...²

[³(8) In this section and sections 28A, 28B and 29–

“the interim period” means the period beginning with the starting date in relation to the member in question and ending with the termination date;

“the starting date” means the date, which must not be earlier than the member’s 60th birthday, by reference to which the member elects to begin to receive payments under the interim arrangement;

“the termination date” means the date by reference to which the member (or, where section 28A(2) applies, the member’s widow or widower) elects to terminate the interim arrangement, and that date must not be later than–

- (i) the member’s 75th birthday, or
- (ii) where section 28A(2) applies, the earlier of the member’s widow or widower’s 75th birthday and the 75th anniversary of the member’s birth.]

[⁴(9) This section is subject to section 32A].

[⁵28A.—(1) An interim arrangement must provide for payments to be made to the member, and, where subsection (2) applies, to the member’s widow or widower, throughout the interim period, at intervals not exceeding twelve months.

Requirements for interim arrangements.

(2) This subsection applies here the member dies during the interim period and is survived by a widow or widower who at the date of the member’s death has not yet attained the age of 75 years.

(3) The aggregate amount of payments made to a person under an interim arrangement in each successive period of twelve months must not be–

- (a) greater than the annual amount of the annuity which would have been purchasable by him on the relevant reference date, or
- (b) less than the prescribed percentage of that amount.

(5) For the purposes of this section–

- (a) the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated in the prescribed manner by reference to–
 - (i) the value on that date, determined by or on behalf of the trustees or managers of the scheme, of the person’s protected rights, and
 - (ii) the current published tables of rates of annuities prepared in the prescribed manner by the Government Actuary for the purposes of this section, and
- (b) the relevant reference date is–
 - (i) in relation to payments made to the member during the three years beginning with the member’s starting date, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question, or

¹ Reference in s.28(5) inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s. 142(6) of Pensions Act 1995 (c.26).

² S.28(7) deleted (6.4.97) by para. 34(b) of Sch. 5 to. and by Sch. 7 Part III to, Pensions Act 1995(c.26).

³ S.28(8) inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.142(7) of Pensions Act 1995 (c.26).

⁴ S.28(9) inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.146(2) of Pensions Act 1995 (c.26).

⁵ Ss.28A and 28B inserted (13.3.96 for regulation-making purposes. 6.4.96 for all other purposes) by s.143 of Pensions Act 1995 (c.26).

- (ii) where subsection (2) applies, in relation to payments made to the member's widow or widower during the three years beginning with the date of the member's death, that date, and in relation to such payments made during each succeeding period of three years, the first day of the period of three years in question.

Information about interim arrangements.

28B.—(1) The trustees or managers of a personal pension scheme must, if required to do so by the [¹Inland Revenue] produce any document relevant to—

- (a) the level of payments made under any interim arrangement, or
- (b) the value of protected rights to which such an arrangement gives effect, or otherwise connected with the making of payments under such an arrangement.

(2) In this section, “document” includes information recorded in any form, and the reference to the production of a document, in relation to information recorded otherwise than in legible form, is a reference to producing a copy of the information in legible form.]

The pension and annuity requirements.

29.—(1) For the purposes of section 28 a pension complies with the pension requirements if—

[²(a) in the case of an occupational pension scheme it commences on a date—

- (i) not earlier than the member's 60th birthday, and
- (ii) not later than his 65th birthday,

or on such later date as has been agreed by him, and continues until the date of his death, or

(aa) in the case of a personal pension scheme—

- (i) where the member has elected under section 28(1A) to receive payments under an interim arrangement, it commences on the termination date, and continues until the date of the member's death or, where section 28A(2) applies, until the death of the member's widow or widower, or
- (ii) otherwise, it commences on such a date as has been agreed by the member and is not earlier than his 60th birthday nor later than his 75th birthday, and continues until the date of his death;]

(b) in a case where the member dies while it is payable to him and is survived by a widow or widower—

- (i) it is payable to the widow or widower in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
- (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in

[³the prescribed manner]

is provided in lieu of it.

(2) As respects the period of 5 years beginning with the commencement of the pension referred to in subsection (1), that subsection shall have effect in relation to that pension as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).

(3) For the purposes of section 28 an annuity complies with the annuity requirements if—

- (a) it satisfies the requirements mentioned in subsections (1) and (2) (taking the references in those subsections to pensions as references to annuities); and
- (b) it is provided by an insurance company which—
 - (i) satisfies prescribed conditions;

¹ Words substituted in s.28B(1) (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 41.

² S.29(1)(a) and (aa) substituted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) for s.29(1)(a) by s.144(2) of Pensions Act 1995 (c.26).

³ Words in s.29(1)(b)(ii) substituted (6.4.97) by para. 35 of Sch. 5 to Pensions Act 1995 (c.26).

- (ii) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and
- (iii) subject to subsection (4), has been chosen by the member [¹or, where section 28A (2) applies, the member's widow or widower].

(4) A member [²(or a member's widow or widower)] is only to be taken to have chosen an insurance company if he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the insurance company instead.

³30.—(1) The [⁴Inland Revenue] must be satisfied that the scheme complies with any such requirements as may be prescribed for meeting the whole or a prescribed part of any liability in respect of protected rights under the scheme which the scheme is unable to meet from its own resources—

Securing of liability for protected rights.

- (a) by reason of the commission by any person of a criminal offence;
- (b) in such other circumstances as may be prescribed.

(2) Subsection (1) does not apply to a public service pension scheme.

31.—(1) ...⁵

Investment and resources of schemes

(2) The scheme must comply with such requirements as may be prescribed as regards the part—

- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;
- (b) of any income or capital gain arising from the investment of such a payment; or
- (c) of the value of rights under the scheme,

that may be used—

- (i) to defray the administrative expenses of the scheme;
- (ii) to pay commission; or
- (iii) in any other way which does not result in the provision of benefits for or in respect of members.

(3) Subject to subsection (4)—

- (a) in the case of an occupational pension scheme, all minimum payments [⁶and payments under section 42A(3)] and any payments made by the [⁷Inland Revenue] under section 7 of the Social Security Act 1986, and
- (b) in the case of a personal pension scheme, all minimum contributions,

1986 c.50.

which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member except so far as they are used—

- (i) to defray the administrative expenses of the scheme; or
- (ii) to pay commission.

(4) If regulations are made under subsection (2), the payments mentioned in paragraph (a) of subsection (3) and the contributions mentioned in paragraph (b) of that subsection may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.

¹ Words inserted in s.29(3)(b)(iii) (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.144(3) of Pensions Act 1995 (c.26).

² Words inserted in s.29(4) (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.144(4) of Pensions Act 1995 (c.26).

³ The reference to the Board in this section is to be replaced (prosp.) with a reference to the Secretary of State by para. 21 of Sch. 5 to the Pensions Act 1995 (c.26).

⁴ Words in s.30(1) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 42.

⁵ S.31(1) repealed (1.6.96) by Pensions Act 1995 (c.26), Sch. 5, para. 36(a) and Sch. 7, Part III.

⁶ Words inserted (1.6.96) in s.31 (3)(a) by para. 36(b) of Sch. 5 to Pensions Act 1995 (c.26).

⁷ Words substituted in s. 31(3) (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 43.

[¹(5) Any minimum contributions required by reason of this section to be applied so as to provide money purchase benefits for or in respect of a member of a scheme must be so applied in the prescribed manner and within the prescribed period].

Suspension or forfeiture.

32. Except in such circumstances as may be prescribed, the rules of the scheme must not permit the suspension or forfeiture of a member’s protected rights or of payments effect to them.

Discharge of protected rights on winding up: insurance policies.

[²**32A.**—(1) Where an occupational pension scheme is being wound up and such conditions as may be prescribed are satisfied, effect may be given to the protected rights of a member of the scheme (in spite of section 28) by—

- (a) taking out an appropriate policy of insurance, or a number of such policies, under which the member is the beneficiary, or
- (b) assuring the benefits of a policy of insurance, or a number of such policies, to the member, where the policy assured is an appropriate policy.

(2) A policy of insurance is appropriate for the purposes of this section if—

- (a) the insurance company with which it is or was taken out or entered into—
 - (i) is, or was at the time when the policy was taken out or (as the case may be) the benefit of it was assured, carrying on ordinary long-term insurance business (within the meaning of the Insurance Companies Act 1982) in the United Kingdom or any other Member State, and
 - (ii) satisfies, or at that time satisfied, prescribed requirements, and
- (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed, and
- (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed, and
- (d) it satisfies such other requirements as may be prescribed].

Tax requirements to prevail over certification requirements.

33. Nothing in sections 26 to 32 shall be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval.

Appropriate schemes: “Blowing the whistle”.

[³**33A.**—(1) If any person acting as an auditor or actuary of an appropriate scheme has reasonable cause to believe that—

- (a) any requirement which, in the case of the scheme, is required by section 9(5)(a) to be satisfied is not satisfied, and
- (b) the failure to satisfy the requirement is likely to be of material significance in the exercise by the [⁴Inland Revenue] of any of [⁴their] functions relating to appropriate schemes,

that person must immediately give a written report of the matter to the [⁴Inland Revenue].

(2) No duty to which a person acting as auditor or actuary of an appropriate scheme is subject shall be regarded as contravened merely because of any information or opinion contained in a written report under this section.]

Cancellation, variation, surrender and refusal of certificates

Cancellation, variation, surrender and refusal of certificates.

⁵**34.**—(1) Regulations shall provide for the cancellation, variation or surrender of any contracting-out certificate or appropriate scheme certificate, or the issue of an amended certificate—

[⁶(a) in the case of a contracting-out certificate—

¹ S.31(5) added (1.6.96) by para. 36(c) of Sch. 5 to Pensions Act 1995 (c.26).

² S.32A inserted (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.146(1) of Pensions Act 1995 (c.26).

³ S.33A inserted (6.4.97) by s.147 of Pensions Act 1995 (c.26).

⁴ Words in s.s 33A(1) substituted (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, paras. 44 & 45.

⁵ References to the Board in this section are replaced (6.4.97) with references to the Secretary of State, together with grammatical consequentials, by para. 21 of Sch. 5 to Pensions Act 1995 (c.26).

⁶ S.34(1)(a) substituted (6.4.97) by para. 37(a) of Sch. 5 to Pensions Act 1995 (c.26).

- (i) on any change of circumstances affecting the treatment of an employment as contracted-out employment, or
- (ii) where the scheme is a salary related contracted-out scheme and the certificate was issued on or after the principal appointed day, if any employer of persons in the description or category of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide the [¹Inland Revenue], at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied];

and

- (b) in the case of an appropriate scheme certificate, on any relevant change of circumstances.

(2) Regulations may enable the [¹Inland Revenue] to cancel or vary a contracting-out certificate where—

- (a) [¹they have] reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate; and
- (b) the employer does not show that it ought to be so treated.

(3) Where—

- (a) by or by virtue of any provision of this Part the contracting-out of a scheme in relation to an employment depends on the satisfaction of a particular condition, or
- (b) by or by virtue of any provision of sections 26 to 32 a scheme's being an appropriate scheme depends on the satisfaction of a particular condition,

the continued contracting-out of the scheme or, as the case may be, the scheme's continuing to be an appropriate scheme shall be dependent on continued satisfaction of the condition; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for the cancellation or variation of the contracting-out or appropriate scheme certificate.

(4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the [¹Inland Revenue] if [¹they consider] that there are circumstances which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme, notwithstanding that the relevant scheme is one that [¹they] would otherwise treat as proper to be contracted-out in relation to all earners in that employment.

(5) An appropriate scheme certificate may be withheld or cancelled by the [¹Inland Revenue] if [¹they consider] that there are circumstances which make it inexpedient that the scheme should be or continue to be an appropriate scheme, notwithstanding that he would otherwise issue such a certificate or not cancel such a certificate.

(6) ...²

[³(7) Without prejudice to the previous provisions of this section, failure of a scheme to comply with any requirements prescribed by virtue of section 25(2) shall be a ground on which the [¹Inland Revenue] may, in respect of any employment to which the scheme relates, cancel a contracting-out certificate].

(8) Except in prescribed circumstances, no cancellation, variation or surrender of a contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the cancellation, variation or surrender is made.

35-36 repealed by 1995 c.26, see Annex I

¹ Words in s.34 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 45.

² S.34(6) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 37(b) and Sch. 7, Part III.

³ S.34(7) substituted (6.4.97) by para 37(c) of Sch. 5 to Pensions Act 1995 (c.26).

Alteration of rules of contracted-out schemes.

[¹37.—(1) Except in prescribed circumstances, the rules of a contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

[²(2) Regulations may provide for the validation with retrospective effect in prescribed circumstances of any alteration to the rules of a contracted-out scheme where such alteration was made prior to 6th April 1997 and was void immediately before that date by virtue of subsection (3) of this section as then in force.]

(3) References in this section to a contracted-out scheme include a scheme which has ceased to be contracted-out so long as any person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.

(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed.]

Alteration of rules of contracted-out schemes

38.—(1) Where an appropriate scheme certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as—

- (a) to affect any of the matters dealt with in sections 26 to 33; or
- (b) to cause the scheme to take a different permitted form from that previously taken,

...³.

(2) Subsection (1) does not apply to an alteration of a prescribed description.

(3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void...⁴.

(4) [⁵Regulations made by virtue of subsection (2) may], operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

(5) This section shall continue in force in relation to a scheme after it has ceased to be an appropriate scheme so long as any person has protected rights under the scheme.

(6) The reference in subsection (1)(b) to a permitted form is to one of the following forms, namely—

- (a) an arrangement for the issue of insurance policies or annuity contracts;
- (b) a unit trust scheme of kind mentioned in Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which has been authorised under section 78(1) of or by virtue of paragraph 9 of Schedule 15 to the Financial Services Act 1986;
- (c) an arrangement for the investment in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the Building Societies Act 1986)).

(7) ...⁶.

General regulations as to administration of Part III

General power to make regulations.

39. Schedule 2 shall have effect for enabling regulations to be made in relation to the operation and administration of this Part, and Part I of that Schedule has effect as respects occupational pension schemes, and Part II of that Schedule as respects personal pension schemes.

¹ S.37 substituted (6.4.97) by para. 39 of Sch. 5 to Pensions Act 1995 (c.26).

² S.37(2) substituted (20.7.98) by para. 2. of S.I. 1998/1466.

³ Words in s.38(1) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 40(a) and Sch. 7, Part III.

⁴ Words in s.38(3) repealed (6.4.97) by Pensions Act (c.36) Sch. 5, para. 40(b) and Sch. 7, Part III

⁵ Words in s.38(4) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 40(c).

⁶ S.38(7) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 40(d).

CHAPTER II

REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY BENEFITS
FOR MEMBERS OF CERTIFIED SCHEMES*Preliminary*

40. This Chapter has effect for the purpose—

Scope of Chapter II.

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the [¹Inland Revenue] in respect of earners who are members of [²money purchase contracted-out schemes and members of] appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

41.—³(1) Subsections (1A) to [⁴(1E)] apply where—

Reduced rates of Class 1 contributions.

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme;

and in subsections (1A) and (1B) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).

⁴(1A) The amount of the primary Class 1 contribution in respect of the relevant part of the earnings shall be reduced by an amount equal to 1.6 per cent of that relevant part of the earnings (“Amount R1”).

(1B) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 3 per cent of the relevant part of the relevant earnings (“Amount R2”).

(1C) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsection (1A) and (1B); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
 - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
 - (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(1D) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

¹ Welfare Reform and Pensions Act 1999 (c.30) Sch. 11 paras. 20, 21.

² Words in s.40(b) inserted (6.4.97) by s.137(1) of Pensions Act 1995 (c.26).

³ S. 41(1) & (1A) substituted (6.4.99) by Sch. 7, s. 127 of S.S. Act 1998 (c.8).

⁴ Welfare Reform and Pensions Act 1999 (c.30) Sch. 9 para. 6 on and after 6 April 2000 (by virtue of S.I. 1999 No. 3420 (C.92) art. 2).

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.

But regulations make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(1E) If the Inland Revenue pay any amount under subsection (1D) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]]

(2) Where—

(a) an earner has ceased to be employed in an employment; and

(b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased,

that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the Social Security Contributions and Benefits Act 1992 (reduced rates for married women and widows).

Review and alteration of rates of contributions applicable under s.41.

42.—(1) The Secretary of State may from time to time, and shall when required by subsection (2), lay before each House of Parliament—

[¹(a) a report by the Government actuary or the Deputy Government Actuary on—

(i) the percentages for the time being applying under section 41(1A)(a) and (b), and

(ii) any changes since the preparation of the last report under this paragraph in the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of salary related contracted-out schemes]; and

(b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the Deputy Government Actuary, there should be an alteration in either or both of those percentages and, if so what alteration is in his opinion required.

(2) The Secretary of State shall lay such reports at intervals of not more than five years.

(3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section [²41(1A)(a) and (b) he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.

(5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.

(6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

For the first report under s.42(1)(a) above laid after 19.7.95, s.42 applies subject to the amendments in s.137(4) of the Pensions Act 1995 (c.26) S. 42 as so amended is reproduced below:-

¹ S.42(1)(a) substituted (13.3.96) by s.137(3) of Pensions Act 1995 (c.26), subject to s.137(4) *ibid.* (first report after passing of that Act—see small-print version of s.42 below).

² Ref. in s.42(3) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 41.

42.—(1) The Secretary of State are may from time to time, and shall when required by subsection (2), lay before each House of Parliament—

Review and alteration of rates of contributions applicable under s.41.

- (a) a report by the Government Actuary or the Deputy Government Actuary on ...¹ the factors in his opinion affecting the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of salary related contracted-out schemes; and
- [²(b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers the percentages under section 4 1(1A)(a) should be].

(2) The Secretary of State shall lay such reports at intervals of not more than five years.

[²(3) The Secretary of State shall prepare and lay before each House of Parliament with the report the draft of an order specifying the percentages; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of the tax year which begins with the principal appointed day*, not being a tax year earlier than the second after that in which the order is made].

(5) No [²determination] of those percentages shall introduce any distinction on grounds of age or sex.

(6) A draft of [³such an order] may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

**6.4.97 (See art. 2(7) of S.I. 1996/778 (C.13).)*

42A.—[⁴(1) Subsections (2) to [⁵(2D) and (3)] apply where—

Reduced rates of Class 1 contributions, and rebates

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, and
- (b) the earner's service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme;

and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).

[⁵(2) The amount of the primary Class 1 contribution in respect of the relevant part of the earnings shall be reduced by an amount equal to 1.6 per cent of that relevant part of the earnings (“Amount R1”).

(2A) The amount of any secondary Class 1 contribution in respect of the earnings shall be reduced by an amount equal to 3 per cent of the relevant part of the relevant earnings (“Amount R2”).

¹ Words in s.42(1)(a) deleted by, and in the circumstances described in, s.137(4) of Pensions Act 1995 (c.26).

² Text in s.42 substituted by, and in the circumstances described in, s.137(4) of Pensions Act 1995 (c.26).

³ Ss. 42A and 42B inserted (6.4.97) by s.137(5) of Pensions Act 1995 (c.26).

⁴ Ss. 42A(1) and 2 substituted (6.4.99) by Sch. 7, s. 128 of S.S. Act 1998 (c.8).

⁵ Welfare Reform And Pensions Act 1999 (c.30) Sch. 9 para. 7 on and after 6 April 2000 (by virtue of S.I. 1999 No. 3420) (C.92) art. 2.

(2B) The aggregate of Amounts R1 and R2 shall be set off—

- (a) first against the aggregate amount which the secondary contributor is liable to pay in respect of the contributions mentioned in subsection (2) and (2A); and
- (b) then (as to any balance) against any amount which the secondary contributor is liable to pay in respect of any primary or secondary Class 1 contribution in respect of earnings—
 - (i) paid to or for the benefit of any other employed earner (whether in contracted-out employment or not), and
 - (ii) in relation to which the secondary contributor is such a contributor;

and in this subsection any reference to a liability to pay an amount in respect of a primary Class 1 contribution is a reference to such a liability under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

(2C) If—

- (a) any balance remains, and
- (b) the secondary contributor makes an application for the purpose to the Inland Revenue,

the Inland Revenue shall, in such manner and at such time (or within such period) as may be prescribed, pay to the secondary contributor an amount equal to the remaining balance.

But regulations make provision for the adjustment of an amount that would otherwise be payable under this subsection so as to avoid the payment of trivial or fractional amounts.

(2D) If the Inland Revenue pay any amount under subsection (2C) which they are not required to pay, they may recover that amount from the secondary contributor in such manner and at such time (or within such period) as may be prescribed.]]

(3) The [¹Inland Revenue] shall except in prescribed circumstances or in respect of prescribed periods pay in respect of that earner and that tax week to the trustees or managers of the scheme or, in prescribed circumstances, to a prescribed person the amount by which—

- (a) the appropriate age-related percentage of that part of those earnings, exceeds (b) the appropriate flat-rate percentage of that part of those earnings. (4) Regulations may make provision—
- (a) as to the manner in which and time at which or period within which payments under subsection (3) are to be made,
- (b) for the adjustment of the amount which would otherwise be payable under that subsection so as to avoid the payment of trivial or fractional amounts,
- (c) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, payments under subsection (3) are to be made.

(5) If the [¹Inland Revenue] [¹pay] an amount under subsection (3) which [¹they] [¹are] not required to pay or [¹are] not required to pay to the person to whom, or in respect of whom, [¹they] [¹pay] it, [¹they] may recover it from any person to whom, or in respect of whom, [¹they] paid it.

(6) Where—

- (a) an earner has ceased to be employed in an employment, and
- (b) earnings are paid to him or for his benefit within the period of six weeks, or such other period as may be prescribed, from the day on which he so ceased,

that employment shall be treated for the purposes of this section as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(7) Subsection (3) of section 41 applies for the purposes of this section as it applies for the purposes of that.

¹ Words in s. 42A(3) & (5) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 46.

42B.—(1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—

- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of money purchase contracted-out schemes,
- (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
- (c) a draft of an order under subsection (2).

Determination and alteration of rates of contributions, and rebates, applicable under section 42A.

(2) An order under this subsection shall have effect in relation to a period of tax years (not exceeding five) and may—

- (a) specify different percentages for primary and secondary Class 1 contributions, and
- (b) for each of the tax years for which it has effect—
 - (i) specify a percentage in respect of all earners which is “the appropriate flat-rate percentage” for the purposes of section 42A, and
 - (ii) specify different percentages (not being less than the percentage specified by virtue of sub-paragraph (i) in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 42A).

(3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.

(5) Subsection (2) is without prejudice to the generality of section 182].

Minimum contributions; members of appropriate personal pension schemes

43.—(1) Subject to the following provisions of this Part, the [¹Inland Revenue] shall, except in such circumstances [² or in respect of such periods] as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—

Payment of minimum contributions to personal pension schemes.

- (a) is over the age of 16 but has not attained pensionable age;
- (b) is not a married woman or widow who has made an election which is still operative that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate; and
- (c) is a member of an appropriate personal pension scheme which is for the time being the earner’s chosen scheme.

Power to prescribe exceptions in s.43(1) to be widened (prosp.) by para. 42 of Sch. 5 to Pensions Act 1995 (c.26).

(2) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner’s chosen scheme.

(3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.

(4) Where the condition mentioned in subsection (1)(a) or (c) ceases to be satisfied in the case of an earner in respect of whom the [¹Inland Revenue] [¹are] required to pay minimum contributions, the duty of the [¹Inland Revenue] to pay them shall cease as from a date determined in accordance with regulations.

¹ Words in s.43(1) & (4) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para 47(2) & (3).

² Words inserted in s.43(1) (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para 42.

(5) If the [¹Inland Revenue] [¹pay] an amount by way of minimum contributions which [¹they] [¹are] not required to pay, [¹they] may recover it—

- (a) from the person to whom [¹they] paid it, or
- (b) from any person in respect of whom [¹they] paid it.

(6) If the [¹Inland Revenue] [¹pay] in respect of an earner an amount by way of minimum contributions which [¹they] [¹are] required to pay, but [¹do] not pay it to the trustees or managers of the earner's chosen scheme, [¹they] may recover it from the person to whom [¹they] paid it or from the earner.

Earners' chosen scheme.

44.—(1) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the [¹Inland Revenue], in such manner and form and with such supporting evidence as may be prescribed—

- (a) that the earner is, or intends to become, a member of scheme and wishes minimum contributions in respect of him to be paid to the scheme under section 43;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,

[²then, unless the [¹Inland Revenue] [¹reject] the notice on either or both of the grounds mentioned in subsection (1A)] that scheme is the earner's chosen scheme for the purposes of section 43 as from a date determined in accordance with regulations and specified in the notice, unless at that date some other appropriate scheme is the earner's chosen scheme for these purposes.

[³(1A) The grounds referred to in subsection (1) are that the [¹Inland Revenue] [¹are] of the opinion—

- (a) that section 31(5) is not being complied with in respect of any members of the scheme,
- (b) that, having regard to any other provisions of sections 26 to 32 and 43 to 45, it is inexpedient to allow the scheme to be the chosen scheme of any further earners.]

(2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the [¹Inland Revenue] at such time and in such manner and form as may be prescribed.

(3) When a notice under subsection (2) is given, the scheme ceases to be the earner's chosen scheme as from a date determined in accordance with regulations and specified in the notice.

Amount of minimum contributions.

45.—(1) [⁴In relation to any tax week falling within a period for which the [¹Inland Revenue] [¹are] required to pay minimum contributions in respect of an earner, the amount of those contributions shall be an amount equal to the appropriate age-related percentage of so much of the earnings paid in that week (other than earnings in respect of contracted-out employment) as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly).]

(2)⁵

(3) Regulations may make provision—

- (a) for earnings to be calculated or estimated in such manner and on such basis as may be prescribed for the purpose of determining whether any, and if so what, minimum contributions are payable in respect of them;
- (b) for the adjustment of the amount which would otherwise be payable by way of minimum contributions so as to avoid the payment of trivial or fractional amounts;

¹ Words substituted in s.s 43-45 (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 47 & 48.

² Words inserted in s.44(1) (6.4.97) by s.164(a) of Pensions Act 1995 (c.26).

³ S.44(1A) inserted (6.4.97) by s.164(b) of Pensions Act 1995 (c.26).

⁴ S.45(1) substituted (6.4.97) by s.138(2) of Pensions Act 1995 (c.26).

⁵ S.45(2) deleted (6.4.97) by s.138(3) of Pensions Act 1995 (c.26).

- (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
- (d)¹
- (e) 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;²
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

[³45A.—(1) The Secretary of State shall at intervals of not more than five years lay before each House of Parliament—

Determination and alteration of rates of minimum contributions under section 45.

- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages which, in his opinion, are required to be specified in an order under this section so as to reflect the cost of providing benefits of an actuarial value equivalent to that of the benefits which, under section 48A, are foregone by or in respect of members of appropriate personal pension schemes,
- (b) a report by the Secretary of State stating what, in view of the report under paragraph (a), he considers those percentages should be, and
- (c) a draft of an order under subsection (2).

(2) An order under this subsection—

- (a) shall have effect in relation to a period of tax years (not exceeding five), and
- (b) may, for each of the tax years for which it has effect, specify different percentages in respect of earners by reference to their ages on the last day of the preceding year (the percentage for each group of earners being “the appropriate age-related percentage” in respect of earners in that group for the purposes of section 45).

(3) If the draft of an order under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (2) shall have effect from the beginning of such tax year as may be specified in the order, not being a tax year earlier than the second after that in which the order is made.

(5) Subsection (2) is without prejudice to the generality of section 182].

[⁴45B.—(1) Regulations may make provision for the manner in which an earner’s age is to be verified in determining the appropriate age-related percentages for the purposes of sections 42A and 45(1).

Money purchase an personal pension schemes: verification of ages.

(2) Information held by the Secretary of State [⁵or the Inland Revenue] as to the age of any individual may, whether or not it was obtained in pursuance of regulations under subsection (1), be disclosed by the Secretary of State [⁵or the Inland Revenue]—

- (a) to the trustees or managers of a money purchase contracted-out scheme or an appropriate personal pension scheme, and
- (b) to such other persons as may be prescribed,

in connection with the he making of payments under section 42A(3) or the payment of minimum contributions.]

¹ S.45(3)(d) deleted (6.4.97) by Pensions Act 1995(c.26), Sch 5, para 43.

² Words in s.45(3)(e) deleted (6.4.97) by s.138(4) of Pensions Act 1995(c.26).

³ S.45A inserted (13.3.96) by s.138(5) of Pensions Act 1995 (c.26).

⁴ S.45B inserted (6.4.97) by s.139 of Pensions Act 1995 (c.26).

⁵ Words substituted in s. 45B(2) (1.4.99) by Transfer of Functions Act 1999 (c.11), Sch. 1, para. 50.

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits.
1992 c.4.

*46.—(1) Where for any period a person is entitled both—

- (a) to a Category A or Category B retirement pension, a widowed mother's allowance [¹ or a widow's pension] under the Social Security Contributions and Benefits Act 1992; and
- (b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—

- [²(i) to that part of its additional pension which is attributable to earnings factors for any tax years ending before the principal appointed day],
- or
- (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

whichever is the less.

s. 46(1)(b) is modified, where guaranteed minimum pension rights have been transferred from schemes which are or were contracted-out salary related schemes, by S.I. 1985/1323, Sch. 3, para. 2, w.e.f. 23.9.85.

(2).....repealed by 1994 c.118, see Annex 1

[³(3) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions; and
- (b) he is also entitled to long-term incapacity benefit under section 30A of the Social Security Contributions and Benefits Act 1992,

for that period an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions shall be deducted from any increase payable under regulations under section 30B(7) of that Act and he shall be entitled to such an increase only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.]

(4) where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the Social security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension: and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 46(1) of the Pension schemes Act 1993.”.

(5) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to a Category A retirement pension under section 44 of the Social security Contributions and Benefits Act 1992; and
- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

¹ Words in s.46(1)(a) substituted (13.4.95) by para. 56(2) of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c.18).

² S.46(1)(i) substituted (6.4.97) by para. 44 of Sch. 5 to Pensions Act 1995 (c.26).

³ S.46(3) substituted (13.4.95) by Sch. 1, para. 56(4) to S.S. (Incapacity for Work) Act 1994 (c.18).

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

- (6) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions;
 - (b) he is also entitled—
 - (i) ...¹;
 - (ii) to a Category A retirement pension under section 44 of that Act; or
 - (iii) to a Category B retirement pension under [²section 48A or 48B] of that Act; and
 - (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and
- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

- (7) Where for any period—
- (a) a person is entitled to one or more guaranteed minimum pensions;
 - (b) he is also entitled to any of the pensions under the Social Security contributions and Benefits Act 1992 mentioned in subsection (6)(b); and
 - (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- (a) ...³
- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 15(1).

* S.46 modified (4.1.88) by regs. 2 and 3 of S.I. 1987/1113 where minimum contributions have been paid to a personal pension scheme, and (6.4.88) by regs. 4 and 5 *ibid.* where minimum payments have been made to a money purchase contracted-out scheme.

S.46 amended in respect of benefits by 1999 (WRP) Sch. 8 para. 18

47.—(1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner...⁴ only if—

¹ S.46(6)(b)(i) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c.18), Sch. 1, para. 56(5) and Sch. 2.

² Words in s.46(6)(b)(iii) substituted (19.7.95) by Pensions Act 1995 (c.26), Sch. 4, para. 22.

³ S.46(8)(a) repealed (13.4.95) by S.S. (Incapacity for Work) Act 1994 (c.18), Sch. 1, para. 56(6) and Sch. 2.

⁴ Words in s.47(1) repealed (13.4.95) by S.S (Incapacity for Work) Act 1994 (c.18), Sch. 1, para. 57 and Sch. 2.

- (a) at the time of the earner's death she and her husband had both attained pensionable age; or
- (b) he is also entitled to a Category A retirement pension by virtue of section 41(7) of the Social Security Contributions and Benefits Act 1992.

(2) 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—

- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as result of which—
 - (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
 - (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.

S.47(2)(b) modified, for payments transferring protected rights to schemes which are or were salary related contracted-out schemes, by reg. 4(3) of S.I. 1987/1118 w.e.f. 27.7.87 for personal pension schemes and 6.4.88 otherwise.

(3) Where—

- (a) guaranteed minimum pensions provided for a member or the member's widow or widower under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
- (b) either—
 - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
 - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and
- (c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and
- (d) the combined proceeds of—
 - (i) any relevant policies and annuity contracts, and
 - (ii) any cash sums paid or alternative arrangements made under the Policyholders Protection Act 1975,

1975 c.75.

the member and the member's widow or widower shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member's or, as the case may be, the member's widow's or widower's guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).

(4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.

(5) 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—

- (a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or
- (b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).

Reduced benefits where minimum payments or minimum contributions paid.

[¹48.—(1) Subject to subsection (3), this subsection applies where for any period—

- (a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or
- (b) minimum contributions have been paid in respect of an earner under section 43.

¹ S.48 is to cease to have effect for minimum payments or minimum contributions paid from 6.4.97, in consequence of s.140(3) of Pensions Act 1995 (c.26)

- (2) Where subsection (1) applies then, for the purposes of section 46–
- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;
 - (b) ...¹; and
 - (c) in prescribed circumstances...¹ and widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of [2section] 47(2) of the Social Security Contributions and Benefits Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words “in that employment”.

(3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.

(4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.]

Effect of reduced contributions and rebates on social security benefits

[348A.—(1) In relation to any tax week where–

- (a) the amount of a Class 1 contribution in respect of the earnings paid to or for the benefit of an earner in that week is reduced under section 41 or 42A, or
- (b) an amount is paid under section 45(1) in respect of the earnings paid to or for the benefit of an earner,

Additional pension and other benefits.

section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension) shall have effect, except in prescribed circumstances, as if no primary Class 1 contributions had been paid or treated as paid upon those earnings for that week and section 45A of that Act did not apply (where it would, apart from this subsection, apply).

(2) Where the whole or part of a contributions equivalent premium has been paid or treated as paid in respect of the earner, the Secretary of State may make a determination reducing or eliminating the application of subsection (1).

(3) Subsection (1) is subject to regulations under paragraph 5(3A) to (3E) of Schedule 2.

(4) Regulations may, so far as is required for the purpose of providing entitlement to additional pension (such as is mentioned in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992) but to the extent only that the amount of additional pension is attributable to provision made by regulations under section 45(5) of that Act, disapply subsection (1).

(5) In relation to earners where, by virtue of subsection (1), section 44(6) of the Social Security Contributions and Benefits Act 1992 has effect, in any tax year, as mentioned in that subsection in relation to some but not all of their earnings, regulations may modify the application of section 44(5) of that Act.]

[4Women, married women and widows

49. The Secretary of State may make regulations modifying, in such manner as he thinks proper–

Women, married women and widows.

- (a) this Chapter in its application to women born on or after 6th April 1950, and

¹ Para. (b) of, and the words in para. (c) of, s.48(2) repealed (13.3.96 for regulation-making purposes, 6.4.96 for all other purposes) by s.140(2) of, and Part III of Sch. 7 to, Pensions Act 1995 (c.26).

² Word in s.48(2) substituted (13.4.95) by para. 58 of Sch. 1 to S.S. (Incapacity for Work) Act 1994 (c.18).

³ S.48A inserted (6.4.97) by s.140(1) of Pensions Act 1995 (c.26).

⁴ S.49 substituted (19.7.95) by Pensions Act 1995 (c.26), Sch. 4, para. 16.

- (b) sections 41, 42, 46(1), 47(2) and (5) and 48, in their application to women who are or have been married.]

CHAPTER III

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS:
STATE SCHEME PREMIUMS*Approval of arrangements for schemes ceasing to be certified*

Powers of Secretary of State to approve arrangements for scheme ceasing to be certified.

¹50.—(1) ²In the case of an occupational pension scheme or a personal pension scheme which is or has been certified as a contracted-out or, as the case may be, an appropriate scheme, the [³Inland Revenue] may, for the event of, or in connection with its ceasing to be such a scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

- (a) in the case of an occupational pension scheme other than a money purchase contracted-out scheme—
- (i) of earners' accrued rights to guaranteed minimum pensions* under the scheme [⁴or accrued rights to pensions under the scheme attributable to their service on or after the principal appointed day];
- (ii) of the liability for the payment of [⁵such pensions] in respect of persons who have then become entitled to receive them;
- (b) in the case of a money purchase contracted-out scheme or a personal pension scheme, of protected rights* under the scheme.

Application of s.50(1)(a)(ii) to earner's widower restricted by S.I. 1984/380, reg. 33D.

* *In certain cases where part of a premium is treated as having been paid, s.50(1)(a) is modified by S.I. 1984/380 (consolidated 17.4.84), reg. 23(10)(b)(i) and s.50(1)(b) is modified (6.4.88) by reg. 23A(10)(b)(i).*

[⁶(1A) The power of the [⁷Inland Revenue] to approve arrangements under this section—

- (a) includes power to approve arrangements subject to conditions, and
- (b) may be exercised either generally or in relation to a particular scheme.

(1B) Arrangements may not be approved under this section unless any prescribed conditions are met].

- (2) If the scheme ceases to be a contracted-out scheme or an appropriate scheme (whether by being wound up or otherwise) and the [⁷Inland Revenue] either—
- (a) [⁷have] withdrawn [⁷their] approval of previously approved arrangements relating to it; or
- (b) [⁷have] declined to approve arrangements relating to it, the [⁷Inland Revenue] may issue a certificate to that effect.

(3) A certificate issued under subsection (2)(a) or (b) shall be cancelled by the [⁷Inland Revenue] if [⁷they subsequently approve] the arrangements.

(4) Regulations may provide that where the [⁷Inland Revenue] [⁷have] approved arrangements under subsection (1) in respect of an occupational pension scheme (other than a money purchase scheme) any provision of this Part (other than sections 18, 19, 26 to 33 and 43 to 45) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.

(5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.

¹ References to the Board in s.50 are replaced (6.4.97) with references to the Secretary of State, together with grammatical consequentials, by para. 21 of Sch. 5 to Pensions Act 1995 (c.26).

² See 1999 (WRP) Sch. 12 para. 29 — amendment relating to sharing of pensions.

³ Words in s. 50 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 51(2).

⁴ Words inserted (6.4.97) in s.50(1)(a)(i) by para. 45(a)(i) of Sch. 5 to Pensions Act 1995 (c.26).

⁵ Words in s.50(1)(a)(ii) substituted (6.4.97) by para. 45(a)(ii) of Sch. 5 to Pensions Act 1995 (c.26).

⁶ S.50(1A) and (1B) inserted (6.4.97) by para. 45(b) of Sch. 5 to Pensions Act 1995 (c.26).

⁷ Words in s.50 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para.51.

(6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme which is not a money purchase contracted-out scheme may be withdrawn at any time, notwithstanding that the scheme has been wound up.

(7)¹

51.—(1) This section applies where—

- (a) an earner's guaranteed minimum pension rights are accrued rights to guaranteed minimum pensions under a scheme
[²satisfy prescribed conditions].
and
- (b) one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.

Calculation of guaranteed minimum pensions preserved under approved arrangements.

(2) Where this section applies then, except in such circumstances as may be prescribed, section 16(1) shall have effect, subject to the following provisions, that is to say—

- (a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before those five tax years; and
- (b) any relevant earnings factors derived from contributions or earnings in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
 - (i) constitutes or begins before the relevant contributions year, or
 - (ii) begins after the final relevant year in relation to the earner.

1975 c.60.

(3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.

(4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 16(2).

(5) In this section “relevant year” and “final relevant year” have the same meanings as in section 16.

Supervision of formerly certified schemes

52.—(1) Section 53 shall apply for the purpose of making provision for securing the continued supervision of occupational pensions schemes as respects which subsection (2) applies and section 54 shall apply for the purpose of making corresponding provision in relation to personal pension schemes as respects which subsection (3) applies.

Supervision of schemes which have ceased to be certified.

(2) This subsection applies as respects any occupational pension scheme, other than a public service pensions scheme, where—

- [³(a) the scheme has ceased to be a contracted-out scheme, and
- (b) any persons remain who fall within any of the following categories.

⁴(2A) Those categories are—

- (a) any persons entitled to receive, or having accrued rights to—
 - (i) guaranteed minimum pensions, or
 - (ii) pensions under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out,

¹ S.50(7) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para 45(c).

² Words in s.51(1)(a) substituted (6.4.97) by para. 46 of Sch. 5 to Pensions Act 1995 (c.26).

³ S.52(2)(a) & (b) substituted (6.4.97) by Pensions Act 1995, (c.26), Sch 5, para. 47(a).

⁴ See 1999 (WRP) Sch. 12 para. 30 - amendments relating to sharing of pensions.

- (b) any persons who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it]

¹(3) This subsection applies as respects any personal pension scheme where—

[²(a) the scheme has ceased to be an appropriate scheme, and

- (b) any persons remain who have protected rights under the scheme or are entitled to any benefit giving effect to protected rights under it]

(4)³

(5)³

(6)³

Supervision: former
contracted-out schemes.

53.—[⁴(1) The [⁵Inland Revenue] may direct the trustees or managers of the scheme, or the employer, to take or refrain from taking such steps as the [⁵Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable—

- (a) in England and Wales, in a county court as if it were an order of that court, and
- (b) in Scotland by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order].

(2)⁶

[⁷(3) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(2A)(a) or (b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1) in a prescribed manner and within a prescribed period or such longer period as the [⁷Inland Revenue] may allow].

(4)⁸

(5)⁸

54.— [⁹(1) The [⁵Inland Revenue] may direct the trustees or managers of the scheme to take or refrain from taking such steps as the [⁹Inland Revenue] may specify in writing; and such a direction shall be final and binding on the person directed and any person claiming under him.

(1A) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a direction under subsection (1) at the instance of the trustees or managers or the employer, or any person claiming under them.

(1B) A direction under subsection (1) shall be enforceable—

- (a) in England and Wales, in a country court as if it were an order of that court, and

¹ See 1999 (WRP) Sch. 12 para. 30 — amendments relating to sharing of pensions

² S.52(3)(a) & (b) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 47(b).

³ S.52(4) to (6) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch.5, para. 47(c).

⁴ S.53(1)-(1B) substituted (6.4.97) for s.53(1) by para. 48(a) of Sch. 5 to Pensions Act 1995 (c.26).

⁵ Words in s.s. 53 & 54 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 52 & 53.

⁶ S.53(2) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5 para. 48(b), and Sch. 7 Part III.

⁷ S.53(3) substituted (6.4.97) by para. 48(c) of Sch. 5 to Pensions Act 1995 (c.26).

⁸ S.53(4) and (5) to be repealed (prsp.) by Pensions Act 1995 (c.26), Sch. 5, para. 48(d), and Sch. 7, Part III.

⁹ S.54(1)-(2) substituted (6.4.97) for s.54(1) and (2) by para. 49(a) of Sch. 5 to Pensions Act 1995 (c.26).

- (b) in Scotland, by the sheriff, as if it were an order of the sheriff and whether or not the sheriff could himself have given such an order.

(2) If a certificate has been issued under subsection (2) of section 50 and has not been cancelled under subsection (3) of that section, any liabilities in respect of such entitlement or rights as are referred to in section 52(3)(b) must, except in prescribed circumstances, be discharged (subject to any directions under subsection (1)) in a prescribed manner and within a prescribed period or such longer period as the [¹Inland Revenue] may allow].

(3)²

State scheme premiums

55.—(1)³

Payment of state scheme premiums on termination of certified status.

[⁴(2) Where—

- (a) an earner is serving in employment which is contracted-out employment by reference to an occupational pensions scheme (other than a money purchase contracted-out scheme),
- (b) paragraph (a) ceases to apply, by reason of any of the following circumstances, before the earner attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which the earner attains pensionable age, and
- (c) the earner has service for less than two years in the employment,

the prescribed person may elect to pay a premium under this subsection (referred to in this Act as a “contributions equivalent premium”).

(2A) The circumstances referred to in subsection (2) are that—

- (a) the earner's service in the employment ceases otherwise than on the earner's death,
- (b) the earner ceases to be a member of the scheme otherwise than on the earner's death,
- (c) the earner's service in the employment ceases on the earner's death and the earner dies leaving a widow or widower,
- (d) the scheme is wound up,
- (e) the scheme ceases to be a contracted-out occupational pensions scheme;

but paragraph (a), (b), (d) or (e) does not apply if the earner has an accrued right to short service benefit].

(3)–(6)⁵

56.—(1)⁶

Previous supplementary to S.55.

(2) A premium under section 55 shall be paid by the prescribed person to the [⁷Inland Revenue] within the prescribed period....

(3)⁶

(4) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the reference in section 55(2) to employment which is contracted-out by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

¹ Words in s.s. 53 & 54 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 52 & 53.

² S.54(3) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5 para. 49(b), and Sch. 7, Part III.

³ S.55(1) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 50.

⁴ S.55(2) and (2A) substituted (6.4.97) for s.55(2) by s.141(1) of Pensions Act 1995 (c.26).

⁵ S.55(3)–(6) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 50. and Sch. 7, Part III.

⁶ S.56(1), words in s.56(2), and s.56(3) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 51(a), and Sch. 7, part III.

⁷ Words in s.56(2) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch.1, para. 54.

[¹(5) The references in section 55(2A) to an accrued right to short service benefit include an accrued right to any provision which, under the preservation requirements, is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).

(6) Subject to regulations under paragraph 1 of Schedule 2, service in any employment which ceases with the death of the employer shall be treated for the purposes of section 55(2A) as ceasing immediately before the death].

Elections to pay contributions equivalent premiums.

²57.—(1) An election under section 55(2) must be made within the prescribed period and in the prescribed manner.

(2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.

(3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.

(4) If [³the Inland Revenue consider] that the prescribed person is contravening subsection (2), [³they] may cancel any contracting-out certificate held by the earner’s employer in respect of the scheme in question.

58.—(1)–(3)⁴

Modified (6.4.88), in certain cases where part of a premium is treated as having been paid, by reg. 23A(10)(b)(iii) of S.I. 1984/380.

(4) The amount of a contributions equivalent premium shall be the difference between—

- (a) the amount of the Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme, and
- (b) the amount of those contributions which would have been payable if the employment had not been contracted-out.

[(5)–(6)⁴

(7) Section 56(4) applies for the purposes of subsection (4) as it applies for the purposes of section 55(2).

59.repealed by 1995 c.26,

60.—(1)–(3)⁵

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section [⁶55 (2A)(a) and (b), (d) and (e)] shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme [⁶or (in relation to service on or after the principal appointed day) rights to pensions under the scheme so far as attributable to the amount of the premium].

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section [⁷ 55(2A)(c)] shall extinguish any such accrued rights in respect of the earner’s widow [⁷or widows].

¹ S.56(5) and (6) substituted (6.4.97) by para. 51(b) of Sch. 5 to Pensions Act 1995 (c.26).

² References to the Board in s.57 are replaced (6.4.97) with references to the Secretary of State, together with grammatical consequentials. by para. 21 of Sch. 5 to the Pensions Act 1995 (c.26).

³ Words substituted in s.57(4) (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 55.

⁴ S.58(1)–(3). (5) and (6) are to be repealed (prosp.) by Pensions Act 1995 (c.26). Sch. 5. para. 52 and Sch. 7 Part III.

⁵ S.60(1)–(3) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch.5, para. 54(a).

⁶ Words inserted (6.4.97) in s.60(4) by Pensions Act 1995 (c.26), Sch. 5, para. 54(b).

⁷ Words inserted (6.4.97) in s.60(5) by Pensions Act 1995(c.26), Sch. 5, para. 54(c).

†S60 (4) and (5) modified, where part of a premium is treated under reg. 23(1) of S.I. 1984/380 as having been paid, by reg. 23(10)(a) *ibid.*

(6)-(10)...¹

***61.**—(1) This section applies where—

- [²(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment, and]
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and
- (c) a contributions equivalent premium falls to be paid by any person in respect of him.

Deduction of contributions equivalent premium from refund of scheme contributions.

(2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.

(3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.

(4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.

(5) Where the refund—

- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
- (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,

the amount which may be recovered under this section shall be increased by such amount as may be prescribed.

(6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.

(7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.

(8) Where—

- [³(a) an earner's service in contracted-out employment ceases or his employment ceases to be contracted-out employment];
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
- (c) a contributions equivalent premium falls to be paid in respect of him; and
- (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment.

¹ S.60(6)-(10) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 54(d).

² S.61(1)(a) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 55(a).

³ S.61(8)(a) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch.5, para. 55(b)(i).

then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person has under this section where the refund relates to service in the employment on the [¹cessation] of which the premium falls to be paid (and subsection (7) shall apply accordingly).

(9) This section shall apply in relation to such a refund as is referred to in subsection (1)(b) which becomes payable after the [¹cessation] of an earner's service in contracted-out employment as it applies to such a refund becoming payable on the [¹cessation] of an earner's service in such employment.

(10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).

(11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—

- (a) is made or to be made otherwise than out of the resources of the scheme; or (b) is made or to be made out of those resources but by way of distribution on a winding up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.

No recovery of state scheme premiums from earners etc.

†62.—(1) Notwithstanding any contract to the contrary, a person shall not be entitled—

- (a) to recover any part of a [²contributions equivalent] premium from any earner in respect of whom it is payable; or
- (b) except in accordance with section 61, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

(2)³

⁴63.—(1) Further provisions concerning calculations relating to premiums. The following amounts shall be certified by the [⁵Inland Revenue]—

- (a)
- (b) the amount of the difference mentioned in subsection (4) of section 58,
- (c)
- (d) the amount mentioned in section 61(2).

(2)⁶

(3) If the [⁷Inland Revenue]—

- (a)⁸
- (b) [⁹are satisfied] that records of earnings relevant for determining the amount mentioned in [¹⁰section 58(4)] have not been maintained or retained or are otherwise unobtainable,

then [¹⁰they may] for that purpose—

¹ Word “cessation” substituted (6.4.97) for “terminates” in s.61 (8) & (9) by Pensions Act 1995 (c.26), Sch. 5, para. 55(b)(ii) and (c).

² Words substituted (6.4.97) in s.62(1)(a) by Pensions Act 1995, Sch. 5, para. 56(a).

³ S.62(2) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 56(b).

⁴ S.63(1)(a) and (c) deleted and words substituted in s.63(1)(b)(6.4.97.) by Pensions Act 1995(c.26), Sch. 5, para. 57(a).

⁵ Words in s.63 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 56(2).

⁶ S.63(2) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 57(b).

⁷ Words in s.63 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 56(2).

⁸ S.63(3)(a) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 57(c)(i).

⁹ Words in s.s. 63 & 67 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 56 & 57.

¹⁰ Words substituted and deleted in s.63(3)(b) (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 57(c)(ii) & (iii).

- (i) compute, in such manner as [¹they think] fit, an amount which shall be regarded as the amount of those earnings; or
- (ii) take their amount to be such sum as [¹they may] specify in the particular case,

(4)...²

(5) For the purposes of subsection (1) the [²Inland Revenue] may make such adjustments as [²they think] necessary for avoiding fractional amounts.

†64.repealed by 1995 c.26,

65–66.....repealed by 1995 c.26,

67.—(1) If a person fails to pay any [³contributions equivalent premium] which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.

Non-payment of state scheme premiums.

(2) Where—

- (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
- (b) the premium remains unpaid at the date of the conviction,

he shall be liable to pay to the [³Inland Revenue] a sum equal to the amount which he failed to pay.

(3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay [³contributions equivalent premiums] within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

(4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

68.—(1) Where in England and Wales a person charged with an offence to which section 67(2) applies is convicted of that offence in his absence under section 12(2) of the Magistrates Courts Act 1980, then if—

Unpaid premiums: supplementary.
1980 c.43.

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 67(4) has been duly served specifying the other premiums in respect of which the prosecutor intends to give evidence; and
- (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,

section 67(3) and (4) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly,

(2) In England and Wales where—

- (a) a person is convicted of an offence to which section 67(2) applies; and
- (b) an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally,

1973 c. 62.

subsection (1) and section 67(2) to (4) shall apply as if it were a conviction for all purposes.

(3) In Scotland where—

¹ Words in s.s. 63 & 67 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 56 & 57.

² S.63(4) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 57(d).

³ Words in s.67 substituted (6.4.97) by para. 61 of Sch. 5 to Pensions Act 1995 (c.26).

1975 c.21.

- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
- (b) an order is made under the Criminal Procedure (Scotland) Act 1975 discharging the offender absolutely or placing him on probation, section 67(2) to (4) shall apply as if—
- (i) the conviction on indictment were a conviction for all purposes; or
- (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

(4) In England or Wales any sum which a person is liable to pay under subsection (1) or section 67(2) to (4) shall be recoverable from him as a penalty.

(5) [¹Contributions equivalent premiums] recovered by the [²Inland Revenue] under those provisions shall be treated for all purposes as premiums paid to the [²Inland Revenue] in respect of the person in respect of whom they were originally payable.

* * * * *

PART XI GENERAL AND MISCELLANEOUS PROVISIONS

* * * * *

Information about schemes

Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.

155. Regulations may require the furnishing by prescribed persons to the Secretary of State....³ [⁴ or the Inland Revenue] of such information as he [⁵requires] [⁴or they require] for the purposes of [⁵Part III*], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), section 117 and section 159 (so far as it relates to protected rights payments).

* Part III comprises ss. 7-68.

Information as to guaranteed minimum pensions.

156. The Secretary of State [⁶or the Inland Revenue] may give—

- (a) the trustees or managers of an occupational pension scheme which is not a money purchase contracted-out scheme; and
- (b) such other persons as may be prescribed,

information as to the amount of the guaranteed minimum pension to which it appears to him [⁶ or, as the case may be, to the Inland Revenue] that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

Power of Secretary of State to obtain information in connection with applications under s.124.

157.—(1) Where an application is made to the Secretary of State under section 124 in respect of contributions to an occupational pension scheme or person pension scheme falling to be made, by an employer, the Secretary of State may require—

- (a) the employer to provide him with such information as the Secretary of State may reasonably require for the purpose of determining whether the application is well founded; and
- (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Secretary of State any such document in that person's custody or under his control which is of such a description as the Secretary of State may require.

(2) Any such requirement shall be made in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.

¹ Words in s.68(5) substituted (6.4.97) by para. 61 of Sch. 5 to Pensions Act 1995 (c.26).

² Words in s.68(5) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 58.

³ Words in s.155 repealed (6.4.97) by para. 65(a) of Sch. 5 to, and by Part III of Sch. 7 to, Pensions Act 1995 (c.26).

⁴ Words substituted in s.s 155 & 156 (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras 59 & 60.

⁵ Words in s.155 substituted (6.4.97) by para. 65(b) and (c) of Sch. 5 to Pensions Act 1995 (c.26).

⁶ Words in s.156 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 60.

(3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) This section shall be construed as if it were in Chapter II of Part VII.

158.—(1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—

Disclosure of information between government departments etc.

- (a) to the Secretary of State
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information, in sections 157 and 161) or of any corresponding enactment of Northern Ireland legislation.

[¹(1A) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held for the purposes of Part III of this Act from being disclosed—

- (a) to the Secretary of State,
- (b) to the Department of Health and Social Services for Northern Ireland, or
- (c) to an officer of either of them authorised to receive such information,

in connection with the operation of this Act or of any corresponding enactment of Northern Ireland legislation.]

(2)-(3)²

- (a) is required by him solely to enable him to perform that duty adequately: and
- (b) is information which the Board have power under any enactment to require any person to provide.

(4) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.

(5) [³Subsections (1) and (1A)] extend only to disclosure by or under the authority of the Inland Revenue.

(6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1), [¹or (1A)] [⁴] shall not be further disclosed to any other person, except where the further disclosure is made—

- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
- (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161); or
- (c) for the purposes of [⁵Chapter II of Part I of the Social Security Act 1998] or any corresponding provisions of Northern Ireland legislation;

¹ Words substituted & paras. added to s.s. 158 & 158A (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 6, paras. 7 & 8.

² S.158(2) and (3) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 66(a), and Sch. 7, Part III.

³ Words in s.156 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 60.

⁴ Words in s.158(6), and s.158(6)(d) and the word “or” immediately preceding it repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 66(b), and Sch. 7, Part III.

⁵ Words substituted in s.158(6)(c) (5.7.99) by S.S. Act 1999 (c.51) Sch. 7, para. 129.

[¹or (ca)For the purposes of Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 or any corresponding provisions of Northern Ireland legislation.]

(d)²

(7) The Secretary of State, [³and the Inland Revenue] may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or other wise on—

(a) persons employed in the Department of Social Security, [⁴or]

(b) persons employed in relation to the Inland Revenue...⁵

(c)⁵

shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.

(8)⁶

Other disclosures by the Secretary of State.

[⁷**158A.**—(1) The Secretary of State may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on him or on persons employed in the Department of Social Security, disclose any information received by him in connection with his functions under this Act or the Pensions Act 1995 to any person specified in the first column of the following Table if he considers that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.

[¹(1A) The Inland Revenue may, in spite of any obligation as to secrecy or confidentiality imposed by statute or otherwise on them or on their officers, disclose any information received by them in connection with their functions under Part III of this Act to any person specified in the first column of the Table in subsection (1) if they consider that the disclosure would enable or assist the person to discharge the functions specified in relation to the person in the second column of the Table.]

TABLE

<i>Persons</i>	<i>Functions</i>
The Treasury.	Functions under the Financial Services Act 1986.
The Bank of England.	Functions under the Banking Act 1987 or any other functions.
The Regulatory Authority.	Functions under this Act or the Pensions Act 1995, or any enactment in force in Northern Ireland corresponding to either of them.
The Pensions Compensation Board.	Functions under the Pensions Act 1995 or any corresponding enactment in force in Northern Ireland.
The Friendly Societies Commission.	Functions under the enactments relating tot friendly societies.

¹ Words substituted & paras. added to s.s. 158 & 158A (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 6, paras. 7 & 8.

² Words in s.158(6)(d) repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 66(b), and Sch. 7, Part III.

³ Words substituted (6.4.97) in s.158(7) by para. 66(c)(i) of Sch. 5 to Pensions Act 1995 (c.26).

⁴ Word “or” inserted (6.4.97) at end of s.158(7) by para. 66(c)(i) of Sch. 5 to Pensions Act 1995 (c.26).

⁵ S.158(7)(c) and word “or” immediately preceding it repealed (6.4.97) by para. 66(c)(iii) of Sch. 5 to. and by Part III of Sch. 7 to. Pensions Act 1995 (c.26).

⁶ S.158(8) repealed by Pensions Act 1995 (c.26), Sch. 5, para. 66(d), and Sch. 7, Part III.

⁷ S.158A inserted (6.4.96) by Pensions Act 1995 (c.26), Sch. 6, para. 9.

The Building Societies Commission.	Functions under the Building Societies Act 1986.
An inspector appointed by the Secretary of State.	Functions under section 94 or 177 of the Financial Services Act 1986.
A person authorised to exercise powers under section 106 of the Financial Services Act 1986.	Functions under that section.
A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986).	Functions under the Financial Services Act 1986.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under the Financial Services Act 1986.

- (2) The Secretary of State may by order—
- (a) amend the Table in subsection (1) by—
 - (i) adding any person exercising regulatory functions and specifying functions in relation to that person.
 - (ii) removing any person for the time being specified in the Table, or
 - (iii) altering the functions for the time being specified in the Table in relation to any person, or
 - (b) restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in the Table].

* * * * *

Reciprocity with other countries

166.—(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or
- (a) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question.

Reciprocity with other countries.

Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.

(2) An Order in Council made by virtue of subsection (1) may, instead of or in addition to making specific modifications adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications of this Act which may be made by virtue of subsection (1) include provision—

- (a) for securing that acts, omissions and events having effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit).

- (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
- (c) for making any necessary financial adjustments.

(4) An Order in Council made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 164 may, in particular, provide for the Secretary of State to make payments for any period beginning on or after 6th April 1987 and may make provision with respect to any matters relating to payments so made.

(5) References in this section to this Act do not include references to [¹] Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections [²] 153(2), 157 158(1) to (5), 161, 162, 163, [¹] and 176 [¹].

Application of provisions relating to social security administration

Application of certain provisions to cases with foreign element.

167.—(1) The Social Security Administration Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 164(1)(b) of this Act (in this section referred to as “the relevant provisions”).

(2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration Act 1992—

- section 116 (legal proceedings)
- section 125 (regulations as to notification of deaths)
- section 177 (co-ordination with Northern Ireland)
- section 180 (payment of travelling expenses by the Secretary of State).
- [³section 180A (payment of travelling expenses by Inland Revenue)]

[.(3)..⁴]

[.(4)..⁵]

(5) Section 124 of the Social Security Administration Act 1992 (provisions relating to age, death and marriage) shall apply as if the information mentioned in subsection (1) of that section included information for the purposes of the relevant provisions.

(6) Section 121 of the Social Security Contributions and Benefits Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

* * * * *

General provisions as to determinations and appeals

Decisions and appeals

[⁶**170.**—(1) Section 2 (use of computers) of the Social Security Act 1998 (“the 1998 Act”) applies as if, for the purposes of subsection (1) of that section, this Act were a relevant enactment.

[⁷(2) It shall be for an officer of the Inland Revenue—

- (a) to make any decision that falls to be made under or by virtue of Part III of this Act, other than a decision which under or by virtue of that Part falls to be made by the Secretary of State;

¹ Words in s.166(5) repealed (6.4.97) by Pensions Act 1995 (c.26) Sch. 5. para. 69. and Sch. 7. Part III.

² Words in s.166(5) repealed (6.4.97) by Pensions Act 1995 (c.26) Sch. 6. para. 11. and Sch. 7. Part IV.

³ Words substituted in s.167 (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 7, para. 18(2).

⁴ S.s. (3) omitted (5.7.99) by Transfer of Functions Act 1999 (c.2) Sch. 7, para. 18(3).

⁵ S.s. (4) shall cease to have effect (5.7.99) by S.S. Act 1999(c.51) Sch. 7, para. 130(2).

⁶ S. 170 substituted (4.3.99) by para. 131 of Sch. 7 to S.S. Act 1998 (c.12). 1999(T) s.16(1) (into force on 5 July 1999 by virtue of SI. 1999 No. 1662 (C.47) Sch. Pt. II) provides that the functions of the previous s.170(1) were transferred to the Board.

⁷ 1999(T) s. 16(2) with effect on and after 5 July 1999 (by virtue of S.I. 1999 No. 1662 (C.47) Sch. Pt. II). The changes took effect on and after 14 June 1999 for the future making of regulations (by virtue of S.I. 1999 No 1662 (C.37) Sch. Pt. I.)

- (b) to decide any issue arising in connection with payments under section 7 of the Social Security Act 1986 (occupied pension schemes becoming contracted-out between 1986 and 1993); and
- (c) to decide any issue arising by virtue of regulations made under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (continuing in force of certain enactments repealed by the Social Security Act 1973).

(3) In the following provisions of this section a “relevant decision” means any decision which under subsection (2) falls to be made by an officer of the Inland Revenue, other than a decision under section 53 or 54.

(4) Sections 9 and 10 of the 1998 Act (revision of decisions and decisions superseding earlier decisions) apply as if—

- (a) any reference in those sections to a decision of the Secretary of State under section 8 of that Act included a reference to a relevant decision; and
- (b) any other reference in those sections to the Secretary of State were, in relation to a relevant decision, a reference to an officer of the Inland Revenue.

(5) Regulations may make provision—

- [¹(a) generally with respect to the making of relevant decisions;
- (b) with respect to the procedure to be adopted on any application made under section 9 or 10 of the 1998 Act by virtue of subsection (4); and
- (c) generally with respect to such applicants, revisions under section 9 and decisions under section 10;]

but may not prevent [¹a revision under section 9 or decision under section 10] being made without such an application.

(6) Section 12 of the 1998 Act (appeal to appeal tribunal) applies as if, for the purposes of subsection (1)(b) of that section, a relevant decision were a decision of the Secretary of State falling within Schedule 3 to the 1998 Act.

(7) The following provisions of the 1998 Act (which relate to decisions and appeals)—
sections 13 to 18,
sections 25 and 26
section 28, and
Schedules 4 and 5

shall apply in relation to any of appeal under section 12 of the 1998 Act by virtue of subsection (6) above as if any reference to the Secretary of State were a reference to an officer of the Inland Revenue.]

171.—(1) Where in any proceedings—

- (a) for an offence under this Act; or
- (b) involving any question as to the payment of a [²contributions equivalent premium];

[³any relevant decision as defined by section 170(3) is made by the Inland Revenue, the decision]

[³(2) If—

- (a) any such decision is necessary for the determination of the proceedings, and
- (b) the decision of the Inland Revenue has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the Social Security Act 1998,

Questions arising in proceedings.

¹ Welfare Reform and Pensions Act 1999 (c.30) Sch. 11 para. 22.

² Words in s.171(1)(b) substituted (6.4.97) by para. 71 of Sch. 5 to Pensions Act 1995 (c.26).

³ Words & paras. substituted and inserted (5.7.99) by Transfer of Functions Act 1999 (c.2) by Sch. 7, para. 19 & 20.

the decision shall be referred to the Inland Revenue to be made in accordance (subject to any necessary modifications) with Chapter II or Part I of that Act.

- (3) Subsection (1) does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined,
 - (b) an application for leave to appeal has been made but not determined,
 - (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired, or
 - (d) an application has been made under section 9 or 10 of that Act.

(4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known and that decision shall be conclusive for the purposes of the proceedings]

Reports by Inland Revenue.

[¹171A.—(1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 170(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.

- (2) Any report under this section –
- (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
 - (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998.

(3) A copy of every report under this section shall be laid before each House of Parliament, unless the report is included in, or annexed to, a report of which a copy is so laid.]

* * * * *

General financial arrangements.

177.—(1) Subject to the following provisions of this section, all expenses incurred by the Secretary of State [²or the Inland Revenue] under this Act shall be paid out of money provided by Parliament except so far as they may be required by an enactment to be paid or borne in some other way.

- (2) There shall be paid out of the National Insurance Fund—
- (a) minimum contributions paid by the [²Inland Revenue] under section 43;
 - (b) payments by [² the Secretary of State] under section 124.

(3) Subject to subsection (4), there shall be paid out of the National Insurance Fund into the Consolidation Fund—

- (a) sums equal to the amount of any expenses incurred by the Secretary of State (or by persons acting on his behalf) in exercising his functions under Chapter II of Part VII and section 157;
- (b) such sums as the Secretary of State may estimate to be the amount of the administrative expenses of the Secretary of State or any government department in carrying into effect the remaining provisions of this Act, other than—
 - (i) ³Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections⁴ 153(2), 158(1) to (5), 162, 163 and 176;
 - (ii) sections 7,9, 26 to 34, 38, and 50 (so far as they relate to personal pension schemes), section 54, section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.

¹ Words & paras. substituted and inserted (5.7.99) by Transfer of Functions Act 1999 (c.2) by Sch. 7, para. 19 & 20.

² Words in s.177 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 61.

³ Words in s.177(3)(b)(i) and (ii) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 75(a)

⁴ Words in s.177(3)(b)(i) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 6, para. 12.

- [¹(c) such sums as the Inland Revenue may estimate to be the amount of their administrative expenses in exercising their functions under Part III.]
- (4) The sums payable under subsection (3)(b)–
- (a) shall be estimated in accordance with any directions given by the Treasury and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as the treasury may direct, or any enactment may require, to be so excluded; and
 - (b) shall be payable at such times and in such manner as the Treasury may direct.
- (5) There shall be paid into the Consolidated Fund–
- (a) subject to subsection (6), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State [¹or the Inland Revenue] under or by virtue of the provisions within subsection (3)(b)(ii); and
 - (b) all fees paid to the Registrar.
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that fund.
- (7) There shall also be paid into the National Insurance Fund–
- (a) sums recovered under section 43(5) or (6);
 - (b)²
 - (c) any sum recovered by the Secretary of State in exercising any right or pursuing any remedy which is his by virtue of section 127; and
 - (d) any sums received by [³the Inland Revenue] by way of such payments as are mentioned in paragraph 5(4) of Schedule 2.

S. 177(7)(b) to be deleted (prosp.) by Pensions Act 1995 (c.26), Sch. 5, para. 75(b) and Sch. 7 Part III. S. 177 amended by WRPA 1999 Sch. 9 para. 8.

* * * * *

PART XII SUPPLEMENTARY PROVISIONS

- 181.**—⁴(1) In this Act, unless the context otherwise requires–
“age”, in relation to any person, shall be construed so that–
- (a) he is over or under a particular age if he has or, as the case may be, has not attained that age;
 - (b) he is between two particular ages if he has attained the first but not the second;
- “appropriate scheme certificate” and references to an appropriate scheme shall be construed in accordance with section 7;
- “Category A retirement pension” and “Category B retirement pension” mean the retirement pensions of those descriptions payable under Part II of the Social Security Contributions and Benefits Act 1992;
- “contract of service” has the same meaning as in section 122(1) of the Social Security Contributions and Benefits Act 1992; “contracted-out employment” shall be construed in accordance with section 8;
- “contracted-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 7;
- “contributions equivalent premium” has the meaning given in section [⁵55(2)];

Ref. to s. 55(6)(e) above to be replaced (prosp.) with ref. to s. 55(2) by Pensions Act 1995 (c. 26), Sch. 5, para. 77(a)(ii).

¹ Words in s.177(3)(b)(i) and (ii) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 75(a)

² S.177(7)(b) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 75(b).

³ Words in s.177 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 61.

⁴ Definitions in s.181(1) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 77(a)(i).

⁵ Words in defn. of “contributions equivalent premium” substituted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 77(a)(ii).

“earner” and “earnings” shall be construed in accordance with sections 3,4, and 112 of the Social Security Contributions and Benefits Act 1992;

“earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits Act 1992;

[¹“employed earner” and “self-employed earner” have the meaning given by section 2 of the Social Security Contributions and Benefits Act 1992;]

“employee” means a person gainfully employed in Great Britain either under a contract of service or in an office (including an elective office) with emoluments chargeable to income tax under Schedule E;

“employer” means—

- (a) in the case of an employed earner employed under a contract of service, his employer;
- (b) in the case of an employed earner employed in an office with emoluments—
 - (i) such person as may be prescribed in relation to that office; or
 - (ii) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of the office;

“employment” includes any trade, business, profession, office or vocation and “employed” shall be construed accordingly except in the expression “employed earner”;

...²

“guaranteed minimum pension” has the meaning given in section 8(2);

1992 c. 52.

“independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992;

“industrial tribunal” means a tribunal established or having effect as if established under [³ section 1(1) of the Industrial Tribunals Act 1996]

“the Inland Revenue” means the Commissioners of Inland Revenue;

1982 c. 50.

“insurance company” has the meaning given in section 96(1) of the Insurance Companies Act 1982;

“linked qualifying service” has the meaning given in section 179;

“long-term benefit” has the meaning given in section 20(2) of the Social Security Contributions and Benefits Act 1992;

“lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits Act 1992 and “current”, in relation to those limits, means for the time being in force; “minimum contributions” shall be construed in accordance with section 43 to 45;

“minimum payment” has the meaning given in section 8(2);

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“money purchase benefits”, in relation to a member of a personal or occupational pension scheme or the widow or widower of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which are not average salary benefits; “money purchase contracted-out scheme” has the meaning given in section 8(1)(a)(ii).

“money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;

“normal pension age” has the meaning given in section 180;

“occupational pension scheme” has the meaning given in section 1;

¹ 1999 (WRP) Sch. 2 para.3(b) with effect on and after 25 April 2000 (by virtue of S.I. 2000 No 1047 (c.29) Sch. Pt. II (not reproduced)).

² Defn. of “equal access requirements” in s.181(1) repealed (1.1.96) by Pensions Act 1995 (c.26). Sch. 3. para. 44(a)(i).

³ Words substituted (22.8.96) by Industrial Tribunals Act 1996 (c.17). Sch. 1, para. 11.

[¹“pensionable age”–

- (a) so far as any provisions (other than sections 46 to 48) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and
- (b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.]

²“pensionable service” has the meaning given in section 70(2);

“personal pension scheme” has the meaning given in section 1;

“prescribe” means prescribe by regulations and “prescribed” shall be construed accordingly;

³*“the prescribed equivalent” means the equivalent prescribed under sections 6(1) and 8(3) of the Social Security Contributions and Benefits Act 1992;*

“the preservation requirements” has the meaning given in section 69(2);

“primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in the Social Security Contributions and Benefits Act 1992;

“protected rights” has the meaning given in section 10;

“public service pension scheme” has the meaning given in section 1;

“the register” has the meaning given in section 6; “the Registrar” has the meaning given in section 6;

“regulations” means regulations made by the Secretary of State under this Act;

[⁴ “the Regulatory Authority” means the Occupational Pensions Regulatory Authority;]

“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;

“rights”, in relation to accrued rights (within the meaning of section 73, 136 of 179) or transfer credits, includes rights to benefit and also options to have benefits paid in a particular form or at a particular time;²

⁵*“self-employed pension arrangement” means an approved personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988, being neither–*

(a) a contract or scheme approved under Chapter III of that Part, nor

(b) a personal pension scheme within the meaning of this Act;

1988 c.1.

“short service benefit” has the meaning given in section 71(2);

“tax-exemption” and “tax-approval” mean respectively exemption from tax and approval of the Inland Revenue, in either case under any such provision of the Income Tax Acts as may be prescribed;

“tax week” means one of the successive periods in a tax year beginning with the first day of that year and every seventh day thereafter, the last day of a tax year (or, in a leap year, the last two days) being treated accordingly as a separate tax week;

“tax year” means the 12 months beginning with 6th April in any year;

“trade or business”, in relation to public or local authority, includes the exercise and performance of the powers and duties of the authority;

“transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme (including any transfer credits allowed by that scheme);

¹ Defn. of “pensionable age” substituted (19.7.95) by Pensions Act 1995 (c.26), Sch. 4. para. 17.

² See 1999 (WRP) Sch. 12 para. 41 — amendments relating to sharing of pensions.

³ Repealed by Welfare Reform and Pensions Act 1999 (c.30) Sch. 13 Pt. VI with effect on and after 6 April 2000 (by virtue of S.I. 1999 No. 3420 (C.92) art 4(e)).

⁴ Defn. of “Regulatory Authority” inserted (16.10.96 for regulation - making purposes) by para. 44(a)(ii) of Sch. 3 to Pensions Act 1995 (c.26).

⁵ Repealed by 1999 (WRP) Sch. 13 Pt. I with effect on and after 25 April 2000 (by virtue of S.I. 2000 No. 1047 (C.29) Sch. Pt II).

“voluntary contributions requirements” has the meaning given in section 111(2);
 “week” means a period of seven days beginning with Sunday;
 “working life” has the meaning given in paragraph 5(8) of Schedule 3 to the Social Security Contributions and Benefits Act 1992.

(2) References to employers in the provisions of this Act (other than sections 123 to 127, 157¹ and 160], (“the excluded provisions”)) are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying for its benefits, as including references to persons who in relation to them and their employment are treated by regulations as being employers for the purposes of those provisions.

(3) Subject to any such regulations, references to an employer in any of the provisions of this Act (other than the excluded provisions or section² 6, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections³, 153(2), 158(1) to (5), 162, 163, and 176²) shall, in relation to an earner employed in an office with emoluments, be construed as references to—

- (a) such person as may be prescribed in relation to that office; or
- (b) if no person is prescribed, the government department, public authority or body of persons responsible for paying the emoluments of that office.

Certain references are to be deleted (prosp.) from s. 181(3) by para. 77(b) of Sch. 5, para. 14 of Sch. 6, and Parts III and IV of Sch. 7, to Pensions Act 1995 (c.26).

(4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section 6, 27, 28 29, 31, 32, 43, 44, 111, 160, 164, 165, or 169) prescribe the persons who are to be regarded as members or prospective members of an occupational pension scheme and as to the times at which and the circumstances in which a person is to be treated as becoming, or as ceasing to be, a member or prospective member.

(5) In sections 165 to 166—

- (a) references to the United Kingdom include reference to the territorial waters of the United Kingdom; and
- (b) reference to Great Britain include reference to the territorial waters of the United Kingdom adjacent to Great Britain.

(6) Any reference in section 185 or 186 to an order or regulations under this Act includes a reference to an order or regulations made under any provision of an enactment passed after this Act and directed to be construed as one with it; but this subsection applies only so far as a contrary intention is not expressed in the enactment so passed, and shall be without prejudice to the generality of any such direction.

(7) In the application of section 158 [⁴] to Northern Ireland and reference to a government department is to be taken to be, or to include (as the context may require), a Northern Ireland department.

Subordinate legislation etc.

Orders and regulations
(general provisions).

182.—(1) Any power under this Act to make regulations or orders (except a power of [⁵] the court to make orders) and the powers to make rules under sections 149(2) and 152(1) shall be exercisable by statutory instrument.

(2) Except in so far as this Act otherwise provides, any power conferred by it to make an Order in Council, regulations or an order (except an order under section 153(8) may be exercised—

¹ Words in s.181(2) substituted (6.4.97) by Pensions Act 1995 (c.26), Sch 3, para 44(b).

² Words substituted and deleted in s.181(3) (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 77(b).

³ Words deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 6, para. 14.

⁴ Words in s.181(7) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 77(c).

⁵ Words “the Board or” deleted (6.4.97) from s.182(1) by Pensions Act 1995 (c.26), Sch. 5, para. 78. and Sch. 7. Part III.

- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
 - (iii) any such provision either unconditionally or subject to any specified condition,

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and any power to make an Order in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make an Order in Council, regulations or an order for the purposes of any other provision.

(3) Any power conferred by it to make an Order in Council, regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to Her Majesty or the authority making the regulations or order to be expedient for the purposes of the Order in Council regulations or order.

(4) Any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

(5) Any power conferred on the Secretary of State by any provision of this Act to make any regulations or order (except an order under section 153(8), where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

183.—(1) Without prejudice to any specific provisions in this Act, a power conferred by this act to make an Order in Council, regulations or an order (other than regulations and orders made under sections [1], Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections [2], 153(2), 158(1) to (5), 162, 163, [1] and 176 [1] includes power to provide for a person to exercise a discretion in dealing with any matter.

Sub-delegation.

(2)³

⁴(3) Regulations under section 27(3) and 63(2), may provide that the values there mentioned shall be calculated and verified

- (a) in such manner as may, in the particular case, be approved—
 - (i) by a prescribed person;
 - (ii) by a person with prescribed professional qualifications or experience; or
 - (ii) by a person approved by the Secretary of State; or
- (b) in accordance with guidance prepared [⁵and from item to item revised] by a prescribed body;

184.—(1) Subject to section 173 of the Social Security Administration Act 1992 (cases where consultation not required), where the Secretary of State proposes to make regulations under section 36(6), he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).

Consultation with Social Security Advisory Committee about regulations under s. 36(6).
1992 c.5.

¹ References in s.183(1) deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 79. and Sch. 7. Part III.
² References in s. 183(1) deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 6. para. 15(a). and Sch. 7. Part IV.
³ S.183(2) repealed (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 79. and Sch. 7. Part III.
⁴ Words in s.183(3) deleted (6.4.97) by Pensions Act 1995 (c.26), Sch. 3, para. 45.
⁵ Words inserted (6.4.97) in s.183(3)(b) by para. 15(b) of Sch. 6 to Pensions Act 1995 (c.26).

(2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) and shall make to the Secretary of State a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.

(3) If after receiving a report of the Committee the Secretary of State lays before Parliament regulations which comprise the whole or part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee's report and a statement showing—

- (a) the extent (if any) to which he has in framing the regulations given effect to the Committee's recommendations; and
- (b) in so far as effect has not been given to them, his reasons why not.

Consultations about other regulations.

185.—(1) [¹Subject to subsection (2), before the Secretary of State makes] any regulations for the purposes of Parts I to VI, Chapter...² III of Part VII, Part VIII, IX or X or section 153, 154, 155, 156, 160, 162, 163, 174 or 175 of this Act he shall [¹consult such persons as he may consider appropriate].

(2) Subsection (1) does not apply to—

- (a) regulations prescribing actuarial tables; or
- (b) regulations made for the purpose only of consolidating other regulations revoked by them; or
- (c) regulations under section 36(6)
- [³(d) regulations in the case of which the Secretary of State considers consultation inexpedient because of urgency, or
- (e) regulations which—
 - (i) state that they are consequential upon a specified enactment, and
 - (ii) are made before the end of the period of six months beginning with the coming into force of that enactment].

(3) and (4)...⁴

(5) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in [⁵subsection (1)] to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.

(6)...⁶

(7) The power of the Secretary of State to make regulations under section 162 of this Act shall be exercisable only after consultation with the Chief Registrar of Friendly Societies or the Friendly Societies Commission.

(8) The power of the Secretary of State to make regulations under section [⁷170(5)] shall be exercisable only after consultation with the Council on Tribunals.

(9) Before making any regulations under paragraph 7 of Schedule 2 the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.

¹ Words in s.185(1) substituted (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 80(a).

² Words in s.185(1) deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 3. para. 46. and Sch. 7. Part I.

³ S.185(2)(d) and (e) added (6.4.97). by Pensions Act 1995 (c.26). Sch. 5. para. 80(b).

⁴ S.185(3) and (4) repealed (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 80(c). and Sch. 7. Part III.

⁵ Words in s.185(5) substituted (6.4.97) for “subsections (1) to (4)” by para. 80(d) of Sch. 5 to Pensions Act 1995 (c.26); and see Sch. 3. And see 1999 (WRP) Sch. 12 para. 42 amendment relating to pension sharing.

⁶ S.185(6) repealed (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 80(c). and Sch. 7. Part III.

⁷ Ref. in s.185(8) substituted by Welfare Reform and Pensions Act 1999 (c.30) Sch. 11 para. 23.

186.—(1) Subject to subsections (2) and (3), a statutory instrument which contains (whether alone or with other provisions) any regulations or order made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Parliamentary control of orders and regulations.

(2) Subsection (1) shall not apply to any order which under any provision of this Act is required to be laid before Parliament after being made or is subject to a requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament or to any order made under section 193 or paragraph 1 of Schedule 9.

(3) Subject to subsection (4), a statutory instrument which contains (whether alone or with other provisions)—

- (a) regulations made by virtue of section 49, or
- (b) an order under section 153(8), or
- (c) regulations made by virtue of subsection (1)(a) of section 165 applying such provisions as mentioned in subsection (2)(b) of that section, [¹ or
- (d) regulations made by virtue of section 168(2)]

shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(4) Subsection (3) does not apply to such regulations as mentioned in paragraph (a) or (c) of that subsection if—

- (a) they are made for the purpose only of consolidating regulations which they revoke, or
- (b) so far as they are made under powers conferred by the provisions mentioned in that paragraph, they only replace provisions of previous regulations with new provisions to the same effect.

(5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 184(3) [²] shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement in question are laid before that House not later than the second day on which the House sits after the laying of the regulations.

187.—(1) Subject to any Order made after 13th July 1990 by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters specified in subsection (2) shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

Northern Ireland Constitution Act 1973: “reserved matters” 1973 c.36.

(2) The matters referred to in subsection (1) are the matters dealt with by section 6(1) and (2) (except paragraph (a)(ii), (3), (4) and (8) and by section 145 (except subsections (4) and (5)(b)).

Supplemental provisions

188.—(1) The enactments specified in Parts I, [³II] and III of Schedule 5 are repealed to the extent specified in the third column.

Repeals.

(2) The subordinate legislation specified in Part IV of that Schedule is revoked to the extent specified in the third column.

(3) The repeals and revocations have effect subject to any relevant savings in Schedule 6.

189.—(1) Schedule 6 (which makes transitional provision and contains savings in connection with the repeals and revocations made by this Act) shall have effect.

Transitional provisions and savings.

¹ Word and Para. (d) inserted 1.6.96 for the purpose of making regulations relating to s.113 of this Act) into s.186(3) by s.155(2) of Pensions Act 1995 (c.26).

² Words in s.186(5) deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 81.

³ Not commenced. The repeals specified in Part II to Sch. 5 are not otiose. having been superseded by identical repeals. effective from 1.1.96. in the Pensions Act 1995 (c.26). Sch. 3 and Part I of Sch. 7.

1978 c.30. (2) Nothing in that Schedule affects the general operation of section 16 of the Interpretation Act 1978 (general savings implied on repeal).

Prospective and consequential amendments.

190. [¹Schedule 7 (which re-enacts or makes consequential amendments of provisions which make prospective amendments of enactments including those repealed by this Act, so that the re-enacted or amended provisions prospectively amend this Act and other enactment) and] Schedule 8 (which makes other consequential amendments) shall have effect subject to any relevant transitional provisions in Schedule 6.

Transitory modifications.

191. Schedule 9 (which makes transitory modifications of this Act pending the commencement of the provisions there mentioned) shall have effect.

Extent.

192.—(1) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part, except that the repeals in Part III of Schedule 5 do not extend to Northern Ireland.

(2) The following provisions of this Act extend to Northern Ireland—
[²section 1],

section 6(1) and (2) (except paragraph (a)(ii), (3), (4), and (8),

section 145 (except subsections (4) and (5)(b),

section 154 (as it has effect for the purposes of provisions extending to Northern Ireland).

.....³

section 179.

sections 181 to 183 (as they have effect for those purposes),

sections 185 and 186 (as they have effect for those purposes),

section 187,

sections 188 to 191 (as they have effect for those purposes, but subject to subsection (1)).

this section,

section 193,

paragraph 17 of Schedule 6.

(3) Except as provided by subsection (2), this Act does not extend to Northern Ireland.

Short title and commencement.

193.—(1) This Act may be cited as the Pension Schemes Act 1993.

(2) Subject to the provisions of Schedule 9, this Act shall come into force on such day as the Secretary of State may by order appoint.

(3) As respects the coming into force of—

(a) Part II of Schedule 5 and section 188(1) so far as it relates to it; or

(b) Schedule 7 and section 190 so far as it relates to it,

an order under subsection (2) may appoint different days from the day appointed for the other provisions of this Act or different days for different purposes.

¹ Prosp.

² Words “section 1” in s.192(2) substituted (6.4.97) for “sections 1 to 5” by para. 82 of Sch. 5 to Pensions Act 1995 (c.26).

³ Words “section 172(4) and (5)” repealed (6.4.97) by Pensions Act 1995 (c.26), Sch. 5, para. 82, and Sch. 7, Part III.

SCHEDULES

Sch 1 repealed by 1995 c.26, see Annex 1

SCHEDULE 2

Section 39.

CERTIFICATION REGULATIONS

PART I

OCCUPATIONAL PENSION SCHEMES

General regulations; beginning and ending of employment

1.—(1) In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which employments are or have been contracted-out, regulations may make provision generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end and, in particular, as to the matters mentioned in sub-paragraphs (2) to (4).

(2) Regulations may make provision for treating an earner's employment which ends before a person succeeds to the business of the earner's employer as having been employment under the employer's successor.

(3) Regulations may make provision—

- (a) for changes in an earner's employment due to the death of an employer or another cause, or any cesser of contracted-out employment so due, to be disregarded; or
- (b) for employment under one employer to be treated as a continuation of that under another and any contracting-out certificate issued to, or election made by, the former employer to be treated as issued to or made by the latter.

(4) Regulations may also make provision—

- (a) for temporary interruptions in an earner's employment or contracted-out employment to be disregarded; and
- (b) for the employment in either case to be treated as continuing during the interruption.

(5) References in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.

2.—(1) Subject to sub-paragraph (2), regulations may enable the [¹Inland Revenue] to determine in prescribed circumstances that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date ("the determined date") earlier than would otherwise be the case.

(2) The determined date for any earner may not be earlier than—

- (a) the date on which his relevant employment began, or
- (b) the date on which a contracting-out certificate was issued in respect of it,

whichever is the later.

3. Provision may be made by regulations for requiring an employer to give notice to the [¹Inland Revenue]—

- (a) when an earner's employment becomes or ceases to be contracted-out employment; and
- (b) when an earner's employment in contracted-out employment begins or ends.

¹ Words substituted in Sch. 2, paras. 2(2) & 3 (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 62(2) & (3).

Power to modify Part III etc.

4.—(1) Regulations may modify the provisions of Part III (other than sections 18, 19 and 66 to 68), Chapter III of Part IV and Chapter II of Part V (except, so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to cases in which—

- (a) a person is employed at the same time in two or more employments (whether or not under the same employer); and
- (b) at least one but not all of those employment's is contracted-out employment, with a view to enabling the employment's to be treated either separately or together for the purposes of those provisions.

(2) Regulations may also modify those provisions in their application to cases in which—

- (a) any description of benefit under a scheme is subject to a limit (however, imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits; or
- (b) earners qualify for the benefits of a scheme by reference to both—
 - (i) service in employment which is contracted-out in relation to them by reference to the scheme; and
 - (ii) service in the same employment or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment.

(3) Regulations under this paragraph may include provision for securing that in the cases to which they apply an earner's employment [¹which, apart from the regulations, would not be contracted-out employment is treated as contracted-out employment where any benefits provided under the scheme are attributable to a period when the scheme was contracted-out].

State scheme premiums

5.—(1) Regulations may make provision for requiring persons to furnish the [²Inland Revenue]...² with such information as [²they] may require for the purposes of sections 37, 38, 50 to [³63], 139(1), 142(5), and (6) and 159(1) to (3), (5) and (6) (except as they apply to personal pension schemes, the members of such schemes or rights in respect of them).

(2) Regulations may provide that for the purposes of sections 50, 55 to 60 and 63 [⁴(except as they so apply) the prescribed person shall be treated as the employer—

- (a) of any employed earners who, in any period of service in contracted-out employment—
 - (i) have been paid earnings in any income tax week by more than one person in respect of different employments; or
 - (ii) have worked under the general control or management of a person other than their immediate employer, or
- (b) of any other employed earners in the case of whom it appears to the Secretary of State that such provision is needed.

(3) Regulations may, [.....⁵], provide—

- (a) for dispensing with the payment of a premium where its amount would be inconsiderable;
- [(b)⁵]

¹ Words in para. 4(3) substituted (6.4.97) by para. 84(b) of Sch. 5 to Pensions Act 1995 (c.26).

² Words in Sch. 2 para. 5 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2) Sch. 1, para. 62(4).

³ Ref. in para 5(1) substituted (6.4.97) by para. 84(c)(ii) of Sch. 5 to Pensions Act 1995 (c.26)

⁴ Words in para. 5(2) repealed (6.4.97) by para 84(d) of Sch. 5. and by Part III of Sch. 7. to Pensions Act 1995 (c.26).

⁵ Words in. and para. (b) of. para. 5(3) repealed (6.4.97) by s.141(2)(a) of. and by Part III of Sch. 7 to. Pensions Act 1995 (c.26).

- (c) for treating part of a premium payable in prescribed circumstances in respect of a person as having been paid and for modifying the provisions mentioned in paragraph 4(1) in relation to a case in which such a part is so treated;
- (d) for treating a premium wrongly paid or an overpayment in respect of a premium as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the Social Security Contributions and Benefits Act 1992;
- (e) for the return of premiums paid in error or, in prescribed circumstances, of premiums which the [¹Inland Revenue are] satisfied ought to be repaid;
- (f) for the [¹Inland Revenue], in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;
- (g) for any other matters incidental to the payment, collection or return of premiums [²and in this sub-paragraph and the following provisions of this paragraph “premium” means a contributions equivalent premium].

[³(3A) Sub-paragraph (3B) applies in relation to a member of a contracted-out occupational pension scheme which is being wound up if, in the opinion of the [³Inland Revenue]—

- (a) the resources of the scheme are insufficient to meet the whole of the liability for the cash equivalent of the member’s rights under the scheme, and
- (b) if the resources of the scheme are sufficient to meet a part of that liability, that part is less than the amount required for restoring his State scheme rights.

(3B) Where this sub-paragraph applies—

- (a) regulations may provide for treating the member as if sections 46 to 48 or, as the case may be, section 48A(1) did not apply, or applied only to such extent as is determined in accordance with the regulations, and
- (b) the amount required for restoring the member’s State scheme rights, or a prescribed part of that amount, shall be a debt due from the trustees or managers of the scheme to the [¹Inland Revenue].

(3C) Regulations may make provision—

- (a) for determining the cash equivalent of a member’s rights under a scheme and the extent (if any) to which the resources of the scheme are insufficient to meet the liability for that cash equivalent,
- (b) for the recovery of any debt due under sub-paragraph (3B)(b), and
- (c) for determining the amount required for restoring a member’s State scheme rights including provision requiring the [¹Inland Revenue] to apply whichever prescribed actuarial table in force at the appropriate time is applicable.

(3D) Section 155 shall apply as if sub-paragraphs (3A) and (3B)(a), and regulations made by virtue of this sub-paragraph and sub-paragraph (3B)(b), were included among the provisions there referred to,

(3E) In sub-paragraphs (3A) and (3B), “State scheme rights”, in relation to a member of a scheme, are the rights for which, if the scheme had not been a contracted-out scheme, the member would have been eligible by virtue of section 44(6) of the Social Security Contributions and Benefits Act 1992 (earnings factors for additional pension).]

(4) The [¹Inland Revenue] may accept payments in connection with a case in which a premium or part of it is treated as having been paid.

(5)⁴

¹ Words in Sch. 2 para. 5 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 62(4) & (5).

² Words added (6.4.97) at end of para. 5(3) by s.141(2)(a)(iii) of Pensions Act 1995 (c.26).

³ Para. 5(3A)-(3E) inserted (6.4.97) by s.141(2)(b) of Pensions Act 1995 (c.26).

⁴ Words in Sch. 2 para. 5 substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, paras. 62(4) & (5).

Schemes covering different employers

6.—(1) Regulations may modify Chapters I and III of Part III (other than sections 8, 18, 19, 35, to 39, and 66 to 68), Chapter III of Part IV and Chapter II of Part V (except so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.

(2) Regulations under this paragraph may provide for the adjustment of rights and liabilities as between employers, earners and the trustees or managers.

Special provisions for certain public service pension schemes

7.— This paragraph applies to the following classes of employment, that is to say employment's in which an earner's service qualifies him for benefit under—

- 1947 c.41. (a) section 26 of the Fire Service Act 1947;
- 1976 c.35. (b) the Police Pensions Act 1976;
- 1972 c.11. (c) sections 7 to 10 of the Superannuation Act 1972.

(2) Where employment would fall within one of the classes specified in sub-paragraph (1) but for rules having effect under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as falling within that class and not within any other class to which this paragraph applies.

1948 c.33.

(3) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (1), that provisions shall be deemed to be included among the enactments so specified.

(4) In relation to employments of any class to which this paragraph applies the Secretary of State may by regulations—

- (a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked [¹by the Inland Revenue] instead of by the employer;
- (b) make provision for other things which by or under the provisions mentioned in paragraph 4(1) are required or authorised to be done by or to an employer to be done instead of by or to the [¹Inland Revenue]; Inland Revenue
- (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
- (d) make provision for the recovery by the [¹Inland Revenue] of any state scheme premium from any person where it has been paid by the [¹Inland Revenue] instead of by that person.

Incidental matters

8. Regulations may make provision—

- (a) for any incidental matters connected with the provisions mentioned in paragraph 4(1) in relation to any employment which is, has been or may become contracted-out employment; and
- (b) for any incidental matters otherwise connected with those provisions.

¹ Words in Sch. 2 para. 7(4) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 62(5).

PART II

PERSONAL PENSION SCHEMES

9.— Subject to the following provisions, paragraph 5 applies in relation to personal pension schemes as it applies to occupational pension schemes.

(2) In sub-paragraph (1) the words from “except” onwards and in sub-paragraph (2) the words “(except as they so apply)” shall be omitted.

[¹(2A) Sub-paragraphs (3) to (5) shall be omitted].

* * * * *

SCHEDULE 5

Sections 188, 189 and 190.

REPEALS
PART I
GENERAL

..... effects repeals see Annex 1.

[²PART II

PROVISIONS RELATING TO EQUAL ACCESS

* * * * *

SCHEDULE 6

TRANSITIONAL PROVISIONS AND SAVINGS

PART I
GENERAL PROVISIONS

1. In this schedule “the repealed enactments” means the enactments repealed or revoked by this act.

2.—(1) The substitution of this Act for the repealed enactments does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision of the repealed enactments has effect, if it could have been done under or for the purposes of the corresponding provision of this Act, as if done under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of this Act shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the repealed enactments has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any enactment, instrument or document to a provision of the repealed enactment’s shall be construed, so far as is required for continuing its effect as including a reference to the corresponding provision of this Act.

3. Where—

(a) this Act repeals an enactment relating to the coming into force of another provision, including—

¹ Para. 9(2A) substituted (6.4.97) for para. 9(3)-(5) by para. 84(e) of Sch. 5 to Pensions Act 1995 (c.26).

² The repeals specified in Part II of this Sch. have not been commenced and are now otiose, having been superseded by identical repeals, effective from 1.1.96, in the Pensions Act 1995 (c.26), Sch. 3 and Pt. I of Sch. 7.

- (i) an enactment deeming a provision always to have had effect, or to have had effect from a date earlier than that which would otherwise apply, or enabling regulations or an order made under a provision to be framed so as to have such an effect, and
- (ii) an enactment conferring power by regulations to provide or make savings in preparation for or in connection with the coming into force of a provision, and

(b) the effect of that provision is reproduced in this Act,

the repeal does not affect the operation of that enactment, in so far as it is not specifically reproduced in this Act but remains capable of having effect, in relation to the corresponding provision of this Act.

4.—(1) The repeal or revocation by this Act of an enactment previously repealed or revoked subject to savings does not affect the continued operation of those savings.

(2) The repeal or revocation by this Act of a saving to which a previous repeal or revocation of an enactment is subject does not affect the operation of the saving in so far as it is not specifically reproduced in this act but remains capable of having effect.

5. The repeal or revocation by this Act of an enactment which has effect as respects any provision of the repealed enactments (being a provision which is not reproduced in this Act but continues in effect by virtue of this Schedule or the Interpretation Act 1978) does not affect its operation as respects that provision.

6. Any document made, served or issued after this act comes into force which contains a reference to any of the repealed enactments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this act.

PART II SPECIFIC PROVISIONS

Contracting-out requirements for schemes providing guaranteed minimum pensions

7. An occupational pension scheme which—
- (a) at any time before the coming into operation for the first regulations made under—
 - (i) paragraph (a) of subsection 92) of section 32 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 9(2)(a) of this Act), or
 - (ii) subsection (8) of section 35 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 16(4) of this Act),
 did not satisfy that paragraph or, as the case may be, that subsection; but
 - (b) would have satisfied it if those regulations had then been in operation,
- shall, for the purpose of determining whether the scheme satisfied that paragraph or, as the case may be, that subsection, be treated as if those regulations had been in operation at that time.

8. Any document the contents of which are in terms corresponding to those of section 35(7) of the Social Security Pensions Act 1975, as that subsection stood immediately before the passing of the Social Security Act 1985 (which corresponded to subsection (2) of section 16 of this Act, but with the substitution for the words form “is terminated before” onwards of the words “is terminated before he attains the scheme’s normal pension age shall be determined for the purposes of section 14(2) without reference to any order that comes into force under section 21 of the Social Security Pensions Act 1975 after the relevant year in which his service ends”) shall be construed as if its contents were and always had been in terms corresponding to those of section 16(2) of this Act.

9. The requirement of the Social Security Pensions Act 1975 that for an occupational pension scheme to be contracted-out in relation to an earner’s employment it must provide requisite benefits shall, except so far as it relates to guaranteed minimum pensions, be treated for the purposes of section 37 of that Act as if it had never existed.

10.—(1) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme made an increase in the rate of pensions currently payable to the members of the scheme who had attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this sub-paragraph, they would be required to make under section 109 in the tax year 1990-91.

(2) Subsections (1) and (4) of section 110 shall apply to sub-paragraph (1) as they apply to subsections (2) and (3) of that section.

Overriding effect of certain requirements for existing contracted-out and appropriate schemes

11.¹

12. If immediately before 13th July 1990—

- (a) there was in force in relation to an occupational pension scheme a contracting-out certificate which stated that the scheme was contracted-out by virtue of section 32(2A) of the Social Security Pensions Act 1975, 1975 c.60.
- or
- (b) there was in force in relation to a personal pension scheme an appropriate scheme certificate

then, to the extent that the rules of the scheme are inconsistent with any provision of this Act derived from provision made by paragraph 19(1) or (2) or 20(1) to (3) of Schedule 6 to the Social Security Act 1989 (by virtue of which— 1989 c.24.

- (i) section 27(3) applies to all protected rights and not only such rights as are mentioned in section 10(2) or (3);
- (ii) section 28 includes subsection (1) and, in subsection (3), the words “Subject to subsections (5) and (7)”, the words from “except” to “subsection (4)” and the word “ shall”; and
- (iii) section 29 includes subsection (2) they shall be overridden by that provision.

Transactions discharging trustees

13. Without prejudice to section 16 of the Interpretation Act 1978—

- (a) as respects a transaction which took place before 1st January 1986, sections 19(1) and 81 have effect with the omission of paragraph (c), and 1978 c.30.
- (b) as respects a transaction which took place before 1st November 1986, section 19 has effect with the substitution for the references to guaranteed minimum pensions of references to requisite benefits.

Contributions equivalent premiums; earnings before 1987-88

14.—(1) Where an earner’s earnings paid in any period before the tax year 1987-88—

- (a) exceeded the lower earnings limit; but
- (b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,

it shall be assumed for the purposes of sections 58(4) and 61(2) that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them; and in this paragraph “Bracket 3” has the meaning given in section 9(3) of the Social Security Contributions and Benefits Act 1992.

(2) Section 63(3) applies for the purposes of sub-paragraph (1), in so far as it applies as respects section 58(4), as if the reference in paragraph (b) of section 63(3) to earnings included a reference to earnings relevant for any purpose of that sub-paragraph.

¹ Para. 11 deleted (6.4.97) by Pensions Act 1995 (c.26). Sch. 5. para. 86. and Sch. 7. Part III.

- (3) Where the [¹Inland Revenue have] acted in pursuance of section 63(3) as applied by sub-paragraph (2) and [¹they subsequently ascertain] the amount of those earnings—
- (a) if it appears to [¹them] that the amount of the contributions equivalent premium would have been less if [¹they] had not made the calculation on the basis described in sub-paragraph (1), [¹they] shall refund the difference to the prescribed person, and
 - (b) if it appears to the [¹Inland Revenue] that that premium would have been greater if [¹they] had not done so, the prescribed person shall pay the difference to [¹them].

Preservation

15. Without prejudice to paragraph 3, in any case where—

- (a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending with 27th February 1991, otherwise than on the termination of his service in relevant employment, and
- (b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,

1973 c.38.

paragraph 6(1) of Schedule 16 to the Social Security Act 1973 (which corresponded to section 71(1) of this Act) shall be taken at all items on and after 6th April 1988 to have had effect in relation to the member and his rights under the scheme with the amendment made by paragraph 5(1) of Schedule 4 to the Social Security Act 1990 (which substituted the words “pensionable service” for the words “service in relevant employment”).

1990 c.27.

Anti-franking

16.— If before 21st July 1989 an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Chapter III of Part IV shall apply in relation to him with the modifications set out in sub-paragraphs (2) and (3).

(2) In section 87—

- (a) in subsection (3) for the words “at any time” there shall be substituted the words “on the relevant date and at any time thereafter”;
- (b) after that subsection there shall be inserted—

“(3A) In subsection (3) “relevant date”—

 - (a) in the application of that subsection to a case where a scheme provides for any part of the pension in excess of the earner’s guaranteed minimum to commence from a date not more than 3 months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age, is to be construed in relation to the part of the pension as to which such provision is made as a reference to the date on which by virtue of it that part of the pension begins to be paid; and
 - (b) in any other case means the commencement of payment date.”;
- (c) in subsection (4) of that section paragraph (d) shall be omitted.

(3) Section 90 shall be omitted.

Modifications in consequence of enactment of Part I of the Social Security Act 1986

17.—(1) Regulations may provide that any provision of this Act to which section 154 applies shall have effect subject to such modifications (other than those which may be made by virtue of that section) as the Secretary of State may consider necessary or expedient in consequence of Part I of the Social Security Act 1986 or any provision of this Act deriving from that Part.

¹ Words in Sch. 6. para. 14(3) substituted (1.4.99) by Transfer of Functions Act 1999 (c.2), Sch. 1, para. 63.

(2) Regulations may provide that any provision contained in an Act to which this sub-paragraph applies shall have effect subject to such modifications as the Secretary of State may consider necessary or expedient in consequence of the provisions mentioned in sub-paragraph (1) or in consequence of any corresponding enactment extending to Northern Ireland.

- (3) The Acts to which sub-paragraph (2) applies are—
- (a) the Fire Services Act 1947;
 - (b) the Sheriffs' Pensions (Scotland) Act 1961;
 - (c) the Superannuation Act 1972;
 - (d) the Parliamentary and Other Pensions Act 1972;
 - (e) the Water Act 1973;
 - (f) the Police Pensions Act 1976;
 - (g) the Parliamentary Pensions Act 1978;
 - (h) the Judicial Pensions Act 1981;
 - (i) any Act which relates to the employment of persons by a harbour authority (within the meaning of section 57(1) of the Harbours Act 1964);
 - [¹(j) the Judicial Pensions and Retirement Act 1993.]

Savings for statutory instruments

18. The repeal by this Act of section 26 of the Social Security Act 1985 (misapplication of requirement that regulations be referred to the Board in the case of certain regulations made shortly after the commencement of that Act) shall not affect the validity of any regulations to which that section applied.

19. The repeal of subsection (2) of section 17A of the Social Security Act 1986 shall not affect the validity of any Order containing such provision as there mentioned (provision for the Secretary of State to make payments in relation to the provisions contained in Part I of that Act for any period beginning on or after 6th April 1987).

Provisions contained in this act by virtue of statutory instruments

20. Without prejudice to any express provision in this Act, where this Act repeals any provision contained in any enactment by virtue of any order or regulations (including a provision which has not come into force at the time of the repeal) and the provision is reproduced in this Act, the Secretary of State shall have the like power to make orders or regulations repealing or amending the provision of this act which reproduces the effect of the repealed provision as he had in relation to that provision.

Saving for application of general provisions relating to social security

21. The repeals made by this Act do not affect the operation of section 66(2) of the Social Security Pensions Act 1975 (or of any other provision in that Act or any other enactment as it applies by virtue of that section), so far as it is not given effect to in this act but remains capable of having effect (and paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 shall continue to have effect accordingly).

Saving for section 7 of the Social Security Act 1986

22. the repeal by this Act of section 7 of the Social Security Act 1986 (schemes becoming contracted-out between 1986 and 1993) or of any reference to that section in another of the repealed enactments does not affect—

- (a) the operation of that section so far as it is not reproduced in this Act but remains capable of having effect; or
- (b) the operation of that enactment so far as the reference is not reproduced in the corresponding provision of this Act and that enactment remains capable of having effect in relation to that section.

¹ Para. 17(3)(j) came into effect on 31.3.95, at which date, in consequence of para. 1(1) of Sch. 9 below, para. 7(3) of that Schedule ceased to have effect.

PENSION SCHEMES ACT 1993 (c.48)

SCHEDULE 7

RE-ENACTMENT OR AMENDMENT OF CERTAIN PROVISIONS NOT IN FORCE

The Equal Pay Act 1970 (c. 41)

1. *repealed by 1995 c. 26, see Annex 1, page 5. 1701*

[¹the Social Security Act 1989 (c. 24)

2. *In Schedule 5 to the Social Security Act 1989-*

(a) *in paragraph 2(8) for the words "section 84(1) of the 1986 Act" there shall be substituted the words "section 181(1) of the Pension Schemes Act 1993",*

(b) *in paragraph 7(d) for the words "the meaning given by section 51(3)(b) of the 1973 Act" there shall be substituted the words "the same meaning as "public service pension scheme" in section 1 of the Pension Schemes Act 1993",*

(c) *in paragraph 8 for the words "section 15(1) of the 1986 Act" there shall be substituted the words "section 160(1) of the Pension Schemes Act 1993".]*

This Act

3. *.....repealed by 1995 c.26. see Annex 1*

SCHEDULE 8

CONSEQUENTIAL AMENDMENTS

..... makes textual amendments, see Annex 1

Sections 191 and 193(2).

SCHEDULE 9

TRANSITORY MODIFICATIONS

1.—(1) If-

(a) no date has been appointed as the date on which a provision mentioned in column 1 of the following Table is to come into force before the commencement date, or

(b) a date has been appointed which is later than the commencement date,

then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect until the appointed day.

¹ Prosp.

TABLE

<i>Provision</i>	<i>Paragraph of this Schedule</i>	
(i) Section 69(7) of the Social Security Act 1973	Paragraph 2.	1973 c.38.
[¹]		
(vi) Section 82(2) of the Courts and Legal Services Act 1990. ²	Paragraph 5.	1990 c.41.
(vii) Paragraph 23 of Schedule 16 to the Friendly Societies Act 1992. ³	Paragraph 6.	1992 c.40.
(viii) Paragraph 12 of Schedule 8 to the Judicial Pensions and Retirement Act 1993 ⁴	Paragraph 7(1).	1993 c.8.
(ix) Paragraph 18(1) of Schedule 8 to the Judicial Pensions and Retirement Act 1993. ⁵	Paragraph 7(2).	
(x) Paragraph 18(2) of Schedule 8 to the Judicial Pensions and Retirement Act 1993. ⁵	Paragraph 7(3).	

(2) If—

- (a) a date has been appointed as the date on which a provision mentioned in column 1 of the Table in sub-paragraph (1) is to come into force for some purposes of that provision but not for others, and
- (b) that date is on or before the commencement date,

then the paragraph mentioned in column 2 of the Table opposite that provision shall have effect for those other purposes of that provision (in so far as it is capable of doing so until the relevant appointed day.

(3) In this paragraph—

“the commencement date” means the date⁶ on which the provisions of this Act other than those mentioned in subsection (3) of section 193 come into force by virtue of an order under subsection (2) of that section;

“the appointed day”, in relation to a provision mentioned in column 1 of the Table in sub-paragraph (1), means—

- (a) in the case mentioned in paragraph (a) of sub-paragraph (1), such day as may be appointed by order for the purposes of that provision—
 - (i) in the case of the provision mentioned in paragraphs (i)⁷ of that Table, by the Secretary of State;
 - (ii) in the case of the provision mentioned in paragraph (vi) of that Table, by the Lord Chancellor or by the Secretary of State or by both acting jointly;
 - (iii) in the case of the provision mentioned in paragraph (vii) of that Table, by the Treasury; and

¹ Entries (ii)-(v) in Table in para. 1(1) repealed (6.4.97) by para. 16(2)(a) of Sch. 6, and by Part IV of Sch. 7. to Pensions Act 1995 (c.26).

² Under art. 2 of S.I. 1995/641 (C.16). s.82 of the Courts and Legal Services Act 1990 came into force on 6.3.95.

³ The day appointed under Sch. 6 to S.I. 1990/2213 (C.43) for bringing into force the para. 23 referred to in para. 1(1)(vii) of this Schedule was 1.1.94.

⁴ The day appointed under art. 2 of S.I. 1995/631 (C.15) for bringing into force the Judicial Pensions and Retirement Act 1993 was 31.3.95.

⁵ The day appointed under art. 2 of S.I. 1995/631 (C.15) for bringing into force the Judicial Pensions and Retirement Act 1993 was 31.3.95.

⁶ 7.2.94. under S.I. 1994/86 (C.3).

⁷ Para. 1(3)(a)(i) amended (6.4.97) by para. 16(2)(b) of Sch. 6 to Pensions Act 1995 (c.26) so as to refer only to the provision mentioned in paragraph (i) of the said Table.

- (iv) in the case of the provisions mentioned in paragraphs (viii) to (x) of that Table, by the appropriate Minister (within the meaning of section 30(1) of the Judicial Pensions and Retirement Act 1993); and
 - (b) in the case mentioned in paragraph (b) of that sub-paragraph, the day appointed as the day on which that provision is to come into force.
- (4) An order under sub-paragraph (3) may—
- (a) appoint different days for different provisions or for different purposes of the same provision;
 - (b) in the case of an order appointing a day until which paragraph 2 has effect, may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with section 163(9), and may make such adaptations of that section or of any provision of this Act deriving from the Social Security Act 1973 as appear to the Secretary of State to be necessary or expedient in consequence of the postponed (or partly postponed) operation of that section (whether before on or after the day appointed by the order);
 - (c) in the case of an order appointing a day until which paragraph 5 has effect, may contain such incidental, supplemental or transitional provisions or savings as the person making it considers expedient;
 - (d) in the case of an order appointing a day until which paragraph 6 has effect, may make such transitional provision or savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the bringing into force of the words which have effect by virtue of that order;
 - (e) in the case of an order appointing a day until which paragraph 7 has effect, may make such transitional, consequential, supplementary or incidental provision or savings (whether or not involving the modification of the operation of the Judicial Pensions and Retirement Act 1993 or any other enactment) as appear to the appropriate Minister (within the meaning of section 30(1) of that Act) to be necessary or expedient for the purposes of or in connection with the bringing into force of the provisions which have effect by virtue of that order;

and in sub-paragraph (2) “the relevant appointed day”, in relation to any purpose of a provision, means the day appointed as the day on which the provision is to come into force for that purpose.

(5)¹

(6) The Treasury may by regulations make such transitional and consequential provisions and such savings as they consider necessary or expedient in preparation for or in connection with or in consequence of the coming into force of the words which come into force when paragraph 6 ceases to have effect and such regulations may make modifications of any enactment contained in the Friendly Societies Act 1992 or in any other Act. *Rule against perpetuities*

2. In section 163, subsection (9) shall be omitted.

3-4²

Courts and legal services

5. In section 111, subsection (3) shall be omitted.

Para. 5 above ceased to have effect: see para 1(1) of this Schedule including footnote to para. 1(1)(vi).

Friendly Societies

6. In section 162(4)(c)(i), for the words “section 65A” there shall be substituted the words “section 65(2)”.

¹ Para. 1(5) repealed (6.4.97) by Pensions Act 1995 (c.26). Sch. 6. para. 16(2)(c) and Part IV of Sch. 7.

² Paras. 3 and 4 repealed (6.4.97) by Pension Act 1995 (c.26). Sch. 6. para. 16(3) and Part IV of Sch. 7.

Judicial pensions

7.—(1) In section 146, subsection (3) shall be omitted.

(2) In section 111(3), the words “the Judicial Pensions and Retirement Act 1993” shall be omitted.

(3) In Schedule 6, paragraph 17(3)(j), shall be omitted.

Para. 7 above ceased to have effect on 31.3.95; see para. 1(1) of this Schedule, including footnote to heads (viii) to (x) thereof.