



Social Security Act 1986

1986 CHAPTER 50

PART I

PENSIONS

Personal pension schemes

1 Minimum contributions to personal pension schemes

- (1) Subject to the following provisions of this Part of this Act, the Secretary of State shall pay, except in such circumstances as may be prescribed, minimum contributions in respect of an employed earner for any period during which the earner—
 - (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.
- (2) Regulations may make provision as to the manner in which, and time at which or period within which, minimum contributions are to be paid.
- (3) Subject to subsection (4) below, the Secretary of State shall pay minimum contributions in respect of an earner to the trustees or managers of the earner's chosen scheme.
- (4) In such circumstances as may be prescribed the Secretary of State shall pay minimum contributions to a prescribed person.
- (5) Where any of the conditions mentioned in subsections above ceases to be satisfied in the case of an earner in respect of whom the Secretary of State is required to pay minimum contributions, the duty of the Secretary of State to pay them shall cease as from a date determined in accordance with regulations.

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- (6) If the Secretary of State pays an amount by way of minimum contributions which he is not required to pay, he may recover it from the person to whom he paid it or from any person in respect of whom he paid it.
- (7) If he pays in respect of an earner an amount by way of minimum contributions which he is required to pay, but does not pay it to the trustees or managers of the earner's chosen scheme, he may recover it from the person to whom he paid it or from the earner.
- (8) A personal pension scheme is an appropriate scheme if there is in force a certificate (in this Act referred to as an "appropriate scheme certificate") issued by the Occupational Pensions Board in accordance with section 2 below that it is such a scheme.
- (9) Where an earner and the trustees or managers of an appropriate personal pension scheme have jointly given notice to the Secretary of State, 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 the scheme and wishes minimum contributions in respect of him to be paid to the scheme;
 - (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive minimum contributions in respect of him,that scheme is the earner's chosen scheme 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.
- (10) Either an earner or the trustees or managers of a scheme may cancel a notice under subsection (9) above by giving notice to that effect to the Secretary of State at such time and in such manner and form as may be prescribed.
- (11) Where a notice under subsection (10) above 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.

2 Appropriate schemes

- (1) Regulations shall provide—
 - (a) for the issue of appropriate scheme certificates by the Occupational Pensions Board;
 - (b) for the cancellation, variation or surrender of any such certificate, or the issue of an amended certificate, on any relevant change of circumstances; and
 - (c) that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the Board.
- (2) A scheme can be an appropriate scheme only if the requirements imposed by or by virtue of Schedule 1 to this Act are satisfied in its case.
- (3) An appropriate scheme certificate may be withheld or cancelled by the Board if they consider that there are circumstances which make it inexpedient that it should be or continue to be an appropriate scheme, notwithstanding that they would otherwise issue such a certificate or not cancel such a certificate.
- (4) Where by or by virtue of any provision of Schedule 1 to this Act a scheme's being an appropriate scheme depends on the satisfaction of a particular condition, 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 an appropriate scheme certificate.

- (5) Except in prescribed circumstances, no appropriate scheme certificate and no cancellation, variation or surrender of such a certificate shall have effect from a date earlier than that on which the certificate is issued or the cancellation, variation or surrender is made.
- (6) 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.
- (7) Every assignment of or charge on and every agreement to assign or charge protected rights or payments giving effect to protected rights shall be void.
- (8) On the bankruptcy of a person who is entitled to protected rights or a payment giving effect to protected rights, any protected rights or payment the assignment of which is or would be made void by subsection (7) above shall not pass to any trustee or person acting on behalf of his creditors.
- (9) In the application of this section to Scotland—
 - (a) references to assignment shall be construed as references to assignation and "assign" shall be construed accordingly; and
 - (b) the reference to a person's bankruptcy shall be construed as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980.

3 Amount of minimum contributions

- (1) Subject to subsection (2) below, in relation to any tax week falling within a period for which the Secretary of State is required to pay minimum contributions in respect of an earner, the amount of those contributions shall be the aggregate of—
 - (a) the rebate percentage of so much of any earnings paid to or for the benefit of the earner with respect to any employment which is not contracted-out employment in relation to him as exceeds the lower earnings limit but does not exceed the upper earnings limit; and
 - (b) where the tax week ends before 6th April 1993, 2 per cent, of any such earnings or, if 2 per cent of any such earnings is less than £1.00 and the prescribed person applies within such time, in such form and manner and with such supporting evidence as may be prescribed, £1.00.
- (2) In relation to earnings paid with respect to any such employment as may be prescribed, subsection (1) above shall have effect as if the words "the aggregate of" and paragraph (b) and the word "and" immediately preceding it were omitted.
- (3) In subsection (1) above—
 - "employment" means employed earner's employment; and
 - "rebate percentage" means the percentage arrived at by adding—
 - (a) the percentage by which for the time being under section 27(2) of the Social Security Pensions Act 1975 the contracted-out percentage of primary Class 1 contributions is less than the normal percentage; and
 - (b) the percentage by which for the time being under that subsection the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.

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- (4) The references to the upper and lower earnings limits in subsection (1)(a) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the Social Security Act 1975.
- (5) Regulations may provide—
- (a) that earnings shall 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;
 - (c) for the intervals at which, for the purposes of minimum contributions, payments of earnings are to be treated as made;
 - (d) 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 and as if in any case so prescribed for the references to £1.00 in subsection (1)(b) above there were substituted references to such other sum as may be prescribed.

4 Effect of payment of minimum contributions on rate of certain benefits

- (1) Where for any period minimum contributions have been paid in respect of an earner, sections 16(2B), 28(7A) and 59 (1A) of the Social Security Act 1975 and section 29 of the Social Security Pensions Act 1975 shall have effect—
- (a) in relation to him, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;
 - (b) in prescribed circumstances, in relation to any widow or widower of the earner—
 - (i) if the earner died after reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a) above; and
 - (ii) if the earner died before reaching pensionable age, as if the widow or widower were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.
- (2) The power to prescribe a rate conferred by subsection (1) (a) above includes power to prescribe a nil rate.

5 Personal pension protected rights premium

- (1) In the case of a personal pension scheme which is or has been an appropriate scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be an appropriate scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.
- (2) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise) and the Board either—
- (a) have withdrawn their approval of previously approved arrangements relating to it; or
 - (b) have declined to approve arrangements relating to it,

the Board may issue a certificate to that effect.

- (3) A certificate issued under subsection (2)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.
- (4) If the scheme ceases to be an appropriate scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances—
 - (a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements; and
 - (b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements.
- (5) A premium under subsection (4) above may be referred to as a " personal pension protected rights premium ".
- (6) If at any time regulations are in force by virtue of which section 52C of or paragraph 16 of Schedule 1A to the Social Security Pensions Act 1975 has effect in relation to personal pension schemes, subsection (4)(a) above shall have effect as if after the word " arrangements " there were inserted the words " and have not been disposed of so as to discharge the trustees or managers of the scheme under section 52C of or paragraph 16 of Schedule 1A to the Social Security Pensions Act 1975 ".
- (7) A personal pension protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Secretary of State.
- (8) The amount of a personal pension protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.
- (9) Where a personal pension protected rights premium is paid in respect of a person—
 - (a) the rights whose cash equivalent is included in the premium shall be extinguished; and
 - (b) section 4 above and section 29(2) and (2A) of the Social Security Pensions Act 1975 shall have effect in relation to that person and a widow or widower of that person as if any guaranteed minimum pension to which that person or any such widow or widower is treated as entitled under those provisions and which derives from the minimum contributions, minimum payments (within the meaning of the Social Security Pensions Act 1975) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.
- (10) In subsection (9) above " the appropriate percentage " means, subject to the following provisions of this section,
$$\frac{X}{Y} \times 100$$
, where—
 - (a) X = the amount of the premium together with, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—
 - (i) the cash equivalent, calculated and verified in the prescribed manner and paid to the Secretary of State within the prescribed period, of any

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- other rights which he has under the scheme and specifies in the notice;
and
- (ii) the amount of any voluntary contribution paid to the Secretary of State within the prescribed period by, or in respect of, the person concerned ; and
- (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in subsection (9) above.
- (11) If the appropriate percentage, as calculated under subsection (10) above, would fall between two whole numbers, it is to be taken to be the lower number.
- (12) If it would be over 100, it is to be taken to be 100.
- (13) The remainder after the reduction for which subsection (9) above provides—
- (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence ; and
- (b) if it would be less than a prescribed amount, is to be treated as nil.
- (14) The power to make regulations conferred by subsections (8) and (10) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons;
- (b) by persons with prescribed professional qualifications or experience; or
- (c) by persons approved by the Secretary of State,
- and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.
- (15) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Secretary of State, and in calculating and certifying it the Secretary of State—
- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables; and
- (b) may make such adjustments as he thinks necessary for avoiding fractional amounts.