

SCHEDULES

SCHEDULE 6

Section 24.

OCCUPATIONAL AND PERSONAL PENSIONS

Social Security Act 1973 (c. 38)

- 1 Section 51(7) of the 1973 Act (which provides for regulations freeing earners from liability to join pension schemes of certain kinds and which is superseded by section 15 of the 1986 Act) shall cease to have effect.
- 2 (1) At the beginning of subsection (2) of section 58 of that Act (meaning of “linked qualifying service”) there shall be inserted the words “Subject to subsections (2A) and (2B) below” and after that subsection there shall be inserted—
- “(2A) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.
- (2B) As respects any case where the rules of a scheme provide—
- (a) that an earner is not entitled to become a member unless he satisfies specified conditions, but
- (b) that, if he becomes a member, rights are to accrue to him in respect of periods of service before he satisfied any such conditions,
- regulations may provide for any such periods to be treated, in such cases and to such extent as may be prescribed, as linked qualifying service with later periods of service.”
- (2) In section 99(1) of that Act (interpretation) in the definition of “linked qualifying service” for the words “section 58(2)” there shall be substituted the words “section 58(2), (2A) and (2B)”.
- 3 In section 64 of that Act (modification of occupational pension schemes by order of the Occupational Pensions Board) after subsection (10) there shall be inserted—
- “(10A) Regulations may provide that in prescribed circumstances subsection (7) above shall not apply or shall apply with prescribed modifications.”
- 4 In Schedule 16 to that Act (preservation of benefit under occupational schemes)—
- (a) in paragraph 2, for the words “his wife or widow” there shall be substituted the words “the member’s wife or husband, widow or widower”;
- (b) in paragraph 15(2) and (3)(a) for the words “member’s widow or a dependant of his” there shall be substituted the words “widow or widower or a dependant of the member”;
- (c) in paragraphs 15(4) and 16(3)(b), for the word “widow” there shall be substituted the words “widow or widower”; and

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- (d) in paragraph 17(1), for the words “his widow or a dependant” there shall be substituted the words “a member’s widow or widower or dependant”.

Social Security Pensions Act 1975 (c. 60)

- 5 In section 35 of the Pensions Act (earner’s guaranteed minimum) after subsection (2) there shall be inserted—

“(2A) Where the amount of a person’s earnings for any period is relevant for any purpose of subsection (1) or (2) above and the Secretary of State is satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, he may for that purpose—

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

- 6 (1) In section 41A of that Act (protection of earners' pensions) in subsection (1C) (which defines the “relevant aggregate”) after paragraph (c) there shall be added the words “and

- (d) in the case of an earner whose later earnings level is higher than his termination earnings level, the later earnings addition.”

- (2) After subsection (2) there shall be inserted—

“(2A) In this section “the later earnings addition” means an amount equal to the difference between the relevant sum and what that sum would have been had the benefits in question been calculated by reference to the earner’s later earnings level.

- (2B) In this section—

“later earnings level” means the level of earnings by reference to which the benefits which constitute the relevant sum would have been calculated had the termination of employment date fallen on the cessation date;

“termination earnings level” means the level of earnings by reference to which those benefits would have been calculated had the cessation date fallen on the termination of employment date; and

“the cessation date” means the earlier of—

- (a) the date on which the earner ceased to be employed in relevant employment; and
- (b) the relevant date, within the meaning of subsection (1) above.”

- (3) In subsection (11) (definitions) for the words ““short service benefit” is” there shall be substituted the words ““relevant employment” and “short service benefit” are”.

- 7 (1) In section 41B of that Act (protection of widows' pensions) in subsection (1A) (which defines the “relevant aggregate”) after paragraph (c) there shall be added the words “and

- (d) in a case where the earner’s later earnings level was higher than his termination earnings level, the later earnings addition.”

- (2) After subsection (3) there shall be inserted—

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“(3A) In this section “the later earnings addition” means an amount equal to the difference between the relevant sum and what that sum would have been had the pension in question been calculated by reference to the earner’s later earnings level.

(3B) In this section—

“later earnings level” means the level of earnings by reference to which the pension which constitutes the relevant sum would have been calculated had the termination of employment date fallen on the cessation date;

“termination earnings level” means the level of earnings by reference to which that pension would have been calculated had the cessation date fallen on the termination of employment date; and

“the cessation date” means the earlier of—

- (a) the date on which the earner ceased to be employed in relevant employment; and
- (b) the date which, in relation to the earner, was the relevant date within the meaning of section 41A(1) above.”

(3) After subsection (5) of that section there shall be inserted—

“(6) In this section “relevant employment” shall be construed in accordance with Schedule 16 to the Social Security Act 1973.”

8 (1) In section 41C of that Act (which, among other things, provides for sections 41A and 41B to override provisions of pension schemes) in subsection (3) (exceptions)—

- (a) in paragraph (a)(ii) the words “or 39 above” shall be omitted; and
- (b) after paragraph (c) there shall be added the words “and
- (d) any provision of a scheme to the extent that it deals with commutation of the whole or part of a pension.”

(2) Sub-paragraph (1) above shall be deemed to have come into force on 1st November 1986 (the date on which the repeal of section 39(2) and (3) of that Act took effect).

9 (1) In section 43 of that Act (which relates to the premium on termination of contracted-out employment) after subsection (1A) there shall be inserted—

“(1B) Where the amount of a person’s earnings for any period (whether before or after the passing of this Act) is relevant for any purpose of subsection (1) or (1A) above and the Secretary of State is satisfied that records of those earnings have not been maintained or retained or are otherwise unobtainable, he may for that purpose—

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

(1C) Where—

- (a) the Secretary of State subsequently ascertains the amount of those earnings, and
- (b) it appears to him that the amount of the premium would have been different if he had not made the calculation on the basis described in subsection (1A) above,

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he shall refund to the prescribed person the amount by which it would have been less or, as the case may be, the prescribed person shall pay to the Secretary of State the amount by which it would have been more.”

- (2) At the beginning of subsection (2A) of that section (meaning of “linked qualifying service”) there shall be inserted the words “Subject to subsection (2B) below” and after that subsection there shall be inserted—
- “(2B) Only so much of the earlier period as is a period of service in respect of which there accrued under the first scheme any of the rights transferred to the second scheme shall be linked qualifying service in relation to the later period of service.”
- (3) In section 66(1) of that Act (interpretation) in the definition of “linked qualifying service” for the words “section 43(2A)” there shall be substituted the words “section 43(2A) and (2B)”.
- 10 (1) In section 44 of that Act (premium on termination of contracted-out scheme) for subsection (5A) (earnings deemed to equal upper earnings limit where their amount is not readily ascertainable) there shall be substituted—
- “(5A) Where, in calculating the costs referred to in subsection (5) above, the Secretary of State cannot readily ascertain the amount of any earnings in a tax week, he may for the purpose of calculating those costs—
- (a) compute, in such manner as he thinks fit, an amount which shall be regarded as the amount of those earnings, or
- (b) take their amount to be such sum as he may specify in the particular case,
- and he may certify the costs accordingly.”
- (2) In subsection (5B) of that section (refund where true amount of earnings ascertained)
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- (a) in paragraph (b) for the word “less” there shall be substituted the word “different”; and
- (b) at the end of that subsection there shall be added the words “or, as the case may be, the prescribed person shall pay to the Secretary of State the amount by which it would have been more.”
- 11 In section 44A(1) of that Act (circumstances in which transfer premiums may be paid) for paragraph (c) there shall be substituted—
- “(c) the scheme to which his accrued rights are transferred is neither a contracted-out scheme nor one which was formerly contracted-out and in respect of which the Occupational Pensions Board have duties under section 49 below at the time of the transfer; and”.
- 12 In section 45(3) of that Act (election as to method of computation where guaranteed minimum pension excluded from full revaluation)—
- (a) the words “unless the person liable for the premium elects in the prescribed manner that this subsection shall not apply” shall cease to have effect; and
- (b) after paragraph (b) of that subsection there shall be added the words—“but this subsection shall not apply in any case where its application would result in the amount of the premium being greater than it would have been apart from this subsection.”

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13 (1) In section 52A of that Act (Secretary of State to specify revaluation percentage) in subsection (3) for the words from “, in the light” onwards there shall be substituted the words “to be the percentage increase in the general level of prices obtaining in Great Britain during the period which is the reference period in relation to that revaluation period, estimated in such manner as he thinks fit.”

(2) For subsection (8) of that section (calculation of revaluation percentage where price increases exceed 5 per cent. per annum) there shall be substituted—

“(8) Where, apart from this subsection, the revaluation percentage in relation to a revaluation period would exceed the maximum rate, the Secretary of State shall instead specify as the revaluation percentage for that period a percentage equal to the maximum rate.

(9) For the purposes of subsection (8) above, “the maximum rate”, in relation to a revaluation period, is—

- (a) in the case of a revaluation period of 12 months, 5 per cent.; and
- (b) in any other case, the percentage that would be the revaluation percentage had the general level of prices increased at the rate of 5 per cent. compound per annum during the reference period in question.”

14 In section 52C(1) of that Act (discharge of scheme’s liability to provide benefits etc) paragraph (b) shall have effect, and be deemed always to have had effect, with the words following sub-paragraph (i) set out as follows—

“(i) short service benefit, or an alternative to short service benefit,

for or in respect of that person being appropriately secured; and”.

Social Security (Miscellaneous Provisions) Act 1977 (c. 5)

15 In section 21 of the Social Security (Miscellaneous Provisions) Act 1977 (election as to method of computation where guaranteed minimum pension preserved under approved arrangements) in subsection (1)—

- (a) the words “unless the prescribed person otherwise elects in the prescribed manner” shall cease to have effect; and
- (b) after paragraph (b) there shall be added the words—

“but this subsection shall not apply in any case where the application of those provisions would result in the amount of the guaranteed minimum being greater than it would have been apart from this subsection.”

Social Security Act 1986 (c. 50)

16 In section 9(4) of the 1986 Act (which specifies provisions of the Pensions Act relating to guaranteed minimum pensions which are to be construed as if “widow” included “widower”)—

- (a) in paragraph (f), after the words “section 41B(1)(c)” there shall be inserted “and (i)”; and
- (b) after paragraph (h) there shall be inserted—

“(i) paragraphs 8(b) and 13(6) of Schedule 1A”.

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- 17 The following section shall be inserted after section 17 of that Act—
- “17A Reciprocity with other countries**
- (1) Section 143 of the Social Security Act 1975 (Orders in Council providing for reciprocity) shall apply as if any reference to that Act included a reference to this Part of this Act.
- (2) An Order in Council made by virtue of subsection (1) above 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.”
- 18 In section 87(1) of that Act (provisions which extend to Northern Ireland) in paragraph (a) for the words “section 17(2)” there shall be substituted the words “section 17(1) and (2)”.
- 19 (1) In Schedule 1 to that Act (appropriate personal pension schemes) in sub-paragraphs (4) and (5) of paragraph 7 (calculation and verification of value of protected rights such as are mentioned in sub-paragraph (2) of that paragraph) the words “such as are mentioned in sub-paragraph (2) above” shall be omitted.
- (2) In paragraph (a) of sub-paragraph (4) of that paragraph, after the word “shall” there shall be inserted the words “in the case of any such protected rights as are mentioned in sub-paragraph (2) above”.
- 20 (1) For paragraph 8 of that Schedule there shall be substituted—
- “8 The rules shall provide for effect to be given to the protected rights of a member—
- (a) in any case where sub-paragraph (2) of paragraph 9 below so requires, by the purchase of such an annuity as is mentioned in that sub-paragraph, and
- (b) in any other case, in such of the ways permitted by that paragraph as the rules may specify,
- and they shall not provide for any part of a member’s protected rights to be discharged otherwise than in accordance with that paragraph.”
- (2) Sub-paragraph (2) of paragraph 9 of that Schedule (cases in which protected rights may be given effect by purchase of annuity) shall be amended as follows—
- (a) at the beginning there shall be inserted the words “Subject to sub-paragraphs (4) and (6) below”; and
- (b) for the words “effect may be given to protected rights” there shall be substituted the words “then, except to the extent that effect is given to protected rights in accordance with sub-paragraph (3) below, effect shall be given to those rights”.
- (3) After sub-paragraph (7) of that paragraph (half rate pension or annuity for earner’s widow or widower etc) there shall be inserted—
- “(7A) As respects the period of 5 years beginning with the commencement of the pension or annuity referred to in sub-paragraph (7) above, that sub-paragraph shall have effect in relation to that pension or annuity as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).”

The Occupational Pension Schemes (Contracting-out) Regulations 1984 (S.I.1984/380)

- 21 (1) In regulation 22 of the Occupational Pension Schemes (Contracting-out) Regulations 1984 (additional requirement alternative to limited revaluation premium) in paragraphs (3A) and (7A) (which were inserted by regulation 2 of the Contracting-out (Miscellaneous Amendments) Regulations 1988 and which provide for the rate of increase to be 7½ per cent. in certain cases) for the words “and in relation to another scheme,” there shall be substituted the words “(and whether in relation to the same or another scheme)”.
- (2) The amendment by sub-paragraph (1) above of a provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision.
- (3) This paragraph shall be deemed to have come into force on 6th April 1988.