



# Pension Schemes (Northern Ireland) Act 1993

## 1993 CHAPTER 49

### PART XII

#### SUPPLEMENTARY PROVISIONS

##### *Interpretation*

#### **173 Managers of schemes**

The Department may by regulations provide who is to be treated as a manager of an occupational pension scheme for any of the purposes of the provisions of this Act (except Chapter II of Part VII or section 153), the Social Security Acts (Northern Ireland) 1975 to 1991, or Part VI of the Social Security Administration (Northern Ireland) Act 1992.

#### **174 Linked qualifying service**

- (1) Subject to subsections (2) to (4), for the purposes of this Act any period of an earner's service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—
- (a) under the rules of a scheme applying to him in the earlier period of service—
    - (i) there was made a transfer of his accrued rights under that scheme (including any transfer credits allowed under the scheme) to another scheme applying to him in the later period of service; or
    - (ii) those rights were secured by a policy of insurance or an annuity contract and were subsequently transferred to another scheme applying to him in the later period of service; and
  - (b) in consequence of the transfer of his accrued rights to the second scheme, there are (or were) allowed to him transfer credits under the rules of that other scheme.

- (2) For any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.
- (3) 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.
- (4) For the purposes of Chapter I of Part IV, as respects any case where the rules of the 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.

#### **175 Normal pension age**

- (1) In this Act “normal pension age”, in relation to a scheme and a member’s pensionable service under it, means—
  - (a) in a case where the scheme provides for the member only a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies; and
  - (b) in any other case, the earliest age at which the member is entitled to receive benefits (other than a guaranteed minimum pension) on his retirement from such employment.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

#### **176 General interpretation**

- (1) In this Act—
  - “accrued rights premium” has the meaning given in section 51(6)(a);
  - “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 3;
  - “the Assembly” means the Northern Ireland Assembly;
  - “the Board” means the Occupational Pensions Board;
  - “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 (Northern Ireland) Act 1992; “contract of service” has the same meaning as in section 121(1)

of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; “contracted-out employment” shall be construed in accordance with section 4; “contracted-out protected rights premium” has the meaning given in section 51(6)(c); “contracting-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 3; “contributions equivalent premium” has the meaning given in section 51(6)(e); “the Department” means the Department of Health and Social Services for Northern Ireland; “the Department of Finance and Personnel” means the Department of Finance and Personnel in Northern Ireland; “earner” and “earnings” shall be construed in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; “earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; “employed earner” has the same meaning as in section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; “employee” means a person gainfully employed in Northern Ireland 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—
- (c) 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”; “equal access requirements” has the meaning given in section 114(1); “government department” includes a department of the government of the United Kingdom; “guaranteed minimum pension” has the meaning given in section 4(2);

“independent trade union” has the meaning given in Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992;

“industrial tribunal” means a tribunal established or having effect as if established under Article 30 of the Industrial Training (Northern Ireland) Order 1984;

“the Inland Revenue” means the Commissioners of Inland Revenue;

“insurance company” has the meaning given in section 96(1) of the Insurance Companies Act 1982;

“limited revaluation premium” has the meaning given in section 51(6)(g);

“linked qualifying service” has the meaning given in section 174;

“long-term benefit” has the meaning given in section 20(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and “current”, in relation to those limits, means for the time being in force;

“minimum contributions” shall be construed in accordance with sections 39 to 41;

“minimum payment” has the meaning given in section 4(2);

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

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“modifications” includes additions, omissions and amendments;

“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 4(1)(a)(ii);

“money purchase scheme” has the meaning given in section 1;

“National Insurance Fund” means the Northern Ireland National Insurance Fund;

“normal pension age” has the meaning given in section 175;

“occupational pension scheme” has the meaning given in section 1;

“pensionable age” has the same meaning as in section 121 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“pensionable service” has the meaning given in section 66(2);

“pensioner’s rights premium” has the meaning given in section 51(6)(b);

“personal pension protected rights premium” has the meaning given in section 51(6)(d);

“personal pension scheme” has the meaning given in section 1;

“prescribe” means prescribe by regulations;

“the prescribed equivalent” means the equivalent prescribed under sections 6(1) and 8(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the preservation requirements” has the meaning given in section 65(2);

“primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in section 6 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“protected rights” has the meaning given in section 6;

“public service pension scheme” has the meaning given in section 1;

“the register” has the meaning given in section 2;

“the Registrar” has the meaning given in section 2;

“regulations” means regulations made by the Department under this Act;

“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 69, 132 or 174) or transfer credits, includes rights to benefit and also options to have benefits paid in a particular form or at a particular time;

“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;

“short service benefit” has the meaning given in section 67(2);

“state scheme premium” means a state scheme premium under Chapter III of Part III or under any corresponding provision in force in Great Britain;

“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;

“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);

“transfer premium” has the meaning given in section 51(6)(f);

“voluntary contributions requirements” has the meaning given in section 107(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 (Northern Ireland) Act 1992.

- (2) References to employers in the provisions of this Act (other than sections 119 to 123, 153, 156 and section 133 so far as it relates to the voluntary contributions requirements (“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 section 2, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171) 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.
- (4) Regulations may for any purpose of any provision of this Act (other than the excluded provisions or section 2, 23, 24, 25, 27, 28, 39, 40, 107, 156, 160 or 161) 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 161 and 162—
  - (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
  - (b) references to Northern Ireland include references to the territorial waters of the United Kingdom adjacent to Northern Ireland.
- (6) Any reference in section 180 or 181 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) The Interpretation Act (Northern Ireland) 1954 shall apply to this Act—
  - (a) as it applies to a Measure of the Assembly;
  - (b) as if any reference in that Act to an enactment or an Act included a reference to this Act.
- (8) For the purposes of Part III of the Northern Ireland Constitution Act 1973 (validity of Measures of the Assembly, including Orders in Council under the Northern Ireland Act 1974), provisions of this Act which re-enact provisions of such an Order are to be treated as provisions of such an Order.

*Subordinate legislation, etc.*

## **177 Orders and regulations (general provisions)**

- (1) Any power under this Act to make regulations or orders (except a power of the Board or the court to make orders and regulations made by the Secretary of State under section 160) and the powers to make rules under sections 145(2) and 148(1) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (2) Where a power conferred by this Act 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.
- (3) Any power to make regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make regulations or an order for the purposes of any other provision.
- (4) Any power conferred by this Act to make regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to the authority making the regulations or order to be expedient for the purposes of the regulations or order.
- (5) Subsection (4) has effect—
  - (a) in its application to regulations and orders made under the following provisions, namely Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171, with the omission of the words “consequential or transitional”; and
  - (b) in its application to orders made under section 149(8), with the omission of the word “consequential”.
- (6) Any power conferred on the Department by this Act to make any regulations or order (except an order under section 149(8)), where the power is not expressed to be exercisable with the consent of the Department of Finance and Personnel, shall if that Department so directs be exercisable only in conjunction with it.
- (7) The power conferred on the Secretary of State by section 160 to make regulations is exercisable by statutory instrument; and subsections (2) to (4) and section 178(1) apply to those regulations as they apply to regulations made by the Department.

- (8) The power conferred on the Secretary of State by section 160 to make regulations shall if the Treasury so direct be exercisable only in conjunction with them.

## **178 Sub-delegation**

- (1) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make regulations or an order (other than regulations and orders made under Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 132 to 134, 135(2) and (3), 136, 137, 138(1) to (4), 139, 149(2), 154(1) to (5), 158, 159, 167, 168 and 171) includes power to provide for a person to exercise a discretion in dealing with any matter.
- (2) Where any provision in Parts III to VI (except sections 22, 23, 39 to 41, 47, 62 to 64, 66 to 76, 78 to 82, 90, 97, 99 to 104 and 113), Chapter I of Part VII, Part VIII or IX or section 149 (except subsection (8)), 152, 155, 158 or 159 or any of sections 167 to 169 allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Department, or by it and the Department of Finance and Personnel acting jointly, any regulations made by virtue of that provision may provide—
  - (a) for those matters to be dealt with by the Board in their discretion or to be determined in accordance with the exercise by the Board of a discretion vested in them by the regulations, and
  - (b) for the Board's discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.
- (3) Regulations under sections 23(3), 59(2), 93(1), 100(8) and 140(5) may provide that the values there mentioned shall be calculated and verified or, in the case of regulations under section 100(8), that the percentage there mentioned shall be determined—
  - (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
    - (iii) by a person approved by the Department; or
  - (b) in accordance with guidance prepared by a prescribed body;
 and regulations under section 100(8) may also provide that such calculation and verification or, as the case may be, determination shall be—
  - (i) in accordance with prescribed principles and requirements; or
  - (ii) in accordance with principles determined by the person who performs the duties of calculation and verification.

## **179 Consultation with Social Security Advisory Committee**

- (1) The Department may refer to the Social Security Advisory Committee (“the Committee”) for consideration and advice such questions relating to the operation of section 32(6) as the Department thinks fit (including questions as to the advisability of amending it).
- (2) Subject to subsection (3) and to section 150 of the Social Security Administration (Northern Ireland) Act 1992 (cases where consultation not required), where the Department proposes to make regulations under section 32(6) it shall refer the proposals, in the form of draft regulations or otherwise, to the Committee.

- (3) Subsection (2) does not apply to the regulations specified in paragraph 9 or 10 of Schedule 5 to the Social Security Administration (Northern Ireland) Act 1992.
- (4) The Committee shall consider any proposals referred to it by the Department under subsection (2) and shall make to the Department a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.
- (5) If, after receiving a report of the Committee, the Department lays before the Assembly any regulations which comprise the whole or part of any subject-matter of the proposals referred to the Committee, the Department shall lay with the regulations a copy of the Committee's report and a statement showing—
  - (a) the extent (if any) to which the Department 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, the Department's reasons why not.
- (6) In relation to regulations required to be made by the Department in conjunction with the Department of Finance and Personnel, any reference in this section to the Department shall be construed as a reference to the Department and the Department of Finance and Personnel.

#### **180 Consultations about other regulations**

- (1) The power of the Department to make regulations under section 158 shall be exercisable only after consultation with the Chief Registrar of Friendly Societies.
- (2) Before making any regulations under paragraph 7 of Schedule 1 the appropriate government department shall consult with such bodies concerned with employments of the class in question as appear to it fairly to represent the interests of the employers and earners in those employments.

#### **181 Assembly, etc. control of regulations and orders**

- (1) The regulations and orders to which this subsection applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations or order, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations or a new order) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have, or the order has, been approved by a resolution of the Assembly.
- (2) Subsection (1) applies to regulations made by the Department under section 60(1) and to orders made by it under section 149(8).
- (3) Subsection (1) does not apply to—
  - (a) regulations under any provision mentioned in subsection (2) which are to be made for the purpose of consolidating regulations thereby revoked;
  - (b) regulations which, in so far as they are made under any provision mentioned in subsection (2), only replace provisions of previous regulations with new provisions to the same effect.



- (4) Subject to subsection (6), all regulations and orders made by the Department under this Act (other than regulations or orders to which subsection (1) applies and orders made under section 186) shall be subject to negative resolution.
- (5) This subsection applies to any regulations or order made under this Act which—
  - (a) but for subsection (6), would be subject to negative resolution, and
  - (b) are or is contained in a statutory rule which includes any regulations or order subject to the confirmatory procedure.
- (6) Any regulations or order to which subsection (5) applies shall not be subject to negative resolution, but shall be subject to the confirmatory procedure.
- (7) Subject to subsection (9), regulations made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This subsection applies to any regulations made under this Act which—
  - (a) but for subsection (9), would be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) are contained in an instrument which is subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament.
- (9) Any regulations to which subsection (8) applies shall not be subject as mentioned in subsection (8)(a), but shall be subject to the procedure described in subsection (8)(b).
- (10) In this section “the confirmatory procedure” means the procedure described in subsection (1).

### *Supplemental provisions*

## **182 Repeals**

- (1) The enactments specified in Parts I and II of Schedule 4 are repealed to the extent specified in the third column.
- (2) The subordinate legislation specified in Part III 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 5.

## **183 Transitional provisions and savings**

- (1) Schedule 5 (which makes transitional provision and contains savings in connection with the repeals and revocations made by this Act) shall have effect.
- (2) Nothing in that Schedule affects the operation of section 28 of the Interpretation Act (Northern Ireland) 1954 (general savings implied on repeal).

## **184 Prospective and consequential amendments**

Schedule 6 (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 enactments) and Schedule 7 (which makes other consequential amendments) shall have effect, subject to any relevant transitional provisions in Schedule 5.

#### **185 Transitory modifications**

Schedule 8 (which makes transitory modifications of this Act pending the commencement of the provisions there mentioned) shall have effect.

#### **186 Short title, commencement and extent**

- (1) This Act may be cited as the Pension Schemes (Northern Ireland) Act 1993.
- (2) Subject to the provisions of Schedule 8, this Act shall come into operation on such day as the Department may by order appoint.
- (3) As respects the coming into operation of—
  - (a) Part II of Schedule 4 and section 182(1) so far as it relates to it; or
  - (b) Schedule 6 and section 184 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.
- (4) Subject to subsection (5), this Act extends to Northern Ireland only.
- (5) The amendments in Schedule 7 of provisions of the Income and Corporation Taxes Act 1988 and the Finance Act 1989 have the same extent as the provisions amended.