
Changes to legislation: There are currently no known outstanding effects for the Pensions Act 2007, Cross Heading: Pension Schemes Act 1993 (c. 48). (See end of Document for details)

SCHEDULES

SCHEDULE 4

ABOLITION OF CONTRACTING-OUT FOR DEFINED CONTRIBUTION PENSION SCHEMES

PART 1

AMENDMENTS HAVING EFFECT AS FROM ABOLITION DATE

Pension Schemes Act 1993 (c. 48)

- 1 The Pension Schemes Act 1993 has effect subject to the following amendments.
- 2 (1) Section 7 (issue of contracting-out and appropriate scheme certificates) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme.
- (1A) In this Act such a certificate is referred to as “a contracting-out certificate”.”
- (3) Omit subsections (4) to (6) (provisions relating to appropriate scheme certificates in respect of personal pension schemes).
- (4) In subsection (7) (no certificate to have effect from a date earlier than its issue) omit “or appropriate scheme certificate”.
- (5) After that subsection insert—
- “(8) References in this Act to a contracting-out certificate, a contracted-out scheme and to contracting-out in a context relating to a money purchase contracted-out scheme are to be construed in accordance with section 181A.”
- (6) In the sidenote, omit “and appropriate scheme”.
- 3 (1) Section 8 (definitions of certain terms) is amended as follows.
- (2) In subsection (1) (definition of “contracted-out employment”) for the words from “he is under pensionable age” to the end of paragraph (a) substitute “—
- (a) he is under pensionable age;
- (aa) his service in the employment is for the time being 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”);”.
- (3) After subsection (1) insert—

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“(1A) In addition, in relation to any period before the abolition date, the employment of an earner in employed earner’s employment was “contracted-out employment” in relation to him during that period if—
(a) he was under pensionable age;
(b) his employer made minimum payments in respect of his employment to a money purchase contracted-out scheme, and
(c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.”

(4) In subsection (2) for “for the purposes of section 42A” substitute “ for the tax year in which the week falls as specified in an order made under section 42B (as it had effect before the abolition date) ”.

- 4 (1) Section 9 (general requirements for certification of schemes) is amended as follows.
- (2) In subsection (1) (requirements for occupational pension schemes) omit “or (3)”.
- (3) Omit subsections (3) and (5) (requirements for money purchase occupational schemes and personal pension schemes).
- (4) In subsection (6) (meaning of “relevant requirements”)—
 - (a) in paragraph (a) omit “or, as the case may be, appropriate”;
 - (b) in paragraph (b) omit “or, as the case may be, of being an appropriate scheme,”.

5 F1

Textual Amendments
F1 Sch. 4 para. 5 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

6 Omit section 12 (determination of basis on which scheme is contracted-out).

7 F2

Textual Amendments
F2 Sch. 4 para. 7 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a)) by virtue of The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) Order 2011 (S.I. 2011/1730), art.8(1)

8 F3

Textual Amendments
F3 Sch. 4 paras. 8-10 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

9 F4

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Textual Amendments

F4 Sch. 4 paras. 8-10 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

10 **F5**

Textual Amendments

F5 Sch. 4 paras. 8-10 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

11 Omit sections 28 to 29 (ways of giving effect to protected rights etc.).

12 **F6**

Textual Amendments

F6 Sch. 4 paras. 12-14 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

13 **F7**

Textual Amendments

F7 Sch. 4 paras. 12-14 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

14 **F8**

Textual Amendments

F8 Sch. 4 paras. 12-14 repealed (6.4.2012) by Pensions Act 2008 (c. 30), ss. 148, 149(1)(2)(i), Sch. 11 Pt. 3; S.I. 2011/1266, art. 2(c)

15 (1) Section 34 (cancellation, variation, surrender and refusal of certificates) is amended as follows.

(2) For subsection (1) (regulations to provide for cancellation etc. of contracting-out or appropriate scheme certificates) substitute—

“(1) Regulations shall provide for the cancellation, variation or surrender of a contracting-out certificate, or the issue of a new certificate—

- (a) on any change of circumstances affecting the treatment of an employment as contracted-out employment; or
- (b) where the certificate was issued on or after the principal appointed day, if any employer of persons in the description of employment to which the scheme in question relates, or the actuary of the scheme, fails to provide HMRC, at prescribed intervals, with such documents as may be prescribed for the purpose of verifying that the conditions of section 9(2B) are satisfied.”

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- (3) In subsection (3) (continued contracting-out of scheme dependent on conditions for contracting-out remaining satisfied)—
 - (a) for paragraphs (a) and (b) substitute “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”;
 - (b) omit “or, as the case may be, the scheme's continuing to be an appropriate scheme”;
 - (c) omit “or appropriate scheme”.
- (4) Omit subsection (5) (circumstances in which HMRC can withhold etc. appropriate scheme certificate).
- (5) In subsection (8) (cancellation etc. of certificates not to have effect from a time earlier than when cancellation etc. made) omit “or appropriate scheme certificate”.
- (6) After subsection (8) insert—
 - “(9) A reference in this section to a contracting-out certificate does not include a reference to a contracting-out certificate issued in respect of a money purchase contracted-out scheme.”

16 F9

Textual Amendments

F9 Sch. 4 para. 16 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), [art. 8\(1\)](#))

- 17 In section 42A (reduced rates of Class 1 contributions, and rebates) at the end insert—
 - “(8) For the purposes of this section “the appropriate age-related percentage” and “the appropriate flat-rate percentage”, in relation to a tax year beginning before the abolition date, are the percentages specified as such for that tax year in an order made under section 42B (as it had effect prior to that date).”
- 18 Omit section 42B (determination and alteration of rates of contributions, and rebates, applicable under section 42A).
- 19 In section 43 (payment of minimum contributions to personal pension schemes) at the end insert—
 - “(7) In this section “the earner's chosen scheme” means the scheme which was immediately before the abolition date the earner's chosen scheme in accordance with section 44 (as it had effect prior to that date).”
- 20 Omit section 44 (earner's chosen scheme).
- 21 In section 45 (amount of minimum contributions) at the end insert—
 - “(4) For the purposes of this section “the appropriate age-related percentage”, in relation to a tax year beginning before the abolition date, is the percentage (or percentages) specified as such for that tax year in an order made under section 45A (as it had effect prior to that date).”

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22 Omit section 45A (determination and alteration of rates of minimum contributions under section 45).

23 (1) Section 48A (additional pension and other benefits) is amended as follows.

(2) In subsection (1) (effect of reductions and payments for contracted-out schemes on earnings factors) in paragraph (a) for “or 42A” substitute “ or, in the case of a week falling before the abolition date, under section 42A (as it then had effect) ”.

(3) In paragraph (b) of that subsection, for “an amount is paid under section 45(1)” substitute “ in the case of a week falling before the abolition date, an amount is paid under section 45(1) (as it then had effect) ”.

24 F10

Textual Amendments

F10 Sch. 4 para. 24 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a)) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), **art. 8(1)**

25 F11

Textual Amendments

F11 Sch. 4 para. 25 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a)) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), **art. 8(1)**

26 In section 55 (payment of state scheme premiums on termination of certified status) in subsection (2) (prescribed person to pay contributions equivalent premium) in paragraph (a) omit “(other than a money purchase contracted-out scheme)”.

27 F12

Textual Amendments

F12 Sch. 4 para. 27 repealed (6.4.2009) by [Pensions Act 2008 \(c. 30\)](#), ss, 148, 149(1), {Sch. 11 Pt. 2}; [S.I. 2009/82](#), **art. 2(2)(g)**

28 In section 87 (general protection principle) in subsection (1) (when subsection applies) in paragraph (a)(i), for “which is not a money purchase contracted-out scheme” substitute “ that satisfies the requirements of section 9(2) ”.

29 In section 96 (further provisions concerning exercise of option to take cash equivalent under section 95) in subsection (2) (circumstances in which option must be exercised in relation to balance of cash equivalent after deducting amount sufficient to meet certain liabilities of trustees etc.) in paragraph (a)(ii) omit “which is not an appropriate scheme”.

30 F13

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Textual Amendments

F13 Sch. 4 para. 30 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), **art. 8(1)**)

31 In section 163 (exemption of certain schemes from rule against perpetuities) in subsection (2) (schemes to which the exemption applies) omit paragraph (c) (appropriate schemes).

32 **F14**

Textual Amendments

F14 Sch. 4 para. 32 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), **art. 8(1)**)

33 **F15**

Textual Amendments

F15 Sch. 4 para. 33 omitted (the omission coming into force immediately before 6.4.2012 in accordance with art. 1(2)(a) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), **art. 8(1)**)

34 (1) Section 181 (general interpretation) is amended as follows.

(2) In subsection (1)—

(a) at the appropriate places insert—

““abolition date” means the day appointed for the commencement of section 15(1) of the Pensions Act 2007;”;

““HMRC” means the Commissioners for Her Majesty's Revenue and Customs;”;

(b) for the definition of “appropriate scheme certificate” and references to an appropriate scheme, substitute—

““appropriate scheme” and “appropriate scheme certificate” are to be construed in accordance with section 181A;”;

(c) in the definition of “contracting-out certificate” and references to contracted-out scheme and to contracting-out, at the end insert “and section 181A”;

(d) for the definition of “money purchase contracted-out scheme” substitute—

““money purchase contracted-out scheme” is to be construed in accordance with section 181A;”.

(3) In subsection (4) (regulations may prescribe the persons who are to be regarded as members or prospective members of an occupational scheme etc.) omit “, 44”.

35 After section 181 insert—

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“181A Interpretation of references to money purchase contracted-out schemes or appropriate schemes after abolition date

- (1) This section applies for the interpretation of this Act on and after the abolition date.
- (2) An occupational pension scheme was a money purchase contracted-out scheme at a time before the abolition date if, at that time, the scheme was contracted-out by virtue of satisfying section 9(3) (as it then had effect).
- (3) A money purchase contracted-out scheme was, at a time before the abolition date, a contracted-out scheme in relation to an earner's employment if it was, at that time, specified in a contracting-out certificate in relation to that employment; and references to the contracting-out of a scheme are, in relation to a money purchase contracted-out scheme, references to its inclusion in such a certificate.
- (4) Any reference to a contracting-out certificate is, in relation to a money purchase contracted-out scheme, a reference to a certificate issued by virtue of section 7, as it had effect before the abolition date, in relation to the employment of an earner in employed earner's employment which was contracted-out by reference to that scheme.
- (5) Any certificate so issued that was, at a time before the abolition date, in force in respect of an employed earner's employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.
- (6) A personal pension scheme was an appropriate scheme at a time before the abolition date if, at that time, there was in force a certificate issued under section 7(1)(b) (as it then had effect) stating that the scheme was an appropriate scheme; and “appropriate scheme certificate” means such a certificate.
- (7) Any appropriate scheme certificate in force in relation to a scheme at any time before the abolition date is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”

Changes to legislation:

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