

## SCHEDULES

### SCHEDULE 13

#### ABOLITION OF CONTRACTING-OUT FOR SALARY RELATED SCHEMES

##### PART 1

###### PENSION SCHEMES ACT 1993: AMENDMENTS

- 1 The Pension Schemes Act 1993 is amended as follows.
- 2 For “the abolition date” (in each place) substitute “the first abolition date”.
- 3 In the heading for Part 3 of the Act—
  - (a) for “Certification of pension schemes” substitute “Schemes that were contracted-out etc”;
  - (b) omit “and duties”.
- 4 For the heading to Chapter 1 of Part 3 substitute “Schemes that were contracted-out: guaranteed minimum pensions and alteration of scheme rules etc”.
- 5 Section 7 (issue of contracting-out certificates) is repealed (and accordingly, any certificates in force under that section immediately before this paragraph comes into force cease to have effect).
- 6 After section 7 insert—

##### **“7A Meaning of “the first abolition date” and “the second abolition date”**

In this Act—

“the first abolition date” means 6 April 2012 (the date appointed for the commencement of section 15(1) of the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes));

“the second abolition date” means 6 April 2016 (the date on which section 56(4) of the Pensions Act 2014 provides for the commencement of section 24(1) of that Act (abolition of contracting-out for salary related schemes)).

##### **7B Meaning of “contracted-out scheme” and “appropriate scheme” etc.**

- (1) This section applies for the interpretation of this Act.
- (2) An occupational pension scheme was “contracted-out” at a time if, at that time, there was in force a certificate under section 7 (as it then had effect) stating that the employment of an earner in employed earner’s employment was contracted-out employment by reference to the scheme.

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- (3) “Contracting-out certificate” means a certificate of the kind mentioned in subsection (2).
- (4) An occupational pension scheme was a “salary related contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(2) (as it then had effect).
- (5) An occupational pension scheme was a “money purchase contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 9(3) (as it then had effect).
- (6) A personal pension scheme was an “appropriate scheme” at a time 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.
- (7) “Appropriate scheme certificate” means a certificate of the kind mentioned in subsection (6).
- (8) An appropriate scheme certificate that was in force in relation to a scheme is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”
- 7 (1) Section 8 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) In relation to any period before the second abolition date, the employment of an earner in employed earner’s employment was “contracted-out employment” in relation to the earner during that period if—
- (a) the earner was under pensionable age;
- (b) the earner’s service in the employment was service which qualified the earner for a pension provided by a salary related 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.”
- (3) After subsection (1A) insert—
- “(1B) In the following provisions of this Act “earner”, in relation to a scheme, means a person who was an earner in contracted-out employment by reference to the scheme.”
- (4) In subsection (2), in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “, by a scheme that was a salary related contracted-out scheme,”.
- (5) For subsection (4) substitute—
- “(4) A contracting-out certificate that was 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.”
- 8 The italic heading above section 9 is repealed.
- 9 Sections 9 and 11 (requirements for certification of schemes: general) are repealed.

- 10 The italic heading above section 12A is repealed.
- 11 Sections 12A to 12D (requirements for certification applying to employment from 6 April 1997) are repealed.
- 12 For the italic heading above section 13 substitute “Guaranteed minimum pensions”.
- 13 (1) Before section 13 insert—

**“12E Former salary related contracted-out schemes to comply with GMP requirements**

- (1) A scheme that was a salary related contracted-out scheme is to be treated as including whatever provision it needs to contain to comply with the GMP requirements.
- (2) A scheme complies with the GMP requirements if, in relation to any earner’s service before the principal appointed day, it complies in all respects with sections 13 to 24E.
- (3) Where—
- (a) a scheme is permitted by any of those sections to include provision subject to certain requirements, and
  - (b) the scheme includes the provision but not the requirements,
- the scheme is to be treated by subsection (1) as including the requirements.
- (4) This section overrides any provision of a scheme to the extent that the provision of the scheme conflicts with it.”
- (2) For the purposes of section 12E it does not matter whether the scheme ceased to be contracted-out when the amendment made by paragraph 5 of this Schedule came into force or before that time.
- (3) But section 12E does not treat a scheme as having included any provision before this paragraph comes into force.
- 14 In section 13 (minimum pensions for earners), in subsection (2)—
- (a) for “is a married woman or widow who is liable” substitute “was a married woman or widow who was liable”;
  - (b) after “Act 1992” insert “at a time during a relevant year when she was in contracted-out employment by reference to the scheme”;
  - (c) at the end of that subsection insert—  
““Relevant year” has the meaning given by section 14(8).”
- 15 (1) Section 14 (earner’s guaranteed minimum) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year—
- (a) earnings were paid to or for the earner’s benefit in respect of employment which was contracted-out by reference to the scheme; and

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- (b) those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).”
- (3) In subsection (2), for “earnings such as are mentioned in subsection (1)” substitute “excess earnings mentioned in subsection (1)(b)”.
- 16 In section 16 (revaluation of earnings factors for the purposes of section 14: early leavers etc), for subsection (2) substitute—
- “(2) The scheme may provide that in a case where—
- (a) an earner was, before the second abolition date, in contracted-out employment by reference to a scheme, and
- (b) the earner ceases to be in pensionable service under the scheme before the final relevant year,
- the earnings factors for that person 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 the earner ceases to be in pensionable service under the scheme (“the last service tax year”).”
- 17 (1) Section 17 (minimum pensions for widows, widowers and surviving civil partners) is amended as follows.
- (2) In subsection (4A), after paragraph (a) insert—
- “(aa) for life, in a case where—
- (i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and
- (ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;
- (ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where—
- (i) the earner died before the widow, widower or surviving civil partner attained state pension age,
- (ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and
- (iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;”.
- (3) After subsection (9) insert—
- “(9A) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995.”
- 18 In section 20 (transfer of accrued rights), in subsection (1)(a)—
- (a) in sub-paragraph (i), after “under a” insert “scheme that was a”;
- (b) in sub-paragraph (ii)—
- (i) omit “which is not contracted-out;”;
- (ii) after “under a” insert “scheme that was a”.
- 19 In section 23 (securing of benefits), in subsection (2), omit paragraph (d).

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- 20 In section 24A—
- (a) the existing text becomes subsection (1), and
  - (b) after that subsection insert—
    - “(2) The Secretary of State must give such guidance (if any) as he or she thinks appropriate about GMP conversion.”
- 21 In section 25 (power for HMRC to impose conditions as to investments and resources), in subsection (2), after “A” insert “scheme that was a”.
- 22 Sections 34 to 36 (cancellation, variation, surrender and refusal of certificates) are repealed.
- 23 In the italic heading above section 37, for “scheme rules after certification” substitute “rules by former salary related contracted-out schemes”.
- 24 In section 37 (alteration of rules of contracted-out schemes) for subsections (1) to (3) substitute—
- “(1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.
  - (2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
  - (3) Subsection (1) does not apply to a scheme if no 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.”
- 25 After section 37 insert—

**“37A Transfer of liabilities etc: schemes contracted-out on or after 6 April 1997**

- (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 that was a salary related contracted-out scheme by virtue of section 9(2B) 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 (including, in a case where there has been a transfer payment, any pensions or rights deriving (directly or indirectly) from—
  - (a) an earner’s service on or after the principal appointed day in employment that was contracted-out employment by reference to another scheme, or

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- (b) in a case where the transfer payment was made before the first abolition date, protected rights under another occupational pension scheme or under a personal pension scheme which derive from payments or contributions in respect of employment 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.”
- 26 For the heading to Chapter 2 of Part 3 substitute “Reduction in social security benefits for members of schemes that were contracted-out”.
- 27 In section 40 (scope of Chapter 2)—
  - (a) omit paragraph (a);
  - (b) in paragraph (c) for “such schemes” substitute “schemes that were contracted-out pension schemes”.
- 28 The italic heading above section 41 is repealed.
- 29 Section 41 (reduced rates of Class 1 contributions) is repealed.
- 30 (1) Section 42 (review and alteration of reduced rates of Class 1 contributions) is repealed.
- (2) There is no duty, before the repeal of section 42 comes into force, to lay before Parliament any reports under that section.
- 31 In section 48A (additional pension and other benefits), in subsection (1), for the words from the beginning to the end of paragraph (b) substitute “In relation to—
  - (a) any tax week falling before the first abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 42A of this Act (as it then had effect),
  - (b) any tax week falling before the second abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 41 of this Act (as it then had effect), or
  - (c) any tax week falling before the first abolition date where an amount was paid under section 45(1) of this Act (as it then had effect) in respect of the earnings paid to or for the benefit of an earner.”
- 32 Section 49 (women, married women and widows) is repealed.
- 33 Section 50 (powers of HMRC to approve arrangements for scheme ceasing to be certified) is repealed.
- 34 In section 51 (calculation of guaranteed minimum pensions under approved arrangements), in subsection (1)(b), for “ceases” substitute “ceased”.
- 35 For section 52 substitute—

## “52 Supervision of former salary related contracted-out schemes

Section 53 shall apply for the purpose of making provision for securing the continued supervision of any scheme that was a salary related contracted-out scheme, other than a public service pension scheme, if any person is entitled to receive or has accrued rights to—

- (a) a guaranteed minimum pension under the scheme, or
- (b) a pension under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out.”

- 36 In section 53 (supervision: former contracted-out schemes), omit subsection (3).
- 37 Sections 55 to 68 (state scheme premiums) are repealed.
- 38 In section 87 (general protection principle), in subsection (1)(a), for subparagraph (i) substitute—
- “(i) the date (“the cessation date”) which is the earlier of—
    - (a) the date on which an earner ceases to be in pensionable service under a scheme that was, before the second abolition date, a salary related contracted-out scheme; and
    - (b) the date on which the earner attains pensionable age;”.
- 39 In section 96 (further provisions concerning exercise of option to take cash equivalent in a particular way), in subsection (2), in paragraph (a)(i) omit “which is not a contracted-out scheme”.
- 40 In section 109 (annual increase of guaranteed minimum pensions), in subsection (3A)(b), omit “for the purposes of Part 3 of the Pensions Act 1995”.
- 41 In section 171 (questions arising in proceedings), in subsection (1), omit paragraph (b) and the “or” before it.
- 42 In section 178 (trustees and managers of schemes), in paragraph (a)—
- (a) after “1985” insert “or”;
  - (b) omit “or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act 2000”.
- 43 (1) Section 181(1) (general interpretation) is amended as follows.
- (2) In the appropriate places insert—
- ““the first abolition date” has the meaning given by section 7A;”
  - ““the second abolition date” has the meaning given by section 7A;”
  - ““the principal appointed day” means 6 April 1997 (which is the day designated as the principal appointed day for the purposes of Part 3 of the Pensions Act 1995);”
  - ““salary related contracted-out scheme” is to be construed in accordance with section 7B;”
- (3) Omit the definition of “abolition date”.
- (4) In the definition of “appropriate scheme” and “appropriate scheme certificate”, for “section 181A” substitute “section 7B”.

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- (5) In the definition of “contracting-out certificate”, for “section 7 and section 181A” substitute “section 7B”.
- (6) In the definition of “contributions equivalent premium”, for “has the meaning given in” substitute “means a premium that was paid under”.
- (7) In the definition of “earner” and “earnings”, after “in accordance with” insert “section 8(1B) of this Act and”.
- (8) In the definition of “money purchase contracted-out scheme”, for “section 181A” substitute “section 7B”.
- 44 Section 181A (interpretation of references to money purchase contracted-out schemes or appropriate schemes after first abolition date) is repealed.
- 45 In section 185 (consultation about other regulations), omit subsection (9).
- 46 (1) Schedule 2 (certification regulations) is amended as follows.
- (2) Omit paragraphs 1 to 4.
- (3) In paragraph 5(3A), for “a contracted-out occupational pension scheme which is being wound up,” substitute “a scheme which was a contracted-out occupational pension scheme and which was being wound up before the second abolition date”.
- (4) Omit paragraphs 6 to 8.
- 47 (1) Schedule 4 (priority in bankruptcy) is amended as follows.
- (2) In paragraph 2—
- (a) in sub-paragraph (1), after “contributions to a” insert “Northern Ireland”;
- (b) in sub-paragraph (5), at the appropriate place insert—
- ““Northern Ireland salary related contracted-out scheme” means a salary related contracted-out scheme within the meaning of the Pension Schemes (Northern Ireland) Act 1993 (and references to employment that is contracted-out by reference to a scheme are to be read accordingly);”.
- (3) In paragraph 3—
- (a) in sub-paragraph (1), after “on account of a” insert “Northern Ireland”;
- (b) after sub-paragraph (5) insert—
- “(6) In this paragraph “Northern Ireland contributions equivalent premium” means a contributions equivalent premium within the meaning of the Pension Schemes (Northern Ireland) Act 1993.”
- (4) Omit paragraph 4(2).