



Pension Schemes Act 1993

CHAPTER 48

LONDON: HMSO



Pension Schemes Act 1993

CHAPTER 48

[A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.]

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Categories of pension schemes.

PART II

ADMINISTRATION

The Occupational Pensions Board

2. Constitution and functions of the Board.
3. Membership of the Board.
4. Reports of the Board.
5. Further provisions as to constitution and procedure of the Board.

Registration of schemes

6. Registration of occupational and personal pension schemes.

PART III

CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON MEMBERS' STATE SCHEME RIGHTS AND DUTIES

CHAPTER I

CERTIFICATION

Preliminary

7. Issue of contracting-out and appropriate scheme certificates.
8. Meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment".

General requirements for certification

9. Requirements for certification of schemes: general.

Section

10. Protected rights and money purchase benefits.
11. Elections as to employments covered by contracting-out certificates.
12. Determination of basis on which scheme is contracted-out.

Requirements for certification of occupational pension schemes providing guaranteed minimum pensions

13. Minimum pensions for earners.
14. Earner's guaranteed minimum.
15. Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.
16. Revaluation of earnings factors for purposes of s. 14: early leavers etc.
17. Minimum pensions for widows and widowers.
18. Treatment of insignificant amounts.
19. Discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts.
20. Transfer of accrued rights.
21. Commutation, surrender and forfeiture.
22. Financing of benefits.
23. Securing of benefits.
24. Sufficiency of resources.

Discretionary requirements

25. Power for Board to impose conditions as to investments and resources.

Requirements for certification of occupational and personal money purchase schemes

26. Persons who may establish scheme.
27. Identification and valuation of protected rights.
28. Ways of giving effect to protected rights.
29. The pension and annuity requirements.
30. Securing of liability for protected rights.
31. Investment and resources of schemes.
32. Suspension or forfeiture.
33. Tax requirements to prevail over certification requirements.

Cancellation, variation, surrender and refusal of certificates

34. Cancellation, variation, surrender and refusal of certificates.
35. Surrender and cancellation of contracting-out certificates: issue of further certificates.
36. Surrender and cancellation of contracting-out certificates: cancellation of further certificates.

Alteration of scheme rules after certification

37. Alteration of rules of contracted-out schemes.
38. Alteration of rules of appropriate schemes.

General regulations as to administration of Part III

39. General power to make regulations.

CHAPTER II

REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY
BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES*Preliminary*

Section

40. Scope of Chapter II.

Reduced rates of state scheme Class 1 contributions

- 41. Reduced rates of Class 1 contributions for earners in contracted-out employment.
- 42. Review and alteration of rates of contributions applicable under s. 41.

Minimum contributions: members of appropriate personal pension schemes

- 43. Payment of minimum contributions to personal pension schemes.
- 44. Earner's chosen scheme.
- 45. Amount of minimum contributions.

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits

- 46. Effect of entitlement to guaranteed minimum pensions on payment of social security benefits.
- 47. Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 46.
- 48. Reduced benefits where minimum payments or minimum contributions paid.

Married women and widows

- 49. Married women and widows.

CHAPTER III

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS:
STATE SCHEME PREMIUMS*Approval of arrangements for schemes ceasing to be certified*

- 50. Powers of Board to approve arrangements for scheme ceasing to be certified.
- 51. Calculation of guaranteed minimum pensions preserved under approved arrangements.

Supervision of formerly certified schemes

- 52. Supervision of schemes which have ceased to be certified.
- 53. Supervision: former contracted-out schemes.
- 54. Supervision: former appropriate personal pension schemes.

State scheme premiums

- 55. Payment of state scheme premiums on termination of certified status.
- 56. Provisions supplementary to s. 55.
- 57. Elections to pay contributions equivalent premiums.

Section

- 58. Amount of premiums payable under s. 55.
- 59. Alternative basis for revaluation of earnings factors for calculation of certain premiums.
- 60. Effect of payment of premiums on rights.
- 61. Deduction of contributions equivalent premium from refund of scheme contributions.
- 62. No recovery of state scheme premiums from earners etc.
- 63. Further provisions concerning calculations relating to premiums.
- 64. Actuarial tables for purposes of calculations relating to premiums.
- 65. Inclusion of former and future earners for some purposes of this Chapter.
- 66. Power to apply certain provisions to widowers.
- 67. Non-payment of state scheme premiums.
- 68. Unpaid premiums: supplementary.

PART IV

PROTECTION FOR EARLY LEAVERS

CHAPTER I

PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

- 69. Scope of Chapter I: the preservation requirements.
- 70. Interpretation.
- 71. Basic principle as to short service benefit.
- 72. No discrimination between short service and long service beneficiaries.
- 73. Form of short service benefit and its alternatives.
- 74. Computation of short service benefit.
- 75. Credits.
- 76. Pension increases.
- 77. Assignment, surrender and commutation of benefit.
- 78. Forfeiture, etc.
- 79. Charges, liens and set-offs.
- 80. Power to modify ss. 77 to 79 as respects alternative benefits.
- 81. Discharge of liability where short service or alternative benefits secured by insurance policies or annuity contracts.
- 82. Supplementary regulations.

CHAPTER II

REVALUATION OF ACCRUED BENEFITS (EXCLUDING GUARANTEED MINIMUM PENSIONS)

- 83. Scope of Chapter II.
- 84. Basis of revaluation.
- 85. Revaluation not to apply to substituted benefit.
- 86. Supplementary provisions.

CHAPTER III

PROTECTION OF INCREASES IN GUARANTEED MINIMUM PENSIONS ("ANTI-FRANKING")

- 87. General protection principle.
- 88. The relevant sum.
- 89. The appropriate addition.
- 90. The later earnings addition.

Section

- 91. Special provision where employment continues after it ceases to be contracted-out by reference to scheme.
- 92. Supplementary provisions.

CHAPTER IV

TRANSFER VALUES

- 93. Scope of Chapter IV.
- 94. Right to cash equivalent.
- 95. Ways of taking right to cash equivalent.
- 96. Further provisions concerning exercise of option under s. 95.
- 97. Calculation of cash equivalents.
- 98. Variation and loss of rights under s. 94.
- 99. Trustees' duties after exercise of option.
- 100. Withdrawal of applications.
- 101. Supplementary provisions.

PART V

ANNUAL INCREASES OF PENSIONS IN PAYMENT

CHAPTER I

PENSIONS UNDER FINAL SALARY SCHEMES ETC.

- 102. Scope of Chapter I: annual increase of certain occupational pensions.
- 103. Annual increase of later service component.
- 104. Annual increase of earlier service component where scheme is in surplus.
- 105. Proportional increase where first period is less than 12 months.
- 106. Restriction on increase where member is under 55.
- 107. Application of Chapter I to pensions not attributable to pensionable service.
- 108. No payments to employers from non-complying schemes.

CHAPTER II

GUARANTEED MINIMUM PENSIONS

- 109. Annual increase of guaranteed minimum pensions.
- 110. Requirement as to resources for annual increase of guaranteed minimum pensions.

PART VI

FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

- 111. Voluntary contributions.
- 112. Restrictions on investment of scheme's resources in employer-related assets.
- 113. Disclosure of information about schemes to members etc.
- 114. Additional documents for members etc. and Registrar.
- 115. Powers as respects failure to comply with information requirements.
- 116. Regulations as to auditors.
- 117. Regulations as to form and content of advertisements.
- 118. Equal access requirements.

PART VII

INSOLVENCY OF EMPLOYERS

CHAPTER I

INDEPENDENT TRUSTEES

Section

- 119. Requirement for independent trustee where employer becomes insolvent etc.
- 120. Members' powers to apply to court to enforce duty under s. 119.
- 121. Further provisions as to appointment and powers of independent trustees.
- 122. Duty of insolvency practitioner or official receiver to give information to scheme trustees.

CHAPTER II

PAYMENT BY SECRETARY OF STATE OF UNPAID SCHEME CONTRIBUTIONS

- 123. Interpretation of Chapter II.
- 124. Duty of Secretary of State to pay unpaid contributions to schemes.
- 125. Certification of amounts payable under s. 124 by insolvency officers.
- 126. Complaint to industrial tribunal.
- 127. Transfer to Secretary of State of rights and remedies.

CHAPTER III

PRIORITY IN BANKRUPTCY

- 128. Priority in bankruptcy etc.

PART VIII

RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

- 129. Overriding requirements.
- 130. Extra-statutory benefits.
- 131. Relationship of preservation requirements and scheme rules.
- 132. Duty to bring schemes into conformity with indirectly-applying requirements.
- 133. Advice of the Board as to conformity of schemes with requirements.
- 134. Determination of questions whether schemes conform with requirements.
- 135. Persons competent to make applications under s. 134.

PART IX

MODIFICATION AND WINDING UP OF SCHEMES

Modification

- 136. Applications to the Board to modify schemes (other than public service schemes).
- 137. Persons competent to make applications under s. 136.
- 138. Further provisions concerning the Board's powers under s. 136.
- 139. Other functions of the Board as respects modification of schemes.
- 140. Effect of orders under ss. 136 and 139.
- 141. Modification of public service schemes.

Winding up

Section

- 142. Powers of the Board to wind up schemes.
- 143. Winding up of public service schemes.
- 144. Deficiencies in the assets of a scheme on winding up.

PART X

INVESTIGATIONS: THE PENSIONS OMBUDSMAN

- 145. The Pensions Ombudsman.
- 146. Functions of the Pensions Ombudsman.
- 147. Death, insolvency or disability of authorised complainant.
- 148. Staying court proceedings where a complaint is made or a dispute is referred.
- 149. Procedure on an investigation.
- 150. Investigations: further provisions.
- 151. Determinations of the Pensions Ombudsman.
- 152. Power to make special county court rules.

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Modification powers

- 153. Power to modify certain provisions of this Act.
- 154. Application of enactments as respects personal pension schemes.

Information about schemes

- 155. Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.
- 156. Information as to guaranteed minimum pensions.
- 157. Power of Secretary of State to obtain information in connection with applications under s. 124.
- 158. Disclosure of information between government departments etc.

Avoidance of certain transactions and provisions

- 159. Inalienability of guaranteed minimum pension and protected rights payments.
- 160. Terms of contracts of service or schemes restricting choice to be void.
- 161. Provisions excluding Chapter II of Part VII to be void.
- 162. Removal of restrictions on friendly societies' pension business.
- 163. Exemption of certain schemes from rule against perpetuities.

Special classes of earner

- 164. Crown employment.
- 165. Application of certain provisions to cases with foreign element.

Reciprocity with other countries

- 166. Reciprocity with other countries.

Application of provisions relating to social security administration

- 167. Application of general provisions relating to administration of social security.

General provisions as to offences

Section

- 168. Breach of regulations.
- 169. Offences by bodies corporate.

General provisions as to determinations and appeals

- 170. Determination of questions by Secretary of State.
- 171. Questions arising in proceedings.
- 172. Review of the Board's determinations.
- 173. References and appeals from the Board.

Financial provisions

- 174. Grants by the Board to advisory bodies etc.
- 175. Levies towards meeting certain costs and grants.
- 176. Fees for official services to schemes.
- 177. General financial arrangements.

PART XII

SUPPLEMENTARY PROVISIONS

Interpretation

- 178. Trustees and managers of schemes.
- 179. Linked qualifying service.
- 180. Normal pension age.
- 181. General interpretation.

Subordinate legislation etc.

- 182. Orders and regulations (general provisions).
- 183. Sub-delegation.
- 184. Consultation with Social Security Advisory Committee about regulations under s. 36(6).
- 185. Consultations about other regulations.
- 186. Parliamentary control of orders and regulations.
- 187. Northern Ireland Constitution Act 1973: "reserved matters".

Supplemental provisions

- 188. Repeals.
- 189. Transitional provisions and savings.
- 190. Prospective and consequential amendments.
- 191. Transitory modifications.
- 192. Extent.
- 193. Short title and commencement.

SCHEDULES:

Schedule 1—The Occupational Pensions Board.

Schedule 2—Certification regulations.

Part I—Occupational pension schemes.

Part II—Personal Pension Schemes.

Schedule 3—Methods of revaluing accrued pension benefits.

Schedule 4—Priority in Bankruptcy etc.

Schedule 5—Repeals.

Part I—General.

Part II—Provisions relating to equal access.

Part III—Provisions repealed as respects Great Britain only.

Part IV—Subordinate legislation revoked.

Schedule 6—Transitional Provisions and Savings.

Part I—General Provisions.

Part II—Specific Provisions.

Schedule 7—Re-enactment or amendment of certain provisions not in force.

Schedule 8—Consequential Amendments.

Schedule 9—Transitory Modifications.



Pension Schemes Act 1993

1993 CHAPTER 48

An Act to consolidate certain enactments relating to pension schemes with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission.

[5th November 1993]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. In this Act, unless the context otherwise requires—

“occupational pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

“personal pension scheme” means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide benefits, in the form of pensions or otherwise, payable on death or retirement to or in respect of employed earners who have made arrangements with the trustees or managers of the scheme for them to become members of it;

“public service pension scheme” means an occupational pension scheme established by or under an enactment or the Royal prerogative or a Royal charter, being a scheme—

Categories of
pension schemes.

PART I
CHAPTER I

(a) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or

(b) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department,

and includes any occupational pension scheme established, with the concurrence of the Treasury, by or with the approval of any Minister of the Crown and any occupational pension scheme prescribed by regulations made by the Secretary of State and the Treasury jointly as being a scheme which ought in their opinion to be treated as a public service pension scheme for the purposes of this Act.

PART II

ADMINISTRATION

The Occupational Pensions Board

Constitution and
functions of the
Board.

2.—(1) There shall continue to be a body corporate by the name of the Occupational Pensions Board (in this Act referred to as “the Board”).

(2) The Board shall have—

- (a) the functions conferred on them by this Act (or any corresponding provisions in force in Northern Ireland); and
- (b) such advisory or other functions as may be conferred on them by the Secretary of State in respect of occupational pension schemes (including public service pension schemes).

Membership of
the Board.

3.—(1) The Board shall consist of—

- (a) a chairman,
- (b) a deputy chairman, and
- (c) not less than 8 nor more than 12 other members,

all of whom shall be appointed by the Secretary of State.

(2) Of the members other than the chairman and deputy chairman—

- (a) one shall be appointed after consultation with organisations representative of employers, and
- (b) one shall be appointed after consultation with organisations representative of employed earners,

being in either case such organisations as the Secretary of State thinks it appropriate to consult.

Reports of the
Board.

4.—(1) The Secretary of State may from time to time direct the Board to make a report to him on the exercise of their functions.

(2) It shall be the duty of the Board to comply with any such direction as soon as is practicable.

(3) The Secretary of State shall lay before each House of Parliament a copy of any report made to him in response to a direction under subsection (1).

PART II

5. Schedule 1 shall have effect for the purpose of making further provision with respect to the Board.

Further provisions as to constitution and procedure of the Board.

Registration of schemes

6.—(1) The Secretary of State may by regulations make provision—

Registration of occupational and personal pension schemes.

- (a) for the compilation and maintenance of a register of occupational and personal pension schemes (in this Act referred to as “the register”);
- (b) for the appointment of a Registrar of Occupational and Personal Pension Schemes (in this Act referred to as “the Registrar”); and
- (c) for conferring on the Registrar such functions relating to the compilation and maintenance of the register as may be specified in the regulations.

(2) The regulations—

- (a) may make provision with respect to any of the following matters, that is to say—
 - (i) the remuneration and expenses, and any pensions, allowances or gratuities, or compensation for loss of office, payable to or in respect of the Registrar;
 - (ii) the staff and other facilities that are to be available to the Registrar;
 - (iii) the other terms and conditions upon which the Registrar is to hold office; and
 - (iv) the removal of the Registrar from office; and
- (b) may confer upon the Registrar power to appoint an agent to perform any of his functions on his behalf.

(3) The register—

- (a) may consist of one or more parts, as may be prescribed;
- (b) shall be organised in such manner, and contain such information relating to occupational and personal pension schemes, as may be prescribed; and
- (c) subject to the regulations, may be kept in such manner and form as the Registrar may think fit.

(4) The regulations may make provision—

- (a) for the register, or extracts from the register, or for copies of the register or of extracts from the register, to be open to inspection by, and
- (b) for copies of the register, or of extracts from it, to be supplied to, such persons, in such manner, at such times, upon payment of such fees, and subject to such other terms and conditions, as may be prescribed.

(5) The regulations may require—

- (a) any person who is or has been—
 - (i) a trustee or manager of an occupational or personal pension scheme or an administrator of a public service pension scheme, or

PART II

(ii) the employer in relation to employment of any description or category to which an occupational pension scheme relates, and

(b) such other persons as may be prescribed,

to provide the Registrar with such information for the purposes of the register in such form and within such time as may be prescribed.

(6) The Secretary of State may direct the Registrar to submit to him, in such form and at such intervals as may be specified in the direction, such statistical and other reports as the Secretary of State may require; and the Secretary of State may determine at his discretion whether or not to publish a report submitted to him under this subsection.

(7) Subsections (2) to (5) are without prejudice to the generality of subsection (1).

(8) Nothing in this Act shall be taken to imply that the Board may not be appointed as the Registrar.

PART III

CERTIFICATION OF PENSION SCHEMES AND EFFECTS ON MEMBERS' STATE
SCHEME RIGHTS AND DUTIES

CHAPTER I

CERTIFICATION

Preliminary

Issue of
contracting-out
and appropriate
scheme
certificates.

7.—(1) Regulations shall provide for the Board to issue certificates stating—

(a) that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme; or

(b) that a personal pension scheme is an appropriate scheme;

and in this Act a certificate under paragraph (a) is referred to as "a contracting-out certificate" and a certificate under paragraph (b) as "an appropriate scheme certificate".

(2) The regulations shall provide for contracting-out certificates to be issued to employers and to specify—

(a) the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and

(b) the occupational pension schemes by reference to which those employments are to be so treated.

(3) An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.

(4) A personal pension scheme is an appropriate scheme if there is in force an appropriate scheme certificate issued by the Board in accordance with this Chapter that it is such a scheme.

(5) 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.

(6) Regulations shall provide that any question whether a personal pension scheme is or at any time was an appropriate scheme shall be determined by the Board.

(7) Except in prescribed circumstances, no contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the certificate is issued.

8.—(1) The employment of an earner in employed earner's employment is "contracted-out employment" in relation to him during any period in which he is under pensionable age and—

Meaning of
"contracted-out
employment",
"guaranteed
minimum
pension" and
"minimum
payment".

(a) either—

(i) his service in the employment is for the time being service which qualifies him for a guaranteed minimum pension provided by an occupational pension scheme, or

(ii) his employer makes minimum payments in respect of his employment to an occupational pension scheme which is contracted-out by virtue of satisfying section 9(3) (in this Act referred to as "a money purchase contracted-out scheme"); and

(b) there is in force a contracting-out certificate issued by the Board in accordance with this Chapter stating that the employment is contracted-out employment by reference to the scheme.

(2) In this Act—

"guaranteed minimum pension" means any pension which is provided by an occupational pension scheme in accordance with the requirements of sections 13 and 17 to the extent to which its weekly rate is equal to the earner's or, as the case may be, the earner's widow's or widower's guaranteed minimum as determined for the purposes of those sections respectively; and

"minimum payment", in relation to an earner's employment in any tax week, means the rebate percentage of so much of the earnings paid to or for the benefit of the earner in that week as exceeds the current lower earnings limit but not the current upper earnings limit (or the prescribed equivalents if he is paid otherwise than weekly);

and for the purposes of this subsection "rebate percentage" means the sum of the percentages for the time being mentioned in paragraphs (a) and (b) of section 41(1).

(3) Regulations may make provision—

(a) for the manner in which, and time at which or period within which, minimum payments are to be made;

(b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;

(c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;

PART III
CHAPTER I

- (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
- (e) for securing that liability is not avoided or reduced by the payment of earnings being made in accordance with any practice which is abnormal for the employment in respect of which the earnings are paid;
- (f) without prejudice to paragraph (e), for enabling the Secretary of State, where he is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed;
- (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made; and
- (h) 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.

(4) Any contracting-out certificate for the time being in force in respect of an employed earner's employment shall be conclusive that the employment is contracted-out employment.

(5) Regulations shall provide for the determination by the Board of any question whether an employment is to be treated as contracted-out employment or as to the persons in relation to whom, or the period for which, an employment is to be so treated.

General requirements for certification

Requirements for
certification of
schemes: general.

9.—(1) Subject to subsection (4), an occupational pension scheme can be contracted-out in relation to an earner's employment only if it satisfies subsection (2) or (3).

(2) An occupational pension scheme satisfies this subsection only if—

- (a) it complies in all respects with sections 13 to 24 or, in such cases or classes of case as may be prescribed, with those sections as modified by regulations; and
- (b) the rules of the scheme applying to guaranteed minimum pensions are framed so as to comply with the relevant requirements.

(3) An occupational pension scheme satisfies this subsection only if—

- (a) the requirements imposed by or by virtue of sections 22 and 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
- (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.

(4) Where there are two or more occupational pension schemes in force in relation to an earner's employment, none of which can by itself be a contracted-out scheme, the Board may, if they think fit, treat them for contracting-out purposes as a single scheme.

- (5) A personal pension scheme can be an appropriate scheme only if—
- (a) the requirements imposed by or by virtue of sections 26 to 32 and such other requirements as may be prescribed are satisfied in its case; and
 - (b) the rules of the scheme applying to protected rights are framed so as to comply with the relevant requirements.
- (6) In this section “relevant requirements” means—
- (a) the requirements of any regulations prescribing the form and content of rules of contracted-out or, as the case may be, appropriate schemes; and
 - (b) such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Board as a condition of contracting-out or, as the case may be, of being an appropriate scheme, either generally or in relation to a particular scheme.

10.—(1) Subject to subsections (2) and (3), the protected rights of a member of a pension scheme are his rights to money purchase benefits under the scheme.

Protected rights
and money
purchase benefits.

(2) If the rules of an occupational pension scheme so provide, a member's protected rights are—

- (a) his rights under the scheme which derive from the payment of minimum payments together with any payments by the Secretary of State to the scheme under section 7 of the Social Security Act 1986 in respect of the member;
- (b) any rights of the member to money purchase benefits which derive from protected rights under another occupational pension scheme or under a personal pension scheme which have been the subject of a transfer payment; and
- (c) such other rights as may be prescribed.

1986 c. 50.

(3) If the rules of a personal pension scheme so provide, a member's protected rights are—

- (a) his rights under the scheme which derive from any payment of minimum contributions to the scheme; and
- (b) any rights of his to money purchase benefits which derive from protected rights under another personal pension scheme or protected rights under an occupational pension scheme which have been the subject of a transfer payment; and
- (c) such other rights as may be prescribed.

11.—(1) Subject to the provisions of this Part, an employment otherwise satisfying the conditions for inclusion in a contracting-out certificate shall be so included if and so long as the employer so elects and not otherwise.

Elections as to
employments
covered by
contracting-out
certificates.

(2) Subject to subsections (3) and (4), an election may be so made, and an employment so included, either generally or in relation only to a particular description of earners.

(3) Except in such cases as may be prescribed, an employer shall not, in making or abstaining from making any election under this section, discriminate between different earners on any grounds other than the nature of their employment.

(4) If the Board consider that an employer is contravening subsection (3) in relation to any scheme, they may—

- (a) refuse to give effect to any election made by him in relation to that scheme; or
- (b) cancel any contracting-out certificate held by him in respect of it.

(5) Regulations may make provision—

- (a) for regulating the manner in which an employer is to make an election with a view to the issue, variation or surrender of a contracting-out certificate;
- (b) for requiring an employer to give a notice of his intentions in respect of making or abstaining from making any such election in relation to any existing or proposed scheme—
 - (i) to employees in any employment to which the scheme applies or to which it is proposed that it should apply;
 - (ii) to any independent trade union recognised to any extent for the purpose of collective bargaining in relation to those employees;
 - (iii) to the trustees and managers of the scheme; and
 - (iv) to such other persons as may be prescribed;
- (c) for requiring an employer, in connection with any such notice, to furnish such information as may be prescribed and to undertake such consultations as may be prescribed with any such trade union as is mentioned in paragraph (b)(ii);
- (d) for empowering the Board to refuse to give effect to an election made by an employer unless they are satisfied that he has complied with the requirements of the regulations;
- (e) for referring to an industrial tribunal any question—
 - (i) whether an organisation is such a trade union as is mentioned in paragraph (b)(ii), or
 - (ii) whether the requirements of the regulations as to consultation have been complied with.

Determination of
basis on which
scheme is
contracted-out.

12.—(1) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or (3) of section 9.

(2) Where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of those subsections as the subsection by virtue of which they wish the scheme to be contracted-out.

(3) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other except in prescribed circumstances.

Requirements for certification of occupational pension schemes providing guaranteed minimum pensions

13.—(1) Subject to the provisions of this Part, the scheme must—

Minimum
pensions for
earners.

- (a) provide for the earner to be entitled to a pension under the scheme if he attains pensionable age; and
- (b) contain a rule to the effect that the weekly rate of the pension will be not less than his guaranteed minimum (if any) under sections 14 to 16.

(2) In the case of an earner who is a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the Social Security Contributions and Benefits Act 1992, 1992 c. 4. subject to the provisions of this Part, the scheme must—

- (a) provide for her to be entitled to a pension under the scheme if she attains pensionable age and does not have a guaranteed minimum under sections 14 to 16; and
- (b) satisfy such other conditions as may be prescribed.

(3) Subject to subsection (4), the scheme must provide for the pension to commence on the date on which the earner attains pensionable age and to continue for his life.

(4) Subject to subsection (5), the scheme may provide for the commencement of the earner's guaranteed minimum pension to be postponed for any period for which he continues in employment after attaining pensionable age.

(5) The scheme must provide for the earner's consent to be required—

- (a) for any such postponement by virtue of employment to which the scheme does not relate; and
- (b) for any such postponement after the expiration of five years from the date on which he attains pensionable age.

(6) Equivalent pension benefits for the purposes of the former legislation are not to be regarded as constituting any part of the earner's guaranteed minimum pension.

(7) The benefits referred to in subsection (6) are any to which the earner may be immediately or prospectively entitled in respect of a period of employment which—

- (a) was for him non-participating employment under that legislation; and
- (b) was not on its termination the subject of any payment in lieu of contributions;

but subsection (6) excludes only so much of those benefits as had to be provided in order that the employment should for that period be treated as non-participating.

(8) In this section "the former legislation" means Part III of the National Insurance Act 1965 and the previous corresponding enactments. 1965 c. 51.

PART III
CHAPTER IEarner's
guaranteed
minimum.

14.—(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme if in any tax week in a relevant year, earnings in excess of the current lower earnings limit (or the prescribed equivalent if he is paid otherwise than weekly) have been paid to or for his benefit in respect of employment which is contracted-out by reference to the scheme.

(2) Subject to section 15(1), the guaranteed minimum shall be the weekly equivalent of an amount equal to the appropriate percentage of the total of the earner's earnings factors for the relevant years, so far as derived from earnings such as are mentioned in subsection (1) upon which primary Class 1 contributions have been paid or treated as paid.

(3) In determining the guaranteed minimum in a case where—

(a) earnings such as are mentioned in subsection (1) have been paid to a married woman or widow who is liable to pay primary Class 1 contributions at a reduced rate by virtue of section 19(4) of the Social Security Contributions and Benefits Act 1992, and

(b) the tax week in which those earnings are paid falls in the tax year 1991-92 or any subsequent tax year,

the married woman or widow shall be treated for the purposes of this section as having such earnings factors derived from those earnings as she would have had if primary Class 1 contributions had been payable, and paid, upon them otherwise than at a reduced rate.

(4) Where the amount of a person's earnings for any period is relevant for any purpose of subsection (1) or (2) 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.

(5) In subsection (2) the "appropriate percentage" means—

(a) in respect of the earner's earnings factors for any tax year not later than the tax year 1987-88—

(i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1.25 per cent.;

(ii) in any other case $25/N$ per cent.;

(b) in respect of the earner's earnings factors for the tax year 1988-89 and for subsequent tax years—

(i) if the earner was not more than 20 years under pensionable age on 6th April 1978, 1 per cent.;

(ii) in any other case $20/N$ per cent.;

where N is the number of years in the earner's working life (assuming he will attain pensionable age) which fall after 5th April 1978.

(6) Regulations may prescribe rules as to the circumstances in which earnings factors are derived from earnings for the purposes of subsection (2).

(7) For the purposes of subsection (2) the weekly equivalent of the amount there mentioned shall be calculated by dividing that amount by 52.

(8) In this section “relevant year” means any tax year in the earner’s working life (not being earlier than the tax year 1978-79).

15.—(1) Where in accordance with section 13(4) the commencement of an earner’s guaranteed minimum pension is postponed for any period and there are at least seven complete weeks in that period, his guaranteed minimum in relation to the scheme shall, for each complete week in that period, be increased by one-seventh per cent.—

Increase of guaranteed minimum where commencement of guaranteed minimum pension postponed.

- (a) of the amount of that minimum apart from this subsection; or
- (b) if for that week (or a period which includes that week) a pension is paid to him under the scheme at a weekly rate less than that minimum, of the difference between that pension and that minimum.

(2) In subsection (1) “week” means any period of seven consecutive days.

(3) Where an earner’s guaranteed minimum is increased under subsection (1), the increase of that part of it which is attributable to earnings factors for the tax year 1987-88 and earlier tax years shall be calculated separately from the increase of the rest.

(4) Where one or more orders have come into force under section 109 during the period for which the commencement of a guaranteed minimum pension is postponed, the amount of the guaranteed minimum for any week in that period shall be determined as if the order or orders had come into force before the beginning of the period.

16.—(1) Subject to subsection (2), for the purpose of section 14(2) the earner’s earnings factor for any relevant year (so far as derived as mentioned in that section) shall be taken to be that factor as increased by the same percentage as that prescribed for the increase of that factor by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the final relevant year.

Revaluation of earnings factors for purposes of s. 14: early leavers etc.
1975 c. 60.
1992 c. 5.

(2) The scheme may provide that the earnings factors of an earner whose service in contracted-out employment by reference to the scheme is terminated before the final relevant year 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 that service ends (“the last service tax year”).

(3) Where a scheme provides as mentioned in subsection (2) the scheme shall provide for the weekly equivalent mentioned in section 14(2) to be increased by at least—

- (a) 5 per cent. compound for each relevant year after the last service tax year; or
- (b) the amount by which an earnings factor for that year equal to that weekly equivalent would be increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the final relevant year,

whichever makes the lesser increase; and the provisions included by virtue of this subsection may also conform with such additional requirements as may be prescribed for the purposes of section 55(5).

PART III
CHAPTER I

(4) Except in such cases or classes of case as may be prescribed, the provision made by virtue of subsections (2) and (3) must be the same for all members of the scheme.

(5) In this section—

“relevant year” has the meaning given in section 14(8), and

“final relevant year” means the last tax year which is a relevant year in relation to the earner.

Minimum
pensions for
widows and
widowers.

17.—(1) Subject to the provisions of this Part, the scheme must provide that if the earner dies leaving a widow or widower (whether before or after attaining pensionable age), the widow or widower will be entitled to a guaranteed minimum pension under the scheme.

(2) The scheme must contain a rule to the effect that—

(a) if the earner is a man who has a guaranteed minimum under section 14, the weekly rate of the widow’s pension will be not less than the widow’s guaranteed minimum;

(b) if the earner is a woman who has a guaranteed minimum under that section, the weekly rate of the widower’s pension will be not less than the widower’s guaranteed minimum.

(3) The widow’s guaranteed minimum shall be half that of the earner.

(4) The widower’s guaranteed minimum shall be one-half of that part of the earner’s guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(5) The scheme must provide for the widow’s pension to be payable to her for any period for which a Category B retirement pension, widowed mother’s allowance or widow’s pension is payable to her by virtue of the earner’s contributions or for which a Category B retirement pension would be so payable but for section 43(1) of the Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension).

1992 c. 4.

(6) The scheme must provide for the widower’s pension to be payable to him in the prescribed circumstances and for the prescribed period.

(7) The trustees or managers of the scheme shall supply to the Secretary of State any such information as he may require relating to the payment of pensions under the scheme to widowers.

Treatment of
insignificant
amounts.

18.—(1) Where an amount is required to be calculated in accordance with the provisions of sections 14(7), 15(1) or 17(2), (3) or (4) and, apart from this subsection, the amount so calculated is less than 0.5p, then, notwithstanding any other provision of this Act, that amount shall be taken to be zero, and other amounts so calculated shall be rounded to the nearest whole penny, taking 0.5p as nearest to the next whole penny above.

(2) Where a guaranteed minimum pension is attributable in part to earnings factors for the period before the tax year 1988-89 and in part to earnings factors for that tax year or for that tax year and subsequent tax years, the pension shall be calculated by—

- (a) applying subsection (1) separately to the amount attributable to the period before the tax year 1988-89 and to the amount attributable to that and subsequent tax years, and
- (b) aggregating the two amounts so calculated.

19.—(1) A transaction to which this section applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person guaranteed minimum pensions—

Discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts.

- (a) if it is carried out not earlier than the time when that person's pensionable service terminates; and
- (b) if and to the extent that it results in guaranteed minimum pensions for or in respect of that person being appropriately secured; and
- (c) if and to the extent that the requirements set out in paragraph (a), (b) or (c) of subsection (5) are satisfied.

(2) This section applies to the following transactions—

- (a) the taking out of a policy of insurance or a number of such policies;
- (b) the entry into an annuity contract or a number of such contracts;
- (c) the transfer of the benefit of such a policy or policies or such a contract or contracts.

(3) In this section “appropriately secured” means secured by an appropriate policy of insurance or an appropriate annuity contract, or by more than one such policy or contract.

(4) A policy of insurance or annuity contract is appropriate for the purposes of this section if—

- (a) the insurance company with which it is or was taken out or entered into—
 - (i) is, or was at the relevant time, carrying on ordinary long-term insurance business in the United Kingdom or any other member State; and
 - (ii) satisfies, or at the relevant time satisfied, prescribed requirements; and
- (b) it may not be assigned or surrendered except on conditions which satisfy such requirements as may be prescribed; and
- (c) it contains or is endorsed with terms whose effect is that the amount secured by it may not be commuted except on conditions which satisfy such requirements as may be prescribed; and
- (d) it satisfies such other requirements as may be prescribed.

(5) The requirements referred to in subsection (1) are—

- (a) that the arrangement for securing the amount by means of the policy or contract was made—
 - (i) at the written request of the earner or, if the earner has died, of the earner's widow or widower; or
 - (ii) with the consent of the earner or the widow or widower given in writing in a prescribed form;

PART III
CHAPTER I

(b) that—

- (i) the case is one such as is mentioned in section 96(2); and
- (ii) the policy or contract only secures guaranteed minimum pensions;

(c) that—

- (i) the case is not one such as is mentioned in section 96(2); and
- (ii) such conditions as may be prescribed are satisfied.

(6) In subsection (4)(a), “the relevant time” means the time when the policy of insurance was taken out or the annuity contract was entered into or, as the case may be, when the benefit of the policy or contract was transferred.

1982 c. 50.

(7) In this section “ordinary long-term insurance business” has the same meaning as in the Insurance Companies Act 1982.

Transfer of
accrued rights.

20.—(1) Regulations may prescribe circumstances in which and conditions subject to which—

(a) a transfer of or a transfer payment in respect of—

- (i) an earner’s accrued rights to guaranteed minimum pensions under a contracted-out scheme;
- (ii) an earner’s accrued rights to pensions under an occupational pension scheme which is not contracted-out, to the extent that those rights derive from his accrued rights to guaranteed minimum pensions under a contracted-out scheme; or
- (iii) the liability for the payment of guaranteed minimum pensions to or in respect of any person who has become entitled to them,

may be made by an occupational pension scheme to another such scheme or to a personal pension scheme;

(b) a transfer of or a transfer payment in respect of an earner’s accrued rights to guaranteed minimum pensions which are appropriately secured for the purposes of section 19 may be made to an occupational pension scheme or a personal pension scheme.

(2) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.

(3) Regulations under subsection (1) may provide that any provision of this Part (other than sections 18, 19 and 43 to 45, and sections 26 to 33 so far as they apply to personal pension schemes) or of Chapter III of Part IV or Chapter II of Part V shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.

(4) Regulations under subsection (1) shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.

(5) The power conferred by subsection (1) is without prejudice to the generality of section 182(2).

(6) In the provisions mentioned in subsection (3) “accrued rights”, in relation to an earner, means the rights conferring prospective entitlement under the scheme in question to the pensions to be provided for the earner and the earner’s widow or widower in accordance with sections 13 and 17, and references to an earner’s accrued rights to guaranteed minimum pensions shall be construed accordingly.

21.—(1) Where the annual rate of a pension required to be provided by a scheme in accordance with section 13 or 17 would not exceed the prescribed amount and the circumstances are such as may be prescribed, the scheme may provide for the payment of a lump sum instead of that pension. Commutation, surrender and forfeiture.

(2) Neither section 13 nor section 17 shall preclude a scheme from providing for the earner’s or the earner’s widow’s or widower’s guaranteed minimum pension to be suspended or forfeited in such circumstances as may be prescribed.

22. The resources of the scheme must be derived in whole or in part from— Financing of benefits.

- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
- (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

23.—(1) The Board must be satisfied that the scheme complies with— Securing of benefits.

- (a) regulations prescribing the means by which guaranteed minimum pensions under contracted-out schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means); and
- (b) the conditions which are required by the regulations to be satisfied in relation to any means adopted;

and generally as to the arrangements in force or to be in force from time to time for securing those pensions.

(2) Subject to subsection (3), the scheme must contain a rule by which any liabilities of the scheme in respect of—

- (a) guaranteed minimum pensions and accrued rights to guaranteed minimum pensions;
- (b) any such benefits as are excluded by section 13(6) from earners’ guaranteed minimum pensions;
- (c) pensions and other benefits (whether or not within paragraph (a) or (b)) in respect of which entitlement to payment has already arisen; and

(d) state scheme premiums,

are accorded priority on a winding up over other liabilities under the scheme in respect of benefits attributable to any period of service after the rule has taken effect.

(3) The rule may also accord priority, on a winding up occurring after an earner has attained normal pension age, to liabilities of the scheme in respect of pensions and other benefits to which—

- (a) he will be entitled on ceasing to be in employment, or
- (b) the earner's widow or widower or any dependant of the earner's will be entitled on the earner's death.

(4) Subsections (1) to (3) do not apply to public service pension schemes.

(5) The duties imposed on the Board by subsection (1) shall cease to subsist in relation to guaranteed minimum pensions for a member and the member's widow or widower where a scheme has ceased by virtue of section 19 to be liable to provide those pensions.

(6) Subsections (2) and (3) do not apply to schemes falling within any category or description prescribed as being exempt from the requirements of those subsections.

(7) If the scheme provides for the payment out of any sum representing the surrender value of a policy of insurance taken out for the purposes of the scheme, it must make provision so that there may be no payment out in relation to guaranteed minimum pensions except in such circumstances as may be prescribed.

Sufficiency of
resources.

24.—(1) The Board must be satisfied that the resources of the scheme are sufficient—

- (a) for meeting from time to time all claims in respect of guaranteed minimum pensions so far as falling to be met out of those resources, having regard to the expected extent of the scheme's resources and its other liabilities at any time when claims may be expected to arise; and
- (b) for paying state scheme premiums in respect of all persons at any time entitled to, or having accrued rights to, guaranteed minimum pensions under the scheme; and
- (c) for meeting in full in the event of an immediate winding up—
 - (i) the liabilities accorded priority in accordance with section 23(2) and (3), and
 - (ii) the expenses of administration so far as those expenses are payable out of the resources of the scheme.

(2) Subsection (1) does not apply to public service schemes and the duties imposed on the Board by that subsection shall cease to subsist in relation to guaranteed minimum pensions for a member and the member's widow or widower where a scheme has ceased by virtue of section 19 to be liable to provide those pensions.

(3) Regulations may provide for subsection (1) to have effect in prescribed cases—

- (a) with the omission of paragraphs (b) and (c), or
- (b) with the omission of either of those paragraphs, or

- (c) with the substitution for both or either of those paragraphs of provisions specified in the regulations.

(4) In considering a scheme by reference to the considerations of subsection (1), the Board shall have regard to any investments held for the purposes of the scheme.

Discretionary requirements

25.—(1) The Board may by reference to the considerations of section 24(1) make it a condition of the contracting-out or continued contracting-out of a scheme to which that section applies that—

Power for Board to impose conditions as to investments and resources.

- (a) no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description; or
- (b) the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the condition is imposed shall be realised before the end of a specified period.

(2) Where contracting-out or continued contracting-out depends on the Board's being satisfied as mentioned in section 24(1), the scheme may be contracted-out or continue to be contracted-out, as the case may be, in relation to any employment subject to such conditions as the Board think fit to impose for securing—

- (a) that they are kept informed about any matters affecting the security of the minimum pensions guaranteed under the scheme;
- (b) that the resources of the scheme are brought to and maintained at a level satisfactory to the Board.

(3) Conditions imposed by the Board for the purpose mentioned in subsection (2)(b) may require steps to be taken, at the instance of the Board, to increase the scheme's resources at any time after contracting-out, including a time when the scheme has ceased to be contracted-out.

Requirements for certification of occupational and personal money purchase schemes

26. The Secretary of State may prescribe descriptions of persons by whom or bodies by which the scheme may be established and, if he does so, the scheme may only be established by a person or body of a prescribed description.

Persons who may establish scheme.

27.—(1) Where the rules of the scheme make such provision as is mentioned in section 10(2) or (3), they must also make provision for the identification of the protected rights.

Identification and valuation of protected rights.

(2) The value of such protected rights as are mentioned in section 10(2) or (3) must be calculated in a manner no less favourable than that in which the value of any other rights of the member to money purchase benefits under the scheme are calculated.

(3) Subject to subsection (2), the value of protected rights must be calculated and verified in such manner as may be prescribed.

PART III
CHAPTER I

Ways of giving
effect to protected
rights.

28.—(1) The rules of the scheme must provide for effect to be given to the protected rights of a member—

- (a) in any case where subsection (3) so requires, by the purchase of such an annuity as is mentioned in that subsection, and
- (b) in any other case, in such of the ways permitted by the following subsections as the rules may specify,

and they must not provide for any part of a member's protected rights to be discharged otherwise than in accordance with those subsections.

(2) Effect may be given to protected rights—

- (a) by the provision by the scheme of a pension which—
 - (i) complies with the pension requirements (within the meaning of section 29(1)), and
 - (ii) satisfies such conditions as may be prescribed; or
- (b) in such circumstances and subject to such conditions as may be prescribed, by the making of a transfer payment—
 - (i) in the case of an occupational pension scheme, to another occupational pension scheme or to a personal pension scheme, and
 - (ii) in the case of a personal pension scheme, to another personal pension scheme or to an occupational pension scheme,

where the scheme to which the payment is made satisfies such requirements as may be prescribed.

(3) Subject to subsections (5) and (7), if—

- (a) the rules of the scheme do not provide for a pension; or
- (b) the member so elects,

then, except to the extent that effect is given to protected rights in accordance with subsection (4), effect shall be given to them by the purchase by the scheme of an annuity which—

- (i) complies with the annuity requirements (within the meaning of section 29(3)), and
- (ii) satisfies such conditions as may be prescribed.

(4) Effect may be given to protected rights by the provision of a lump sum if—

- (a) the lump sum is payable on a date which is—
 - (i) in the case of an occupational pension scheme, a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of 65, or
 - (ii) in the case of a personal pension scheme, the date on which the member attains pensionable age, or
 - (iii) in either case, such later date as has been agreed by him;
- (b) the annual rate of a pension under subsection (2) or an annuity under subsection (3) giving effect to the protected rights and commencing on the date on which the lump sum is payable would not exceed the prescribed amount;
- (c) the circumstances are such as may be prescribed; and

- (d) the amount of the lump sum is calculated in a manner satisfactory to the Board by reference to the amount of the pension or annuity.
- (5) If the member has died without effect being given to protected rights under subsection (2), (3) or (4), effect may be given to them in such manner as may be prescribed.
- (6) No transaction is to be taken to give effect to protected rights unless it falls within this section.
- (7) Effect need not be given to protected rights if they have been extinguished—
 - (a) in the case of an occupational pension scheme, by the payment of a contracted-out protected rights premium under section 55; or
 - (b) in the case of a personal pension scheme, by the payment of a personal pension protected rights premium under that section.

29.—(1) For the purposes of section 28 a pension complies with the pension requirements if—

The pension and annuity requirements.

- (a) it commences—
 - (i) in the case of an occupational pension scheme, on a date not earlier than that on which the member attains the age of 60 nor later than that on which he attains the age of 65, or
 - (ii) in the case of a personal pension scheme, on the date on which the member attains pensionable age, or
 - (iii) in either case, on such later date as has been agreed by him,and continues until the date of his death; and
 - (b) in a case where the member dies while it is payable to him and is survived by a widow or widower—
 - (i) it is payable to the widow or widower in prescribed circumstances and for the prescribed period at an annual rate which at any given time is one-half of the rate at which it would have been payable to the member if the member had been living at that time; or
 - (ii) where that annual rate would not exceed a prescribed amount and the circumstances are such as may be prescribed, a lump sum calculated in a manner satisfactory to the Board is provided in lieu of it.
- (2) As respects the period of 5 years beginning with the commencement of the pension referred to in subsection (1), that subsection shall have effect in relation to that pension as if the words “at least” were inserted immediately before the words “one-half” in paragraph (b)(i).
- (3) For the purposes of section 28 an annuity complies with the annuity requirements if—
- (a) it satisfies the requirements mentioned in subsections (1) and (2) (taking the references in those subsections to pensions as references to annuities); and
 - (b) it is provided by an insurance company which—
 - (i) satisfies prescribed conditions;

(ii) complies with such conditions as may be prescribed as to the calculation of annuities provided by it and as to the description of persons by or for whom they may be purchased; and

(iii) subject to subsection (4), has been chosen by the member.

(4) A member is only to be taken to have chosen an insurance company if he gives notice of his choice to the trustees or managers of the scheme within the prescribed period and in such manner and form as may be prescribed, and with any such supporting evidence as may be prescribed; and, if he does not do so, the trustees or managers may themselves choose the insurance company instead.

Securing of
liability for
protected rights.

30.—(1) The Board must be satisfied that the scheme complies with any such requirements as may be prescribed for meeting the whole or a prescribed part of any liability in respect of protected rights under the scheme which the scheme is unable to meet from its own resources—

- (a) by reason of the commission by any person of a criminal offence;
- (b) in such other circumstances as may be prescribed.

(2) Subsection (1) does not apply to a public service pension scheme.

Investment and
resources of
schemes.

31.—(1) The scheme must comply with such requirements as may be prescribed as regards the investment of its resources and with any direction of the Board—

- (a) that no part, or no more than a specified proportion, of the scheme's resources shall be invested in investments of a specified class or description;
- (b) that the whole or a specified proportion of investments of a specified class or description forming part of the scheme's resources when the direction is given shall be realised before the end of a specified period.

(2) The scheme must comply with such requirements as may be prescribed as regards the part—

- (a) of any payment that is made to the scheme by or on behalf of a member of the scheme;
- (b) of any income or capital gain arising from the investment of such a payment; or
- (c) of the value of rights under the scheme,

that may be used—

- (i) to defray the administrative expenses of the scheme;
- (ii) to pay commission; or
- (iii) in any other way which does not result in the provision of benefits for or in respect of members.

(3) Subject to subsection (4)—

- (a) in the case of an occupational pension scheme, all minimum payments and any payments made by the Secretary of State under section 7 of the Social Security Act 1986, and

- (b) in the case of a personal pension scheme, all minimum contributions,

which are paid to a scheme in respect of one of its members must be applied so as to provide money purchase benefits for or in respect of that member, except so far as they are used—

- (i) to defray the administrative expenses of the scheme; or
- (ii) to pay commission.

(4) If regulations are made under subsection (2), the payments mentioned in paragraph (a) of subsection (3) and the contributions mentioned in paragraph (b) of that subsection may be used in any way which the regulations permit, but not in any way not so permitted except to provide money purchase benefits for or in respect of the member.

32. Except in such circumstances as may be prescribed, the rules of the scheme must not permit the suspension or forfeiture of a member's protected rights or of payments giving effect to them.

Suspension or forfeiture.

33. Nothing in sections 26 to 32 shall be taken to prejudice any requirements with which a scheme must comply if it is to qualify for tax-exemption or tax-approval.

Tax requirements to prevail over certification requirements.

Cancellation, variation, surrender and refusal of certificates

34.—(1) Regulations shall provide for the cancellation, variation or surrender of any contracting-out certificate or appropriate scheme certificate, or the issue of an amended certificate—

Cancellation, variation, surrender and refusal of certificates.

- (a) in the case of a contracting-out certificate, on any change of circumstances affecting the treatment of an employment as contracted-out employment; and
- (b) in the case of an appropriate scheme certificate, on any relevant change of circumstances.

(2) Regulations may enable the Board to cancel or vary a contracting-out certificate where—

- (a) they have reason to suppose that any employment to which it relates ought not to be treated as contracted-out employment in accordance with the certificate; and
- (b) the employer does not show that it ought to be so treated.

(3) Where—

- (a) 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, or
- (b) by or by virtue of any provision of sections 26 to 32 a scheme's being an appropriate scheme depends on the satisfaction of a particular condition,

the continued contracting-out of the scheme or, as the case may be, 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 the contracting-out or appropriate scheme certificate.

(4) A contracting-out certificate in respect of any employment may be withheld or cancelled by the Board if they consider that there are circumstances which make it inexpedient that the employment should be or, as the case may be, continue to be, contracted-out employment by reference to the scheme, notwithstanding that the relevant scheme is one that they would otherwise treat as proper to be contracted-out in relation to all earners in that employment.

(5) An appropriate scheme certificate may be withheld or cancelled by the Board if they consider that there are circumstances which make it inexpedient that the scheme should be or continue to be an appropriate scheme, notwithstanding that they would otherwise issue such a certificate or not cancel such a certificate.

(6) Without prejudice to their powers apart from this subsection, the Board may withhold or cancel a contracting-out certificate in respect of a scheme if they consider that the rules of the scheme are such that persons over particular ages may be prevented from participating in the scheme.

(7) Without prejudice to the previous provisions of this section—

- (a) non-compliance with any such condition as is mentioned in subsection (1) of section 25 shall be a ground on which the Board may withhold or cancel a contracting-out certificate in respect of any employment within the application of the scheme; and
- (b) non-compliance with any such condition as is mentioned in subsection (2) of that section shall be a ground on which the Board may cancel a contracting-out certificate issued in respect of any such employment.

(8) Except in prescribed circumstances, no cancellation, variation or surrender of a contracting-out certificate or appropriate scheme certificate shall have effect from a date earlier than that on which the cancellation, variation or surrender is made.

Surrender and
cancellation of
contracting-out
certificates: issue
of further
certificates.

35.—(1) This section applies in any case where—

- (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board; and
- (b) at any time before the end of the period of 12 months beginning with the date of the surrender or cancellation, that or any connected employer makes an election under section 11 in respect of any employment which was specified by virtue of section 7(2)(a) in the first certificate, with a view to the issue of a further contracting-out certificate.

(2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme which would be specified in the further certificate if it were issued.

(3) The Board shall not give effect to the election referred to in subsection (1) by issuing a further certificate unless they consider that, in all the circumstances of the case, it would be reasonable to do so.

(4) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.

- (5) For the purposes of subsection (1)—
- (a) an employment (“the second employment”) in respect of which an election of the kind referred to in subsection (1)(b) has been made; and
 - (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,
- shall be treated as one employment if, in the opinion of the Board—
- (i) they are substantially the same, however described; or
 - (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.
- (6) Regulations shall prescribe the cases in which employers are to be treated as connected for the purposes of this section.

36.—(1) This section applies in any case where—

- (a) a contracting-out certificate (“the first certificate”) has been surrendered by an employer or cancelled by the Board;
- (b) a further contracting-out certificate (“the further certificate”) has been issued, after the surrender or cancellation of the first certificate but before the end of the period of 12 months beginning with the date of the surrender or cancellation, in respect of any employment which was specified by virtue of section 7(2)(a) in the first certificate; and
- (c) the Board have formed the opinion that had they been aware of all the circumstances of the case at the time when the further certificate was issued they would have been prevented by section 35(3) from issuing it.

Surrender and
cancellation of
contracting-out
certificates:
cancellation of
further certificates.

(2) This section applies whether or not the scheme specified in the first certificate in relation to the employment concerned is the same as the scheme specified in the further certificate.

(3) The Board may, before the end of the period of 12 months beginning with the date on which the further certificate was issued, cancel that certificate.

(4) Where a contracting-out certificate is cancelled under subsection (3) the provisions of this Act and of any regulations and orders made under it shall have effect as if the certificate had never been issued.

(5) Regulations may make such supplemental provision in relation to cases falling within this section as the Secretary of State considers necessary or expedient.

(6) Without prejudice to subsection (5), regulations may make provision, in relation to any case in which the Board have cancelled a contracting-out certificate under subsection (3), preventing the recovery by the employer concerned (whether by deduction from emoluments or otherwise) of such arrears which he is required to pay to the Secretary of State in respect of an earner’s liability under section 6(3) of the Social Security Contributions and Benefits Act 1992 as may be prescribed.

1992 c. 4.

PART III
CHAPTER I

(7) For the purposes of subsection (1)—

- (a) an employment (“the second employment”) in respect of which a further contracting-out certificate of the kind referred to in subsection (1)(b) has been issued; and
- (b) an employment (“the first employment”) which was specified by virtue of section 7(2)(a) in the first certificate,

shall be treated as one employment if, in the opinion of the Board—

- (i) they are substantially the same, however described; or
- (ii) the first employment falls wholly or partly within the description of the second employment or the second employment falls wholly or partly within the description of the first employment.

Alteration of scheme rules after certification

Alteration of rules
of contracted-out
schemes.

37.—(1) Subject to subsection (2), where a contracting-out certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as to affect any of the matters dealt with in this Part (other than sections 18, 19 and 43 to 45, and sections 26 to 33 so far as they apply to personal pension schemes) or Chapter III of Part IV or Chapter II of Part V without the consent of the Board.

(2) Subsection (1) does not apply—

1984 c. 48.
1985 c. 53.
1986 c. 50.

- (a) to an alteration consequential on a provision of the Health and Social Security Act 1984, the Social Security Act 1985 or the Social Security Act 1986 (or any provision of this Act derived from any such provision); or
- (b) to an alteration of a prescribed description.

(3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void if it is made without the consent of the Board.

(4) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

(5) This section shall continue in force in relation to a scheme after it has ceased to be contracted-out so long as—

- (a) any person is entitled to receive, or has accrued rights to, a guaranteed minimum pension under the scheme, or
- (b) any person has protected rights under it or is entitled to any benefit giving effect to protected rights under it.

(6) The reference in subsection (5) to a person entitled to receive a guaranteed minimum pension includes a reference to a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed.

Alteration of rules
of appropriate
schemes.

38.—(1) Where an appropriate scheme certificate has been issued, no alteration of the rules of the relevant scheme shall be made so as—

- (a) to affect any of the matters dealt with in sections 26 to 33; or
- (b) to cause the scheme to take a different permitted form from that previously taken,

unless—

- (i) the Board have given their consent to the alteration; and
 - (ii) notice of intention to apply for their consent was given in accordance with the requirements mentioned in subsection (7) or was so given except in so far as the Board dispenses with the necessity for such a notice.
- (2) Subsection (1) does not apply to an alteration of a prescribed description.
- (3) Subject to subsection (4), any alteration to which subsection (1) applies shall be void if it is made without the conditions mentioned in subsection (1) being satisfied.
- (4) A consent given by the Board for the purposes of this section shall, if and to the extent that the Board so direct, operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.
- (5) This section shall continue in force in relation to a scheme after it has ceased to be an appropriate scheme so long as any person has protected rights under the scheme.
- (6) The reference in subsection (1)(b) to a permitted form is to one of the following forms, namely—
- (a) an arrangement for the issue of insurance policies or annuity contracts;
 - (b) a unit trust scheme of a kind mentioned in Part I of Schedule 1 to the Personal Pension Schemes (Appropriate Schemes) Regulations 1988 which has been authorised under section 78(1) of or by virtue of paragraph 9 of Schedule 15 to the Financial Services Act 1986; S.I. 1988/137.
1986 c. 60.
 - (c) an arrangement for the investment of contributions in an interest-bearing account (including shares in or deposits with a building society (within the meaning of the Building Societies Act 1986)). 1986 c. 53.
- (7) The requirements referred to in subsection (1)(ii) are—
- (a) that the notice is given in writing—
 - (i) to any member of the scheme who has protected rights under it; and
 - (ii) to any earner who has given a notice under section 44(1) jointly with the managers or trustees of the scheme, being a notice which has not been cancelled, by sending it to his last known address; and
 - (b) that the notice specifies—
 - (i) the name of the scheme,
 - (ii) the nature of the proposed alteration and its effect on the persons to whom the notice is given, and
 - (iii) the date on which it is proposed that the alteration should take effect (which must not be less than 3 months after that on which the notice is given).

PART III
CHAPTER I

General regulations as to administration of Part III

General power to
make regulations.

39. Schedule 2 shall have effect for enabling regulations to be made in relation to the operation and administration of this Part, and Part I of that Schedule has effect as respects occupational pension schemes, and Part II of that Schedule as respects personal pension schemes.

CHAPTER II

REDUCTION IN STATE SCHEME CONTRIBUTIONS AND SOCIAL SECURITY
BENEFITS FOR MEMBERS OF CERTIFIED SCHEMES

Preliminary

Scope of Chapter
II.

40. This Chapter has effect for the purpose—

- (a) of reducing the rates at which certain national insurance contributions are payable by or in respect of earners whose employment is contracted-out by reference to contracted-out occupational pension schemes;
- (b) of providing for contributions to be paid by the Secretary of State in respect of earners who are members of appropriate personal pension schemes; and
- (c) of making provision concerning the payment of certain social security benefits payable in respect of members and former members of such schemes.

Reduced rates of state scheme Class 1 contributions

Reduced rates of
Class 1
contributions for
earners in
contracted-out
employment.

41.—(1) Where the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment, the amount of a Class 1 contribution in respect of so much of the earnings paid in that week as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if he is paid otherwise than weekly) shall be reduced—

- (a) in the case of a primary Class 1 contribution, by an amount equal to 1.8 per cent. of that part of those earnings; and
- (b) in the case of a secondary Class 1 contribution, by an amount equal to 3 per cent. of that part of those earnings.

(2) Where—

- (a) an earner has ceased to be employed in an employment; and
- (b) earnings are paid to him or for his benefit within the period of 6 weeks, or such other period as may be prescribed, from the day on which he so ceased,

that employment shall be treated for the purposes of subsection (1) as contracted-out employment at the time when the earnings are paid if it was contracted-out employment in relation to the earner when he was last employed in it.

(3) This section shall not affect the amount of any primary Class 1 contribution which is payable at a reduced rate by virtue of regulations under section 19(4) of the Social Security Contributions and Benefits Act 1992 (reduced rates for married women and widows).

PART III
CHAPTER IIReview and
alteration of rates
of contributions
applicable under
s. 41.

42.—(1) The Secretary of State may from time to time, and shall when required by subsection (2), lay before each House of Parliament—

- (a) a report by the Government Actuary or the Deputy Government Actuary on the percentages for the time being applying under section 41(1)(a) and (b) and any changes in the factors affecting the cost to occupational pension schemes of providing guaranteed minimum pensions since the preparation of the last report under this paragraph; and
- (b) a report by the Secretary of State stating whether he considers that, in view of the report of the Government Actuary or the Deputy Government Actuary, there should be an alteration in either or both of those percentages and, if so, what alteration is in his opinion required.

(2) The Secretary of State shall lay such reports at intervals of not more than five years.

(3) If in a report under subsection (1)(b) the Secretary of State states that he considers that there should be an alteration in either or both of the percentages mentioned in section 41(1)(a) and (b), he shall prepare and lay before each House of Parliament with the report the draft of an order making that alteration; and if the draft is approved by resolution of each House the Secretary of State shall make the order in the form of the draft.

(4) An order under subsection (3) shall have effect from the beginning of such tax year as may be specified in the order, but not a tax year earlier than the second after that in which the order is made.

(5) No alteration of those percentages shall introduce any distinction on grounds of age or sex.

(6) A draft of an order making alterations in either or both of those percentages may contain consequential provisions altering any percentage for the time being specified in paragraph 2(3) of Schedule 4 as that percentage applies in relation to earnings paid or payable on or after the day as from which the order is to have effect.

Minimum contributions: members of appropriate personal pension schemes

43.—(1) Subject to the following provisions of this Part, the Secretary of State shall, except in such circumstances as may be prescribed, pay minimum contributions in respect of an employed earner for any period during which the earner—

Payment of
minimum
contributions to
personal pension
schemes.

- (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) Subject to subsection (3), minimum contributions in respect of an earner shall be paid to the trustees or managers of the earner's chosen scheme.

(3) In such circumstances as may be prescribed minimum contributions shall be paid to a prescribed person.

PART III
CHAPTER II

(4) Where the condition mentioned in subsection (1)(a) or (c) 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.

(5) If the Secretary of State pays an amount by way of minimum contributions which he is not required to pay, he may recover it—

- (a) from the person to whom he paid it, or
- (b) from any person in respect of whom he paid it.

(6) If the Secretary of State 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.

Earner's chosen
scheme.

44.—(1) 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 under section 43;
- (b) that the trustees or managers have agreed to accept him as a member of the scheme and to receive such minimum contributions in respect of him,

that scheme is the earner's chosen scheme for the purposes of section 43 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 for those purposes.

(2) Either an earner or the trustees or managers of the scheme may cancel a notice under subsection (1) by giving notice to that effect to the Secretary of State at such time and in such manner and form as may be prescribed.

(3) When a notice under subsection (2) 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.

Amount of
minimum
contributions.

45.—(1) Subject to subsection (2), 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 an amount equal to the aggregate amount of the reductions in Class 1 contributions which would fall to be made under section 41(1) if any employment of his which is not contracted-out were contracted-out employment.

(2) Where—

- (a) subsection (1) applies;
- (b) the tax year in which the tax week falls ends before such date as may be prescribed; and

(c) the earner was over the age of 30 on the 6th April with which the tax year began,
there shall be added to the amount payable under that subsection an amount equal to 1 per cent. of so much of those earnings as respects which those reductions would fall to be made.

(3) Regulations may make provision—

- (a) for earnings to 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 the manner in which an earner's age is to be verified for the purposes of subsection (2);
- (e) 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 for the references to a tax week in section 41(1) to have effect accordingly so far as they apply for the purposes of this section;
- (f) as to the manner in which and time at which or period within which minimum contributions are to be made.

Effect of entitlement to guaranteed minimum pensions on payment of social security benefits

46.—(1) Where for any period a person is entitled both—

- (a) to a Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or a widower's invalidity pension under the Social Security Contributions and Benefits Act 1992; and
- (b) to one or more guaranteed minimum pensions,

the weekly rate of the benefit mentioned in paragraph (a) shall for that period be reduced by an amount equal—

- (i) to its additional pension, or
- (ii) to the weekly rate of the pension mentioned in paragraph (b) (or, if there is more than one such pension, their aggregate weekly rates),

whichever is the less.

(2) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;
- (b) he is also entitled to an invalidity pension under section 33 of the Social Security Contributions and Benefits Act 1992; and

Effect of
entitlement to
guaranteed
minimum pensions
on payment of
social security
benefits.
1992 c. 4.

(c) the weekly rate of his invalidity pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act, for that period section 34 of that Act shall have effect as if the following subsection were substituted for subsection (5)—

“(5) In this section “the relevant amount” means an amount equal to the aggregate of—

(a) the additional pension; and

(b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(3) Where for any period—

(a) a person is entitled to one or more guaranteed minimum pensions;

(b) he is also entitled to an invalidity pension under section 33 of the Social Security Contributions and Benefits Act 1992; and

(c) the weekly rate of his invalidity pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the appropriate weekly rate of invalidity allowance and he shall be entitled to invalidity allowance only if there is a balance after the deduction and, if there is such a balance, at a weekly rate equal to it.

(4) Where for any period—

(a) a person is entitled to one or more guaranteed minimum pensions;

(b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits Act 1992; and

(c) the weekly rate of his pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period section 47 of that Act shall have effect as if the following subsection were substituted for subsection (3)—

“(3) In subsection (2) above “the relevant amount” means an amount equal to the aggregate of—

(a) the additional pension; and

(b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

(5) Where for any period—

(a) a person is entitled to one or more guaranteed minimum pensions;

(b) he is also entitled to a Category A retirement pension under section 44 of the Social Security Contributions and Benefits Act 1992; and

- (c) the weekly rate of his Category A retirement pension does not include an additional pension such as is mentioned in subsection (3)(b) of that section,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under section 47(1) of that Act and the pensioner shall be entitled to an increase under that section only if there is a balance remaining after that deduction and, if there is such a balance, of an amount equal to it.

- (6) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;

- (b) he is also entitled—

(i) to an invalidity pension under section 33 of the Social Security Contributions and Benefits Act 1992;

(ii) to a Category A retirement pension under section 44 of that Act; or

(iii) to a Category B retirement pension under section 49 of that Act; and

- (c) the weekly rate of the pension includes an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period paragraph 3 of Schedule 7 to that Act shall have effect as if the following sub-paragraph were substituted for sub-paragraph (3)—

“(3) In this paragraph “the relevant amount” means an amount equal to the aggregate of—

- (a) the additional pension; and

- (b) the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions,

reduced by the amount of any reduction in the weekly rate of the pension made by virtue of section 46(1) of the Pension Schemes Act 1993.”.

- (7) Where for any period—

- (a) a person is entitled to one or more guaranteed minimum pensions;

- (b) he is also entitled to any of the pensions under the Social Security Contributions and Benefits Act 1992 mentioned in subsection (6)(b); and

- (c) the weekly rate of the pension does not include an additional pension such as is mentioned in section 44(3)(b) of that Act,

for that period the relevant amount shall be deducted from the amount that would otherwise be the increase under paragraph 3 of Schedule 7 to that Act and the beneficiary shall be entitled to an increase only if there is a balance after that deduction and, if there is such a balance, only to an amount equal to it.

(8) In this section “the relevant amount” means an amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions—

- (a) in the case of subsection (3), reduced by the amount of any reduction in the weekly rate of the invalidity pension made by virtue of subsection (1); and

PART III
CHAPTER II

- (b) in the case of subsection (5), reduced by the amount of any reduction in the weekly rate of the Category A retirement pension made by virtue of subsection (1);

and references in this section to the weekly rate of a guaranteed minimum pension are references to that rate without any increase under section 15(1).

1992 c. 4.

(9) Where subsection (3) applies, section 34(7) of the Social Security Contributions and Benefits Act 1992 shall have effect as if for the words “subsection (4) above” there were substituted the words “section 46(3) of the Pension Schemes Act 1993”.

Further provisions concerning entitlement to guaranteed minimum pensions for the purposes of s. 46.

47.—(1) The reference in section 46(1) to a person entitled to a guaranteed minimum pension shall be construed as including a reference to a person so entitled by virtue of being the widower of an earner in any case where he is entitled to a widower’s invalidity pension, but where he is entitled to any other benefit that reference shall be so construed only if—

- (a) at the time of the earner’s death she and her husband had both attained pensionable age; or
- (b) he is also entitled to a Category A retirement pension by virtue of section 41(7) of the Social Security Contributions and Benefits Act 1992.

(2) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—

- (a) if its commencement had not been postponed, as mentioned in section 13(4); or
- (b) if there had not been made a transfer payment or transfer under regulations made by virtue of section 20 as a result of which—
 - (i) he is no longer entitled to guaranteed minimum pensions under the scheme by which the transfer payment or transfer was made, and
 - (ii) he has not become entitled to guaranteed minimum pensions under the scheme to which the transfer payment or transfer was made.

(3) Where—

- (a) guaranteed minimum pensions provided for a member or the member’s widow or widower under a contracted-out scheme have been wholly or partly secured as mentioned in subsection (3) of section 19; and
- (b) either—
 - (i) the transaction wholly or partly securing them was carried out before 1st January 1986 and discharged the trustees or managers of the scheme as mentioned in subsection (1) of that section; or
 - (ii) it was carried out on or after that date without any of the requirements specified in subsection (5)(a) to (c) of that section being satisfied in relation to it and the scheme has been wound up; and

(c) any company with which any relevant policy of insurance or annuity contract was taken out or entered into is unable to meet the liabilities under policies issued or securities given by it; and

(d) the combined proceeds of—

(i) any relevant policies and annuity contracts, and

(ii) any cash sums paid or alternative arrangements made under the Policyholders Protection Act 1975,

1975 c. 75.

are inadequate to provide the whole of the amount secured,

the member and the member's widow or widower shall be treated for the purposes of section 46 as only entitled to such part (if any) of the member's or, as the case may be, the member's widow's or widower's guaranteed minimum pension as is provided by the proceeds mentioned in paragraph (d).

(4) A policy or annuity is relevant for the purposes of subsection (3) if taking it out or entering into it constituted the transaction to which section 19 applies.

(5) For the purposes of section 46 a person shall be treated as entitled to any guaranteed minimum pension to which he would have been entitled—

(a) if a lump sum had not been paid instead of that pension under provisions included in a scheme by virtue of section 21(1); or

(b) if that pension had not been forfeited under provisions included in a scheme by virtue of section 21(2).

48.—(1) Subject to subsection (3), this subsection applies where for any period—

Reduced benefits where minimum payments or minimum contributions paid.

(a) minimum payments have been made in respect of an earner to an occupational pension scheme which is a money purchase contracted-out scheme in relation to the earner's employment, or

(b) minimum contributions have been paid in respect of an earner under section 43.

(2) Where subsection (1) applies then, for the purposes of section 46—

(a) the earner shall be treated, as from the date on which he reaches pensionable age, as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment;

(b) in prescribed circumstances if the earner dies after reaching pensionable age any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a); and

PART III
CHAPTER II

1992 c. 4.

- (c) in prescribed circumstances if the earner dies before reaching pensionable age any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period;

and where subsection (1)(b) applies paragraphs (a) to (c) of this subsection apply also for the purposes of sections 34(4) and 47(2) of the Social Security Contributions and Benefits Act 1992 and paragraph 3(2) of Schedule 7 to that Act, but with the omission from paragraph (a) of the words "in that employment".

(3) Where the earner is a married woman or widow, subsection (1) shall not have effect by virtue of paragraph (a) of that subsection in relation to any period during which there is operative an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate.

(4) The power to prescribe a rate conferred by subsection (2)(a) includes power to prescribe a nil rate.

Married women and widows

Married women
and widows.

49. The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to women who are or have been married.

CHAPTER III

TERMINATION OF CONTRACTED-OUT OR APPROPRIATE SCHEME STATUS:
STATE SCHEME PREMIUMS

Approval of arrangements for schemes ceasing to be certified

Powers of Board
to approve
arrangements for
scheme ceasing to
be certified.

50.—(1) In the case of an occupational pension scheme or a personal pension scheme which is or has been certified as a contracted-out or, as the case may be, an appropriate scheme, the Board may, for the event of, or in connection with, its ceasing to be such a scheme, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer—

- (a) in the case of an occupational pension scheme other than a money purchase contracted-out scheme—
 - (i) of earners' accrued rights to guaranteed minimum pensions under the scheme;
 - (ii) of the liability for the payment of guaranteed minimum pensions under the scheme in respect of persons who have then become entitled to receive them;
- (b) in the case of a money purchase contracted-out scheme or a personal pension scheme, of protected rights under the scheme.

(2) If the scheme ceases to be a contracted-out scheme or 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) shall be cancelled by the Board if they subsequently approve the arrangements.

(4) Regulations may provide that where the Board have approved arrangements under subsection (1) in respect of an occupational pension scheme (other than a money purchase scheme) any provision of this Part (other than sections 18, 19, 26 to 33 and 43 to 45) or Chapter III of Part IV or Chapter II of Part V shall have effect subject to such modifications as may be specified in the regulations.

(5) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.

(6) It is hereby declared that an approval of arrangements relating to an occupational pension scheme which is not a money purchase contracted-out scheme may be withdrawn at any time, notwithstanding that the scheme has been wound up.

(7) For the purposes of this Chapter an earner's accrued rights or, as the case may be, a person's guaranteed minimum pension rights or protected rights are subject to approved arrangements if—

- (a) the Board have approved arrangements under subsection (1) (either before or after the scheme ceased to be certified as contracted-out or, as the case may be, as an appropriate scheme) which operate as respects him and the rights in question, and
- (b) they have not since withdrawn their approval of those arrangements.

51.—(1) This section applies where—

- (a) an earner's guaranteed minimum pension rights or accrued rights to guaranteed minimum pensions under a scheme are subject to approved arrangements, and
- (b) one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner.

Calculation of
guaranteed
minimum pensions
preserved under
approved
arrangements.

(2) Where this section applies then, except in such circumstances as may be prescribed, section 16(1) shall have effect, subject to the following provisions, that is to say—

- (a) any earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before those five tax years; and
- (b) any relevant earnings factors derived from contributions or earnings in respect of any year ("the relevant contributions year") shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
 - (i) constitutes or begins before the relevant contributions year, or
 - (ii) begins after the final relevant year in relation to the earner.

1975 c. 60.
1992 c. 5.

PART III
CHAPTER III

(3) Subsection (2) shall not apply in any case where its application would result in the amount of the guaranteed minimum being greater than it would have been apart from that subsection.

(4) Regulations may provide that subsections (1) to (3) shall have effect with prescribed modifications in relation to a scheme which, immediately before it ceased to be contracted-out, contained provisions authorised by section 16(2).

(5) In this section “relevant year” and “final relevant year” have the same meanings as in section 16.

Supervision of formerly certified schemes

Supervision of
schemes which
have ceased to be
certified.

52.—(1) Section 53 shall apply for the purpose of making provision for securing the continued supervision of occupational pension schemes as respects which subsection (2) applies and section 54 shall apply for the purpose of making corresponding provision in relation to personal pension schemes as respects which subsection (3) applies.

(2) This subsection applies as respects any occupational pension scheme, other than a public service pension scheme, where—

- (a) the scheme has ceased to be a contracted-out scheme otherwise than by being wound up; and
- (b) there has not been a payment of a premium under section 55(1) in respect—
 - (i) of each person entitled to receive, or having accrued rights to, guaranteed minimum pensions under the scheme; or
 - (ii) of each person who has protected rights under it or is entitled to any benefit giving effect to protected rights under it.

(3) This subsection applies as respects any personal pension scheme where—

- (a) the scheme has ceased to be an appropriate scheme otherwise than by being wound up; and
- (b) there has not been a payment of a premium under section 55(1) in respect of each person who has protected rights under it or is entitled to any benefit giving effect to protected rights under it.

(4) Section 53 shall continue to apply so long as there is any such person as is mentioned in paragraph (b)(i) or (ii) of subsection (2), (but, where by virtue of section 19 a scheme has ceased to be liable to provide guaranteed minimum pensions for a member and the member’s widow or widower, the duties imposed on the Board by section 53 shall cease to subsist in relation to those pensions), and section 54 shall continue to apply so long as there is any such person as is mentioned in paragraph (b) of subsection (3).

(5) For the purposes of subsections (2) and (4) a person in respect of whom a premium is not payable by virtue of regulation 18(2A) of the Occupational Pension Schemes (Contracting-out) Regulations 1984 shall not be treated as such a person as is mentioned in paragraph (b)(ii) of subsection (2).

PART III
CHAPTER III

(6) For the purposes of subsections (3) and (4) a person in respect of whom a premium is not payable by virtue of regulation 3 of the Personal Pension Schemes (Personal Pension Protected Rights Premiums) Regulations 1987 shall not be treated as such a person as is mentioned in paragraph (b) of subsection (3). S.I. 1987/1111.

53.—(1) The Board shall be under a duty to satisfy themselves as to—

Supervision:
former contracted-
out schemes.

- (a) the matters in respect of which they are required to be satisfied for contracting-out purposes under sections 23(1) and 24(1) or, as the case may be, under section 30(1); and
- (b) the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of section 24(1)).

(2) Where the scheme was contracted-out subject to such conditions as are referred to in section 25(1) and (2) those conditions shall continue to be binding, notwithstanding that there is no contracting-out certificate in force.

(3) Subsection (1) does not apply in the case of any scheme as to which the Board have issued a certificate under subsection (2) of section 50 which has not been cancelled under subsection (3) of that section.

(4) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 9(2) and 13 to 25 or, as the case may be, sections 9(3) and 26 to 32, the Board may take such steps as they think expedient with a view to remedying or preventing the breach.

(5) For that purpose they may themselves take any proceedings for enforcement of the rules which would be open to a person—

- (a) as an actual or prospective beneficiary under the scheme, or
 - (b) as one of its trustees or managers, or
 - (c) as being otherwise concerned with the scheme or its benefits,
- and may assume the conduct of proceedings for enforcement brought by any such person.

54.—(1) The Board shall be under a duty to satisfy themselves as to the matters in respect of which they are required to be satisfied under section 30(1) for the purposes of determining whether a personal pension scheme should be or continue to be an appropriate scheme.

Supervision:
former
appropriate
personal pension
schemes.

(2) Subsection (1) does not apply in the case of any scheme as to which the Board have issued a certificate under subsection (2) of section 50 which has not been cancelled under subsection (3) of that section.

(3) If it appears to the Board that there has been, or is likely to be, a breach of any rule of the scheme relating to the matters dealt with in sections 9(5) and 26 to 32, the Board may take such steps as they think expedient with a view to remedying or preventing the breach, and section 53(5) applies for that purpose as it applies for the purpose there mentioned.

PART III
CHAPTER III

State scheme premiums

Payment of state
scheme premiums
on termination of
certified status.

55.—(1) If a scheme ceases to be a contracted-out scheme or an appropriate scheme (whether by being wound up or otherwise) a state scheme premium shall be payable—

- (a) in respect of each earner whose accrued rights to guaranteed minimum pensions or protected rights under the scheme are not subject to approved arrangements and have not been disposed of so as to discharge the trustees or managers of the scheme under section 19 or 99;
- (b) in the case of an occupational pension scheme other than a money purchase contracted-out scheme, in respect of each person who has then become entitled to receive a guaranteed minimum pension under the scheme and whose guaranteed minimum pension rights are not subject to approved arrangements; and
- (c) in the case of a money purchase contracted-out scheme or a personal pension scheme, 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.

(2) Where—

- (a) an earner's service in employment which is contracted-out by reference to an occupational pension scheme which is not a money purchase contracted-out scheme is terminated before he attains the scheme's normal pension age or (if earlier) the end of the tax year preceding that in which he attains pensionable age; and
- (b) he has served for less than two years in employment which is contracted-out by reference to the scheme,

then if—

- (i) the earner's service is terminated otherwise than by his death or by the scheme's ceasing to be contracted-out and his period of service is not one in respect of which the scheme conforms to the appropriate extent with the preservation requirements; or
- (ii) the earner's service is terminated by his death and he dies leaving a widow,

the prescribed person may elect to pay a premium under this subsection.

(3) The Secretary of State may by regulations provide that, in such cases and subject to such conditions as may be prescribed, if—

- (a) an earner in employment to which an occupational pension scheme which is not a money purchase contracted-out scheme applies has ceased (whether before or after the commencement of this subsection) to be in that employment before attaining normal pension age;
- (b) there has been a transfer from that scheme to another scheme of his accrued rights other than his accrued rights to guaranteed minimum pensions;

- (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 Board have duties under section 53 at the time of the transfer;
- (d) no premium under subsection (1)(a) is payable in respect of the earner; and
- (e) the circumstances in which by virtue of paragraphs (a) and (b) of subsection (2) a premium is payable under that subsection do not exist,

a state scheme premium may be paid under this subsection.

(4) Subject to subsection (5), where—

- (a) an earner's service in contracted-out employment by reference to an occupational pension scheme which is not a money purchase contracted-out scheme is terminated before he attains pensionable age (otherwise than by his death);
- (b) no premium is payable in respect of the earner under subsection (1) or (2); and
- (c) the weekly rate of the guaranteed minimum pensions to which he has accrued rights under the scheme will fall to be determined in accordance with provisions included in the scheme by virtue of section 16(2) and (3),

a state scheme premium shall be payable in respect of the earner under this subsection.

(5) Subsection (4) does not apply if the provisions mentioned in paragraph (c) of that subsection conform with such additional requirements as may be prescribed.

(6) In this Act—

- (a) a premium payable under paragraph (a) of subsection (1) in the case of an occupational pension scheme other than a money purchase contracted-out scheme is referred to as an “accrued rights premium”;
- (b) a premium payable under paragraph (b) of that subsection in such a case is referred to as a “pensioner's rights premium”;
- (c) a premium payable under paragraph (a) or (c) of that subsection in the case of a money purchase contracted-out scheme is referred to as a “contracted-out protected rights premium”;
- (d) a premium payable under paragraph (a) or (c) of that subsection in the case of a personal pension scheme is referred to as a “personal pension protected rights premium”;
- (e) a premium under subsection (2) is referred to as a “contributions equivalent premium”;
- (f) a premium under subsection (3) is referred to as a “transfer premium”; and
- (g) a premium under subsection (4) is referred to as a “limited revaluation premium”.

56.—(1) Regulations may prescribe circumstances in which a contracted-out protected rights premium or a personal pension protected rights premium shall not be payable under section 55(1).

Provisions
supplementary to
s. 55.

(2) A premium under section 55 shall be paid by the prescribed person to the Secretary of State within the prescribed period or, in the case of a transfer premium, within a prescribed period after the prescribed event.

(3) It is hereby declared that on the withdrawal of an approval of arrangements under section 50 of an occupational pension scheme other than a money purchase contracted-out scheme after the winding up of the scheme a premium becomes payable in pursuance of section 55(1).

(4) Where under the rules of the scheme transfer credits have been allowed in respect of the earner's accrued rights under another scheme, the reference in section 55(2) to employment which is contracted-out by reference to the scheme shall include references to employment in any period of linked qualifying service which was contracted-out employment by reference to the other scheme.

(5) For the purposes of section 55(2), a scheme conforms to the appropriate extent with the preservation requirements if—

- (a) it entitles the earner to short service benefit; or
- (b) it makes any provision which under those requirements is permitted as an alternative to short service benefit (other than provision for return of contributions or for benefit in the form of a lump sum).

(6) Subject to regulations made under paragraph 1 of Schedule 2, an employment which is terminated by the death of the employer shall be treated for the purposes of section 55(2) and (4) as terminated immediately before the death.

Elections to pay
contributions
equivalent
premiums.

57.—(1) An election under section 55(2) must be made within the prescribed period and in the prescribed manner.

(2) Except in such cases as may be prescribed, the prescribed person shall not, in making or abstaining from making elections under that section, discriminate between different earners on any grounds other than their respective lengths of relevant service.

(3) In subsection (2) “relevant service” means service in contracted-out employment by reference to the scheme, together with any service in contracted-out employment which in relation to service in that employment is linked qualifying service.

(4) If the Board consider that the prescribed person is contravening subsection (2), they may cancel any contracting-out certificate held by the earner's employer in respect of the scheme in question.

Amount of
premiums
payable under
s. 55.

58.—(1) Subject to section 63(3), the amount of an accrued rights premium shall be the cost of providing guaranteed minimum pensions for the earner and his widow in accordance with his accrued rights under the scheme.

(2) Subject to section 63(3), the amount of a pensioner's rights premium shall be the cost of providing or continuing to provide any guaranteed minimum pension under the scheme, whether for the earner (or former earner) or for his widow.

(3) Subject to section 63(3), the amount of a contracted-out protected rights premium or a personal pension protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question.

(4) The amount of a contributions equivalent premium shall be the difference between—

- (a) the amount of the Class 1 contributions payable in respect of the earner's employment in employment which was contracted-out by reference to the scheme, and
- (b) the amount of those contributions which would have been payable if the employment had not been contracted-out.

(5) The amount of a transfer premium shall be determined in the manner in which the amount of an accrued rights premium under subsection (1) falls to be determined under subsection (1) (but subject to the provisions of sections 59(2) and 64(1)).

(6) The amount of a limited revaluation premium shall be the difference between—

- (a) the cost of providing the guaranteed minimum pensions in accordance with the provisions included in the scheme by virtue of section 16(2) and (3); and
- (b) what would have been the cost of providing them if no such provisions had been included.

(7) Section 56(4) applies for the purposes of subsection (4) as it applies for the purposes of section 55(2).

59.—(1) In determining the amount of any accrued rights premium or pensioner's rights premium payable where one or more of the five tax years ending with the tax year in which the relevant scheme ceases to be contracted-out is a relevant year in relation to the earner, the costs referred to in subsections (1) and (2) of section 58 shall be calculated as follows—

Alternative basis
for revaluation of
earnings factors
for calculation of
certain premiums.

- (a) any relevant earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before those five tax years; and
- (b) any relevant earnings factor derived from contributions in respect of any year ("the relevant contributions year") shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
 - (i) constitutes or begins before the relevant contributions year, or
 - (ii) begins after the final relevant year in relation to the earner.

1975 c. 60.
1992 c. 5.

(2) Subsection (1) shall not apply if the person liable for the premium elects in the prescribed manner that it should not and, notwithstanding section 58(5), it shall not apply in the determination of the amount of a transfer premium.

PART III
CHAPTER III

(3) Regulations may provide that subsections (1) and (2) shall have effect with prescribed modifications in relation to a scheme which has ceased to be contracted-out and, immediately before it so ceased, contained provisions authorised by section 16(2) and (3).

(4) Subject to subsection (5), where a limited revaluation premium is payable in respect of an earner, and the case is one in which his service in contracted-out employment is terminated in consequence of the relevant scheme ceasing to be contracted-out, the costs referred to in subsection (6) of section 58 shall be calculated as follows—

1975 c. 60.
1992 c. 5.

(a) any relevant earnings factor shall be taken to be that factor as increased by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the five tax years ending with the tax year in which the scheme ceases to be contracted-out; and

(b) any relevant earnings factor derived from earnings upon which primary Class 1 contributions have been paid or treated as paid in respect of any year (“the relevant contributions year”) shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which constitutes or begins before the relevant contributions year.

(5) Subsection (4) 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 that subsection.

(6) In subsection (1) “relevant year” and “final relevant year” have the same meanings as in section 16, and references to the earner shall be construed as references to the earner in respect of whom the premium in question has become payable.

Effect of payment
of premiums on
rights.

60.—(1) Payment of an accrued rights premium shall extinguish the earner’s rights to guaranteed minimum pensions under the scheme.

(2) Payment of a pensioner’s rights premium shall extinguish any right to receive guaranteed minimum pensions under the scheme, whether for the earner (or former earner) or for the earner’s (or former earner’s) widow or widower.

(3) Where a contracted-out protected rights premium or 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) sections 47(2) and (5) and 48(2) 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 payments, minimum contributions or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.

(4) Payment of a contributions equivalent premium in the circumstances mentioned in section 55(2)(i) shall extinguish the earner’s accrued rights to guaranteed minimum pensions under the relevant scheme.

(5) Payment of a contributions equivalent premium in the circumstances mentioned in section 55(2)(ii) shall extinguish any such accrued rights in respect of the earner's widow.

(6) Payment of a transfer premium shall extinguish the earner's accrued rights to guaranteed minimum pensions under the scheme from which his other accrued rights have been transferred.

(7) In subsection (3) "the appropriate percentage" means, subject to the following provisions of this section—

$$\frac{X \times 100}{Y}$$

Y

where—

X is the amount of the contracted-out protected rights premium or, as the case may be, the personal pension protected rights premium together, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—

(a) with the cash equivalent, paid to the Secretary of State within the prescribed period, of any other rights which he has under the scheme and specifies in the notice; and

(b) with 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

Y is the cost of providing any guaranteed minimum pension such as is mentioned in subsection (3).

(8) If the appropriate percentage, as calculated under subsection (7), would fall between two whole numbers, it is to be taken to be the lower number.

(9) If it would be over 100, it is to be taken to be 100.

(10) The remainder after the reduction for which subsection (3) 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.

61.—(1) This section applies where—

(a) an earner's service in contracted-out employment is terminated; and

(b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him towards the provision of benefits under the scheme by reference to which that employment was contracted-out; and

(c) a contributions equivalent premium falls to be paid by any person in respect of him.

Deduction of contributions equivalent premium from refund of scheme contributions.

(2) Where this section applies, then, subject to the following provisions of this section, the person by whom the premium falls to be paid shall be entitled on paying it to recover an amount equal to so much of the premium as is attributable to primary Class 1 contributions (and on paying any part of it to recover a proportionate part of that amount) from the person liable for the refund.

(3) The amount recoverable under this section shall not exceed the amount of the refund or so much of it as has not been made.

(4) Where the period taken into account in arriving at the amount mentioned in subsection (2) does not coincide with that in respect of which the refund is to be made, the sum recoverable under this section shall be determined by reference to so much of that amount and of the refund as are referable to the same period.

(5) Where the refund—

- (a) is made in respect of more than one period of service, and one or more of those periods is a period of previous linked qualifying service; and
- (b) includes any amount paid under a contracted-out scheme in relation to that service on or in connection with a transfer of accrued rights to another scheme,

the amount which may be recovered under this section shall be increased by such amount as may be prescribed.

(6) Where the person liable for the premium is himself liable for the refund, he shall be entitled to retain out of the refund the amount which he could recover under this section from another person liable for the refund.

(7) The amount of the refund shall be reduced by the amount recovered or retained under this section; and provision shall be made by regulations for requiring the making of refunds to be delayed for the purpose of enabling any right of recovery or retainer conferred by this section to be exercised, notwithstanding anything in any enactment relating to the making of the refund.

(8) Where—

- (a) an earner's service in contracted-out employment is terminated;
- (b) he (or, by virtue of a connection with him, any other person) is entitled to a refund of any payments made by or in respect of him under the scheme by reference to which that employment was contracted-out in relation to any previous contracted-out employment of his, being payments towards the provision of benefits under that scheme;
- (c) a contributions equivalent premium falls to be paid in respect of him; and
- (d) the period taken into account in arriving at the amount mentioned in subsection (2) includes the period of the previous contracted-out employment,

then the person liable for that premium shall have the like right of recovery from that refund (so far as the premium is not recoverable or retainable out of a refund in respect of a later employment) as a person

has under this section where the refund relates to service in the employment on the termination of which the premium falls to be paid (and subsection (7) shall apply accordingly).

(9) This section shall apply in relation to such a refund as is referred to in subsection (1)(b) which becomes payable after the termination of an earner's service in contracted-out employment as it applies to such a refund becoming payable on the termination of an earner's service in such employment.

(10) Where the earner (or, by virtue of a connection with him, any other person) becomes entitled to any payment in lieu of benefit, this section shall apply in relation to the payment as if it were such a refund as is referred to in subsection (1)(b).

(11) For the purposes of subsection (10), a payment in lieu of benefit is any payment falling to be made to or for the benefit of, or in respect of, a person by virtue of his being or having been a member of an occupational pension scheme, being a payment which either—

- (a) is made or to be made otherwise than out of the resources of the scheme; or
- (b) is made or to be made out of those resources but by way of distribution on a winding up; or
- (c) falls within such other description of payments as may be prescribed for the purposes of that subsection.

62.—(1) Notwithstanding any contract to the contrary, a person shall not be entitled—

No recovery of state scheme premiums from earners etc.

- (a) to recover any part of a state scheme premium from any earner in respect of whom it is payable; or
- (b) except in accordance with section 61, to recover or retain any part of such a premium out of any money payable to or for the benefit of the earner or any other person.

(2) Nothing in subsection (1) affects the right of the trustees or managers of a scheme—

- (a) in a case where an accrued rights premium or a pensioner's rights premium has been paid, to reduce the pension of the person in respect of whom the premium has been paid by the amount of his guaranteed minimum pension;
- (b) in a case where a limited revaluation premium has been paid, to recoup it—
 - (i) out of the resources of the scheme, in so far as they derive from contributions; or
 - (ii) in prescribed cases, out of payments made to them in respect of an earner's transfer to their scheme from some other scheme;
- (c) in a case where a state scheme premium has been paid, to make the deduction for which section 96(3) provides when they calculate the cash equivalent to which the earner in respect of whom the premium has been paid has a right under Chapter IV of Part IV.

PART III
CHAPTER III

Further provisions
concerning
calculations
relating to
premiums.

63.—(1) The following amounts shall be certified by the Secretary of State—

- (a) the costs mentioned in subsections (1), (2) and (6) of section 58,
- (b) the amount of the difference mentioned in subsection (4) of that section,
- (c) the cost of providing the appropriate percentage of the guaranteed minimum pension for the purposes of section 60, and
- (d) the amount mentioned in section 61(2).

(2) The cash equivalents mentioned in section 58(3) and section 60(7)(a) shall be calculated and verified in the prescribed manner.

(3) If the Secretary of State—

- (a) cannot readily ascertain the amount of any earnings in any tax week relevant for determining the costs referred to in subsection (1) or (2) of section 58, or
- (b) is satisfied that records of earnings relevant for determining the amount mentioned in subsection (4) of that section have not been maintained or retained or are otherwise unobtainable,

then he may for that purpose—

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

and he may certify the costs referred to in section 58(1) and (2) accordingly.

(4) Where the Secretary of State subsequently ascertains the amount of such earnings as are mentioned in paragraph (a) of subsection (3)—

- (a) if it appears to him that the amount of the accrued rights premium or, as the case may be, the pensioner's rights premium would have been less if he had not made the calculation on the basis described in subsection (3), he shall refund the difference to the prescribed person, and
- (b) if it appears to the Secretary of State that that premium would have been greater if he had not made the calculation on that basis, the prescribed person shall pay the difference to him.

(5) For the purposes of subsection (1) the Secretary of State may make such adjustments as he thinks necessary for avoiding fractional amounts.

Actuarial tables
for purposes of
calculations
relating to
premiums.

64.—(1) In calculating and certifying the costs mentioned in subsections (1), (2) and (6) of section 58 and the cost of providing the appropriate percentage of the guaranteed minimum pension for the purposes of section 60 the Secretary of State shall apply whichever of the prescribed actuarial tables (as in force at the appropriate time) is applicable in accordance with the regulations prescribing the tables, but for the purpose of calculating the amount of a transfer premium the Secretary of State shall apply the actuarial table prescribed for the purpose of calculating the amount of an accrued rights premium in such manner as may be prescribed.

(2) In subsection (1) “the appropriate time” means the time when the scheme ceases to be contracted-out or, as the case may be, to be appropriate or, in the case of costs mentioned in section 58(6), the time when the earner’s service in contracted-out employment is terminated.

(3) The tables—

(a) shall embody whatever appears to the Secretary of State to be the best practical estimate of the average cost, expressed in actuarial terms and relative to a given period, of providing guaranteed minimum pensions for the purposes of the calculations required by section 58(1), (2), (5) or (6) or section 60(7), as the case may be; and

(b) shall assume for any period an average yield on investments which is not less than the average increase during that period in the general level of earnings obtaining in Great Britain,

but the regulations may provide for them to be adjusted according to whatever is from time to time the actual yield on prescribed investments or the average yield, as shown in prescribed published indices, on prescribed classes of investments.

(4) The tables to be used in calculating the costs referred to in section 58(6) shall be so framed as to embody the assumption that the increase of weekly equivalent required by section 16(3) is 5 per cent. compound for each relevant year after that in which the earner’s service is terminated; and that assumption shall prevail over any different provision made by the scheme.

(5) Regulations prescribing tables for the purposes of this section—

(a) shall be made only after consultation with the Government Actuary or the Deputy Government Actuary; and

(b) shall not be made unless a draft of them has been laid before Parliament and approved by a resolution of each House.

(6) The Secretary of State may from time to time, and shall when required by subsection (7), lay before each House of Parliament—

(a) a report by the Government Actuary or the Deputy Government Actuary on any changes since the preparation of the last such report in the factors affecting any of the actuarial tables prescribed for the purposes of any of the provisions to which this section applies (including changes affecting adjustments under the regulations); and

(b) a report by the Secretary of State stating whether he considers that the regulations ought to be altered in view of the report by the Government Actuary or Deputy Government Actuary and, if so, what alterations he proposes.

(7) The Secretary of State shall lay reports under this section at intervals of not more than five years.

(8) If in a report under this section the Secretary of State proposes alterations in the regulations, he shall prepare and lay before each House of Parliament with the report draft regulations which give effect to the alterations and are to be in force—

(a) from the beginning of such tax year as may be specified in the regulations (not being earlier than the second tax year after that in which the regulations are made); or

PART III
CHAPTER III

- (b) where it appears to him to be expedient for reasons of urgency, an earlier date (not being earlier than the date on which the regulations are made).

(9) If the draft regulations are approved by resolution of each House, the Secretary of State shall make the regulations in the form of the draft.

Inclusion of former and future earners for some purposes of this Chapter.

65. Any reference to earners in sections 50(1)(a) and (7), 58(1) and (2), 59(1) and (6) and 60(1) and (2) and in section 55(1)(a), as it applies in relation to an occupational pension scheme which is not a money purchase contracted-out scheme, includes, in relation to any particular time, not only a reference to earners who are in employment at that time but also a reference to earners who are not in employment at that time but who have been in employment before it or will be in employment after it.

Power to apply certain provisions to widowers.

66. The following provisions shall be construed as if the references to a person entitled to receive a guaranteed minimum pension included references to a person so entitled by virtue of being the widower of an earner only in such cases as may be prescribed—

- (a) section 50(1)(a)(ii);
- (b) section 52(2); and
- (c) section 55(1)(b);

and the references to a widow in section 58(1) and (2) shall be construed as including references to a widower and the reference in section 142(5) to guaranteed minimum pensions as including a reference to the guaranteed minimum pension of a widower only in those cases.

Non-payment of state scheme premiums.

67.—(1) If a person fails to pay any state scheme premium which is payable by him at or within the time prescribed for the purpose, he shall be liable on summary conviction to a fine of not more than level 3 on the standard scale.

(2) Where—

- (a) a person is convicted of the offence under subsection (1) of failing to pay a premium, and
- (b) the premium remains unpaid at the date of the conviction,

he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.

(3) Subject to subsection (4), where a person is convicted of an offence mentioned in subsection (2), evidence may be given of any previous failure by him to pay state scheme premiums within the time prescribed for the purpose; and in that subsection “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

(4) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

Unpaid premiums: supplementary.
1980 c. 43.

68.—(1) Where in England and Wales a person charged with an offence to which section 67(2) applies is convicted of that offence in his absence under section 12(2) of the Magistrates’ Courts Act 1980, then if—

PART III
CHAPTER III

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 67(4) has been duly served specifying the other premiums in respect of which the prosecutor intends to give evidence; and
- (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other premiums so specified or any of them,

section 67(3) and (4) shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

(2) In England and Wales where—

- (a) a person is convicted of an offence to which section 67(2) applies; and
- (b) an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally,

subsection (1) and section 67(2) to (4) shall apply as if it were a conviction for all purposes.

(3) In Scotland where—

- (a) a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence; and
- (b) an order is made under the Criminal Procedure (Scotland) Act 1975 discharging the offender absolutely or placing him on probation,

section 67(2) to (4) shall apply as if—

- (i) the conviction on indictment were a conviction for all purposes; or
- (ii) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.

(4) In England or Wales any sum which a person is liable to pay under subsection (1) or section 67(2) to (4) shall be recoverable from him as a penalty.

(5) State scheme premiums recovered by the Secretary of State under those provisions shall be treated for all purposes as premiums paid to the Secretary of State in respect of the person in respect of whom they were originally payable.

PART IV

PROTECTION FOR EARLY LEAVERS

CHAPTER I

PRESERVATION OF BENEFIT UNDER OCCUPATIONAL SCHEMES

69.—(1) This Chapter has effect in relation to the preservation of benefit under occupational pension schemes to which it applies.

Scope of Chapter I: the preservation requirements.

(2) In this Act “the preservation requirements” means the requirements specified in or under sections 71 to 82.

(3) This Chapter applies to any occupational pension scheme whose resources are derived in whole or in part from—

- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
- (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

Interpretation.

70.—(1) In this Chapter—

“scheme” means an occupational pension scheme to which this Chapter applies;

“relevant employment”, in relation to a scheme, means any employment to which the scheme applies;

“long service benefit”, in relation to a scheme, means the benefits which will be payable under the scheme, in accordance with legal obligation, to or in respect of a member of the scheme on the assumption—

- (a) that he remains in relevant employment, and
- (b) that he continues to render service which qualifies him for benefits,

until he attains normal pension age; and in this definition “benefits” means—

- (i) retirement benefit for the member himself at normal pension age, or
- (ii) benefit for the member’s wife or husband, widow or widower, or dependants, or others, on his attaining that age or his later death, or
- (iii) both such descriptions of benefit.

(2) In this Act, unless the context otherwise requires, “pensionable service”, in relation to a scheme and a member of it, means, subject to subsection (3), service in relevant employment which qualifies the member (on the assumption that it continues for the appropriate period) for long service benefit under the scheme.

(3) There shall be taken into account as pensionable service only actual service, that is to say—

- (a) service notionally attributable for any purposes of the scheme is not to be regarded as pensionable service; and
- (b) no account is to be taken of scheme rules by which a period of service can be treated for any purpose as being longer or shorter than it actually is.

PART IV
CHAPTER IBasic principle as
to short service
benefit.

71.—(1) A scheme must make such provision that where a member's pensionable service is terminated before normal pension age and—

- (a) he has at least 2 years' qualifying service, or
- (b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,

he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.

(2) The benefit to which a member is entitled under subsection (1) is referred to in this Act as "short service benefit".

(3) Subject to subsection (4), short service benefit must be made payable as from normal pension age or, if in the member's case that age is earlier than 60, then from the age of 60.

(4) Short service benefit payable on or in respect of the member's death after normal pension age must be made payable as from his death or within such time after it as long service benefit payable on or in respect of his death would be payable.

(5) In applying subsections (3) and (4), no regard is to be had to the operation of any scheme rule, taking effect at any time after termination of the member's pensionable service, as to what is normal pension age under the scheme.

(6) A scheme must not provide for payment of short service benefit in the form of a lump sum at any time before normal pension age, except in such circumstances as may be prescribed.

(7) In subsection (1) "2 years' qualifying service" means 2 years (whether a single period of that duration or two or more periods, continuous or discontinuous, totalling 2 years) in which the member was at all times employed either—

- (a) in pensionable service under the scheme; or
- (b) in service in employment which was contracted-out by reference to the scheme; or
- (c) in linked qualifying service under another scheme.

(8) For the purposes of subsection (7), no regard shall be had to whether or not the service was of the same description in the whole of the 2 years.

(9) A period of service previously terminated is not to count towards the 2 years' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.

72.—(1) A scheme must not contain any rule which results, or can result, in a member being treated less favourably for any purpose relating to short service benefit than he is, or is entitled to be, treated for the corresponding purpose relating to long service benefit.

No discrimination
between short
service and long
service
beneficiaries.

(2) Subsection (1) does not apply to any rule in its application to members whose pensionable service terminated before the rule came into force, unless the rule—

PART IV
CHAPTER I

- (a) was made after the termination of a member's pensionable service; and
- (b) results, or is capable of resulting, in any treatment less favourable for him than that to which he would have been entitled but for the rule.

(3) Subsection (1) does not apply to a rule which merely confers discretion on the scheme's trustees or managers, or others, so long as it is not a rule requiring the discretion to be exercised in any discriminatory manner against members in respect of their short service benefit.

Form of short
service benefit and
its alternatives.

73.—(1) Subject to subsection (2) and section 81, a member's short service benefit must be—

- (a) payable directly out of the resources of the scheme; or
- (b) assured to him by such means as may be prescribed.

(2) Subject to subsections (3) to (5), a scheme may, instead of providing short service benefit, provide—

- (a) for the member's accrued rights (including any transfer credits allowed under the scheme)—

- (i) to be transferred to another occupational pension scheme with a view to acquiring transfer credits for the member under the other scheme, or

- (ii) to be transferred to a personal pension scheme or a self-employed pension arrangement with a view to acquiring rights for the member under the rules of the scheme or arrangement; or

- (b) for such alternatives to short service benefit as may be prescribed.

(3) The option conferred by subsection (2)(a) is additional to any obligation imposed by Chapter IV of this Part.

(4) The alternatives specified in subsection (2)(a) and (b) may only be by way of complete or partial substitute for short service benefit—

- (a) if the member consents; or
- (b) in such other cases as may be prescribed.

(5) An alternative prescribed under subsection (2)(b) may only include payment by way of return of contributions—

- (a) if they relate to a period of service before 6th April 1975; or
- (b) if there has been such a payment relating to a period of service before that date and the contributions relate to a period of service of less than 5 years after that date.

Computation of
short service
benefit.

74.—(1) Subject to the provisions of this section, a scheme must provide for short service benefit to be computed on the same basis as long service benefit.

(2) For that purpose, no account is to be taken of any rule making it (directly or indirectly) a condition of entitlement to benefit that pensionable service shall have been of any minimum duration.

(3) Subsection (1) does not apply to so much of any benefit as accrues at a higher rate, or otherwise more favourably, in the case—

- (a) of members with a period of pensionable service of some specified minimum length, or
- (b) of members remaining in pensionable service up to some specified minimum age.

(4) Subsection (1) does not apply to so much of any benefit as is of an amount or at a rate unrelated to length of pensionable service or to the number or amount of contributions paid by or for the member.

(5) Regulations may provide that subsection (1) shall not apply to any category of schemes or members, or description of benefit.

(6) So far as any short service benefit is not required to be computed in accordance with subsection (1), it must be computed on the basis of uniform accrual, so that at the time when pensionable service is terminated, it bears the same proportion to long service benefit as the period of that service bears to the period from the beginning of that service to the time when the member would attain normal pension age or such lower age as may be prescribed.

(7) Where long service benefit is related to a member's earnings at, or in a specified period before, the time when he attains normal pension age, short service benefit must be related, in a corresponding manner, to his earnings at, or in the same period before, the time when his pensionable service is terminated.

(8) A scheme must comply with any regulations relating to the basis of computation of short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

75.—(1) In this section—

Credits.

“supplementary credits”, in relation to a scheme and a member's entitlement to its benefits, means any increase of benefit or additional benefit to which the member may become entitled—

- (a) in consequence of any provision made by or under the scheme after he becomes a member of it (to the extent that it applies to any previous pensionable service of his); or
- (b) by reference to previous service of his (whether or not pensionable service); or
- (c) in such other circumstances as may be prescribed, including under paragraph (b) any transfer credits;

“purchased credits” means supplementary credits for which, under the rules of the scheme, a member may or must make a payment in whole or in part (whether by means of additional contributions, or of deduction from benefit, or otherwise, and whether separately for each credit or by one or more payments for one or more credits);

“bonus credits” means supplementary credits other than purchased credits or transfer credits.

(2) Subject to subsections (3) to (7), if a scheme provides for long service benefit to include supplementary credits, it must—

- (a) provide for such credits to be included in short service benefit, and
- (b) provide for all credits to be so included.

(3) Where purchased credits have not been paid for in full at or before termination of pensionable service, the short service benefit must include the appropriate proportion of the credits.

(4) In subsection (3) “the appropriate proportion of the credits” means—

- (a) if they were to be paid for by a fixed amount, the same proportion as the amount paid bears to the full amount payable; and
- (b) otherwise, the same proportion as the period between the time when the first payment became due and the termination of the member’s pensionable service bears to the whole period over which payment was to be made.

(5) If the benefit includes bonus credits, or credits for which payment is to be made by deduction from that or another benefit, the credits to be included in the benefit and (where applicable) the amount of the deduction must be computed on the assumption—

- (a) that the credits accrue in full only to a member remaining in pensionable service until normal pension age; and
- (b) that the amount of any such credit, and also of any relevant deduction, accrues at a uniform rate from the time when the credit was awarded up to the time of his attaining that age.

(6) Where any such deduction is a percentage of benefit, the percentage must be the same for short service as for long service benefit.

(7) A scheme must comply with any regulations made with respect to the manner in which supplementary credits are to be included in short service benefit, including regulations providing for the avoidance of fractional amounts and otherwise to facilitate computation.

Pension increases.

76.—(1) A scheme which by its rules provides for increases of long service benefit from time to time (whether by way of upwards revaluation or otherwise) must provide for corresponding increases of short service benefit in the case of members whose pensionable service terminates at any time after the coming into force of any such rule.

(2) Where the provision for increasing long service benefit involves the exercise of a discretion, a corresponding discretion must be conferred in relation to short service benefit.

(3) If an increase of long service benefit is to take effect at a specified time after termination of service, the corresponding increase of short service benefit must take effect at the same time after the time when short service benefit becomes payable.

(4) Where provision is made for increase of long service benefit otherwise than at a fixed rate, short service benefit may nevertheless be subject to increase at a fixed rate, if the rate is at least 3 per cent. a year compound.

PART IV
CHAPTER IAssignment,
surrender and
commutation of
benefit.

77.—(1) Except as provided by this section, a scheme—

- (a) must contain rules preventing assignment of short service benefit; and
- (b) must not enable such benefit to be surrendered or commuted.

(2) Subsection (1) does not apply to any assignment, surrender or commutation of a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b) or (c).

(3) A scheme may enable assignment in favour of the member's widow or widower or dependant (whether or not the benefit is in payment).

(4) A scheme may, at the option of the member, enable surrender—

- (a) to provide benefit for the member's widow, widower or dependant;
- (b) to acquire for the member transfer credits under the rules of another occupational pension scheme or rights under the rules of a personal pension scheme or a self-employed pension arrangement;
- (c) to acquire for the member entitlement to further benefits under the same scheme, relating both to a period of pensionable service previously terminated and also to a subsequent period of service in relevant employment.

(5) A scheme may enable a member's benefit to be commuted—

- (a) in a case where he opts (at any time) to commute at or after normal pension age; or
- (b) in exceptional circumstances of serious ill-health; or
- (c) in such other circumstances as may be prescribed.

(6) A scheme may enable benefit for a member's widow, widower or dependant to be commuted in such circumstances as may be prescribed.

(7) In the application of this section to Scotland, for references to assignment there shall be substituted references to assignation.

78.—(1) Except so far as permitted by this section, a scheme must not contain any provision for forfeiture of short service benefit. Forfeiture, etc.

(2) Provision may be made for forfeiture of the whole or part of any short service benefit by reference to an event occurring after it becomes payable if—

- (a) long service benefit is also forfeited by reference to the event; and
- (b) in the opinion of the Board the provision does not appear to discriminate against members entitled to short service benefit.

(3) Provision may be made for forfeiture by reference to—

- (a) the assignment or attempted assignment or, in Scotland, the assignation or attempted assignation of the benefit contrary to the provisions of the scheme;
- (b) the member's bankruptcy or the sequestration of the member's estate or, in the case of benefit for a widow or widower or dependant of the member, the beneficiary's bankruptcy or the sequestration of the beneficiary's estate.

(4) Such forfeiture as mentioned in subsection (3) may be by reference to an event occurring either before or after the benefit would otherwise be payable, if the same provision is made in relation to long service benefit.

(5) Provision for forfeiture may be made—

(a) in a public service pension scheme, by reference to the member being convicted of an offence—

(i) committed by him before the benefit becomes payable and in connection with relevant employment, and

(ii) certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service;

(b) in any case, by reference to the member having been convicted of any offence committed before the benefit becomes payable, being—

(i) an offence of treason, or

(ii) one or more offences under the Official Secrets Acts 1911 to 1989 for which the member has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(6) No scheme rule must operate so as to deprive any person of short service benefit by reference to—

(a) failure by any person to make a claim for the benefit or for any payment due as benefit; or

(b) failure by any person, at any time after termination of pensionable service, to give any notice, or comply with any formality, required by the scheme as a condition of entitlement.

(7) Subsection (6)(a) is not to prevent reliance on any enactment relating to the limitation of actions; and a scheme may provide for the right to receive any payment to be forfeited if it is not claimed within 6 years of the date on which it becomes due.

Charges, liens and
set-offs.

79.—(1) A scheme must not enable a member's employer to exercise any description of charge or lien on, or set-off against, short service benefit, to the extent that it includes transfer credits.

(2) Subject to subsection (1), a scheme may enable a charge or lien on, or set-off against, a member's short service benefit for the purpose of enabling the employer to obtain the discharge by the member of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by the member.

(3) Subject to subsection (4), a scheme must not enable the employer to recover from, or retain out of, the resources of the scheme any sum in respect of a monetary or other obligation due to him from any member.

(4) Subsection (3) does not apply to an obligation arising as mentioned in subsection (2) but, if the scheme permits recovery or retainer of sums in respect of such an obligation, it must provide that—

(a) unless the employer and the member agree otherwise in writing, the recovery or retainer is limited—

(i) to the actuarial value of the member's actual or prospective benefits at that time, or

(ii) to the amount of the obligation,
whichever is the less; and

- (b) the member is entitled to a certificate showing the amount retained or recovered and its effect on his benefits or prospective benefits; and
- (c) in the event of any dispute as to the amount to be retained or recovered, the employer is only entitled to enforce the charge, lien or set-off after the obligation has become enforceable under an order of a competent court or the award of an arbitrator or, in Scotland, an arbiter to be appointed (failing agreement between the parties) by the sheriff.

80. In respect of any of the benefits or rights alternative to short service benefit provided in accordance with section 73(2), sections 77, 78 and 79 shall apply with such modifications as may be prescribed.

Power to modify ss. 77 to 79 as respects alternative benefits.

81. A transaction to which section 19 applies discharges the trustees or managers of an occupational pension scheme from their liability to provide for or in respect of any person short service benefit or any alternative to short service benefit—

Discharge of liability where short service or alternative benefits secured by insurance policies or annuity contracts.

- (a) if it is carried out not earlier than the time when that person's pensionable service terminates; and
- (b) if and to the extent that it results in short service benefit or any alternative to short service benefit for or in respect of that person being appropriately secured (within the meaning of that section); and
- (c) if and to the extent that the requirements set out in paragraph (a) or (c) of section 19(5) are satisfied.

82.—(1) Regulations may provide that a scheme is not to be treated as conforming with the preservation requirements unless it contains express rules to the effect (but not necessarily in the words) of any specified provision contained in sections 71 to 79.

Supplementary regulations.

(2) Regulations may make provision as to the circumstances in which, for the purposes of sections 70 to 79—

- (a) a period of a person's service in two or more different employments is to be treated as a period of service in one or more of those employments; or
- (b) a person's service in any employment is to be treated as terminated or not terminated.

CHAPTER II

REVALUATION OF ACCRUED BENEFITS (EXCLUDING GUARANTEED MINIMUM PENSIONS)

83.—(1) This Chapter applies for the purpose of revaluing—

Scope of Chapter II.

- (a) benefits payable to or in respect of a member of an occupational pension scheme where—

- (i) his pensionable service ends on or after 1st January 1986;

(ii) on the date on which his pensionable service ends (in this Chapter referred to as “the termination date”) he has accrued rights to benefit under the scheme;

(iii) the period beginning with the day after the termination date and ending with the date on which he attains normal pension age (in this Chapter referred to as “the pre-pension period”) is at least 365 days; and

(iv) in the case of benefit payable to any other person in respect of the member, the member dies after attaining normal pension age; and

(b) benefits payable to or in respect of a member of a personal pension scheme—

(i) in respect of whom contributions to the scheme have ceased to be paid; and

(ii) who has accrued rights to benefit under the scheme.

(2) In calculating 365 days for the purpose of subsection (1)(a)(iii), any day which is 29th February shall be disregarded.

(3) In subsection (1)(b)—

(a) the reference to a personal pension scheme does not include a scheme which is comprised in an annuity contract made before 4th January 1988; and

(b) the reference to contributions includes any minimum contributions.

Basis of
revaluation.

84.—(1) Subject to subsections (2) and (3), in the case of such benefits as are mentioned in section 83(1)(a), any pension or other retirement benefit payable under the scheme in question to the member and any pension or other benefit payable under it to any other person in respect of him, is to be revalued by the final salary method.

(2) If—

(a) any such benefit is an average salary benefit or flat rate benefit; and

(b) it appears to the trustees or managers of the scheme under which it is payable that it is appropriate to revalue the benefit by the average salary method or, as the case may be, the flat rate method,

then the benefit shall be revalued using that method.

(3) If any benefit such as is mentioned in paragraph (a) of section 83(1) is a money purchase benefit, and in the case of such benefit as is mentioned in paragraph (b) of that section, the benefit shall be revalued using the money purchase method.

(4) In this section—

“average salary benefit” means benefit the rate or amount of which is calculated by reference to the average salary of a member over the period of service on which the benefit is based;

“flat rate benefit” means any benefit the rate or amount of which is calculated by reference solely to the member’s length of service;

“average salary method”, “final salary method”, “flat rate method” and “money purchase method” have the meanings given in Schedule 3.

(5) The fact that a scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of him to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 151(1) of the Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes); or
- (b) under any arrangement which, in the opinion of the Board, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain during that period,

does not in itself result in conflict with this section, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member's widow or widower has not been deducted.

85. Nothing in this Chapter is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of section 73(2)(b) by way of complete substitute for another pension or benefit.

Revaluation not to apply to substituted benefit.

86.—(1) In making any calculation for the purposes of this Chapter in relation to any occupational pension scheme—

Supplementary provisions.

- (a) any commutation, forfeiture or surrender of,
- (b) any charge or lien on, and
- (c) any set-off against,

the whole or part of a pension shall be disregarded.

(2) The same money may not be treated as providing both the increase in benefit required by this Chapter and the benefit required by Chapter III.

CHAPTER III

PROTECTION OF INCREASES IN GUARANTEED MINIMUM PENSIONS (“ANTI-FRANKING”)

87.—(1) This subsection applies where—

General protection principle.

- (a) there is an interval between—
 - (i) the date on which an earner ceases to be in employment which is contracted-out by reference to an occupational pension scheme which is not a money purchase contracted-out scheme (“the cessation date”); and
 - (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
- (b) the relevant sum exceeds his guaranteed minimum on the day after the cessation date; and

- (c) on the commencement of payment date or at any time after it his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the cessation date.
- (2) This subsection applies where—
- (a) there is an interval between the earner's cessation date and whichever of the following is the earlier—
 - (i) the date of his death; or
 - (ii) his commencement of payment date;
 - (b) the relevant sum exceeds one half of the earner's guaranteed minimum on the day after the cessation date; and
 - (c) at any time when a pension under the occupational pension scheme is required to be paid to the earner's widow or widower, the widow's or, as the case may be, the widower's guaranteed minimum pension under the scheme exceeds one half of the earner's guaranteed minimum on the day after the cessation date.
- (3) Where subsection (1) or (2) applies, the weekly rate of the pension payable to the member at any time when that pension is required to be paid or, as the case may be, payable to the widow or widower at any such time as is mentioned in subsection (2)(c) shall be an amount not less—
- (a) in a case where by virtue of section 73(2)(b) a pension is provided by way of complete substitute for short service benefit or, as the case may be, for widow's or widower's pension, than the weekly rate of that pension; and
 - (b) in any other case, than the relevant aggregate.
- (4) In subsection (3) "the relevant aggregate" means the aggregate of the following—
- (a) the relevant sum;
 - (b) the excess mentioned in subsection (1)(c) or, as the case may be, subsection (2)(c);
 - (c) any amount which is an appropriate addition at the time in question; and
 - (d) where the scheme provides that part of the earner's or, as the case may be, the widow's or widower's pension shall accrue after the cessation date by reason of the earner's employment after that date, the later earnings addition.
- (5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before 1st January 1985, they are to be disregarded for the purposes of subsections (1)(c), (2)(c) and (4)(b).
- (6) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.
- (7) This section does not apply to a pension to which a person is entitled in respect of employment if—
- (a) the earner left the employment or left it for the last time before 1st January 1985; or
 - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him before that date.

88.—(1) For the purposes of this Chapter “the relevant sum” means— The relevant sum.

(a) in a case where subsection (1) of section 87 applies—

(i) if the earner reaches normal pension age on or before the cessation date, an amount equal to the weekly rate of his pension on the day after the cessation date; and

(ii) if he reaches normal pension age after the cessation date, an amount equal to the weekly rate of any short service benefit which has accrued to him on the cessation date or, where no such benefit has then accrued, any other benefit to which this sub-paragraph applies and which has then accrued to him; and

(b) in a case where subsection (2) of that section applies, an amount equal to the weekly rate at which, on the prescribed assumptions, a pension would have begun to be paid to the widow or widower if that person had satisfied the conditions for entitlement to a pension which are specified in the scheme.

(2) Paragraph (a) of subsection (1) has effect subject to subsection (5) and to sections 87(5) and 91(1), and paragraph (b) of subsection (1) has effect subject to section 87(5).

(3) The benefit other than short service benefit to which subsection (1)(a)(ii) applies is benefit—

(a) which would have been provided as either the whole or part of the earner’s short service benefit; or

(b) of which the earner’s short service benefit would have formed part,

if section 71(1)(a) had effect with the substitution of a reference to the service which the earner had on the cessation date for the reference to 2 years’ qualifying service.

(4) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if section 71(1) had effect as mentioned in subsection (3).

(5) If the payment of any part of the earner’s pension is postponed beyond the cessation date, the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the cessation date if there had been no such postponement.

89.—(1) For the purposes of this Chapter “appropriate addition” The appropriate addition.
means—

(a) where a scheme provides that part of an earner’s or, as the case may be, a widow’s or widower’s pension shall accrue after the cessation date by reason of the earner’s employment after that date, an amount equal to the part which has so accrued; and

(b) where a scheme provides that an earner’s or, as the case may be, a widow’s or widower’s pension which has accrued before that date shall be enhanced after that date if payment of the earner’s pension is postponed, the amount by which the unguaranteed element of the pension has been enhanced by reason of the postponement.

PART IV
CHAPTER III

(2) For the purposes of subsection (1)(b) the unguaranteed element of a pension is—

- (a) in the case of an earner's pension, the excess of the pension on the day after the cessation date over the earner's guaranteed minimum on that day; and
- (b) in the case of the widow's or widower's pension, the excess of that pension on that day over one half of the earner's guaranteed minimum on that day.

The later earnings addition.

90.—(1) For the purposes of this Chapter “the later earnings addition” means the amount (if any) by which the assumed later unguaranteed element exceeds the unguaranteed element.

(2) In subsection (1)—

- (a) “the unguaranteed element” means the amount by which the relevant sum exceeds the earner's guaranteed minimum on the day after his cessation date or, in the case of a widow's or widower's pension, one half of that minimum; and
- (b) “the assumed later unguaranteed element” means the amount by which the relevant sum would exceed the earner's guaranteed minimum (or, in the case of a widow's or widower's pension, one half of that minimum) on the assumptions mentioned in subsection (3).

(3) The assumptions mentioned in subsection (2) are—

- (a) that the relevant sum were calculated on the basis that the weekly rate of the pension or benefit which determines that sum had been calculated by reference to the level of earnings by reference to which that rate would have been calculated if the earner's cessation date had fallen on the earlier of—
 - (i) the earner's commencement of payment date, or
 - (ii) the date on which the earner ceased to be in pensionable service under the scheme; and
- (b) that the earner's guaranteed minimum were such sum as bears the same proportion to the assumed later unguaranteed element as the guaranteed minimum mentioned in subsection (2)(a) bears to the unguaranteed element.

Special provision where employment continues after it ceases to be contracted-out by reference to scheme.

91.—(1) If—

- (a) an earner's employment ceases to be contracted-out by reference to an occupational pension scheme but the scheme continues to apply to it; or
- (b) an earner transfers from employment which is contracted-out by reference to an occupational pension scheme to employment to which the scheme applies but which is not contracted-out by reference to it,

the amount of any short service or other benefit which has accrued to the earner shall be computed for the purposes of section 88(1)(a)(ii) as it would be computed if he had ceased on the cessation date to be in employment to which the scheme applies.

(2) If—

- (a) a benefit under a scheme is conditional on an earner attaining a particular age or having a particular length of service; and
- (b) one of the events mentioned in subsection (1) occurs before he has fulfilled the condition; but
- (c) he continues to be in employment to which the scheme applies until he has done so,

the earner shall be treated for the purposes of the previous provisions of this Chapter as if that benefit had accrued to him.

92.—(1) In making any calculation for the purposes of this Chapter—

Supplementary provisions.

- (a) any commutation, forfeiture or surrender of,
- (b) any charge or lien on, and
- (c) any set-off against,

the whole or part of a pension shall be disregarded.

(2) In calculating an earner's guaranteed minimum for the purposes of this Chapter his earnings factor shall be taken to be that factor as increased, except as provided by subsection (3), by the last order under section 21 of the Social Security Pensions Act 1975 or section 148 of the Social Security Administration Act 1992 to come into force before the end of the tax year in which the cessation date falls.

1975 c. 60.
1992 c. 5.

(3) If an earner's cessation date falls in the tax year in which he attains pensionable age, subsection (2) shall have effect in relation to him as if for the words from "tax year" onwards there were substituted the words "final relevant year".

(4) In this section "final relevant year" has the same meaning as in section 16.

(5) Any reference in this Chapter to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.

CHAPTER IV

TRANSFER VALUES

93.—(1) This Chapter applies—

Scope of Chapter IV.

- (a) to any member of an occupational pension scheme—
 - (i) whose pensionable service terminates on or after 1st January 1986 and at least one year before normal pension age; and
 - (ii) who on the date when it terminates (in this Chapter referred to as "the termination date") has accrued rights to benefit under the scheme; and
- (b) to any member of a personal pension scheme (other than a scheme which is comprised in an annuity contract made before 4th January 1988) who has accrued rights to benefit under the scheme.

PART IV
CHAPTER IV

(2) Any reference to a member of an occupational pension scheme or a personal pension scheme in the following provisions of this Chapter is a reference to a member of such a scheme to whom this Chapter applies.

Right to cash
equivalent.

94.—(1) Subject to the following provisions of this Chapter—

- (a) a member of an occupational pension scheme acquires a right, when his pensionable service terminates, to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the applicable rules; and
- (b) a member of a personal pension scheme acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to or in respect of him under the rules of the scheme.

(2) In this section—

“the applicable rules” means—

- (a) any provision which the rules of the scheme do not contain but which a scheme must contain if it is to conform with the requirements of Chapter I; and
- (b) the rules of the scheme, except so far as Chapter II or III overrides them; and
- (c) any provision of Chapter II or III which overrides any of the rules of the scheme;

“the relevant date” means, subject to regulations under section 98(4)—

- (a) the date of the relevant application, or
- (b) in the case of an occupational pension scheme, if it is later, the termination date;

“the relevant application” means any application which the member has made under section 95 and not withdrawn.

Ways of taking
right to cash
equivalent.

95.—(1) A member of an occupational pension scheme or a personal pension scheme who acquires a right to a cash equivalent under this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent to which he has acquired a right in whichever of the ways specified in subsection (2) or, as the case may be, subsection (3) he chooses.

(2) In the case of a member of an occupational pension scheme, the ways referred to in subsection (1) are—

- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
 - (ii) which satisfies prescribed requirements;
- (b) for acquiring rights allowed under the rules of a personal pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member’s accrued rights, and
 - (ii) which satisfies prescribed requirements;

- (c) for purchasing from one or more insurance companies such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements;
 - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) In the case of a member of a personal pension scheme, the ways referred to in subsection (1) are—
- (a) for acquiring transfer credits allowed under the rules of an occupational pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
 - (ii) which satisfies prescribed requirements;
 - (b) for acquiring rights allowed under the rules of another personal pension scheme—
 - (i) the trustees or managers of which are able and willing to accept payment in respect of the member's accrued rights, and
 - (ii) which satisfies prescribed requirements;
 - (c) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (4) In the case of the exercise of a right in respect of the cash equivalent of a member's protected rights, if any, under a scheme which is, or was formerly, a money purchase contracted-out scheme, subsection (2) is to be construed as if paragraph (c) were omitted.
- (5) Except in such circumstances as may be prescribed—
- (a) subsection (2) is to be construed as if paragraph (d) were omitted; and
 - (b) subsection (3) is to be construed as if paragraph (c) were omitted.
- (6) Without prejudice to the generality of subsections (2) and (3), the powers conferred by those subsections include power to provide that a scheme or pension arrangement or, in the case of subsection (2), an annuity must satisfy requirements of the Inland Revenue.
- (7) A member of an occupational pension scheme may only exercise the right conferred by this section on or before the last option date.
- (8) In subsection (7) "the last option date" means, subject to regulations under section 98, the date which falls—
- (a) one year before the date on which the member attains normal pension age; or
 - (b) six months after the termination date,
- whichever is the later.
- (9) An application to the trustees or managers of the scheme under subsection (1) is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.

PART IV
CHAPTER IV

Further provisions
concerning
exercise of option
under s. 95.

96.—(1) A member may exercise the option conferred by subsection (1) of section 95 in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so—

- (a) in relation to the whole of his cash equivalent; or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).

(2) This subsection applies where—

- (a) the trustees or managers—
 - (i) of an occupational pension scheme which is not a contracted-out scheme, or
 - (ii) of a personal pension scheme which is not an appropriate scheme, or
 - (iii) of a self-employed pension arrangement,
 are able or willing to accept a transfer payment only in respect of a member's rights other than his accrued rights to guaranteed minimum pensions or his protected rights; and
- (b) the member has not required the trustees or managers of the scheme from which he is being transferred to use the portion of his cash equivalent which represents those accrued or protected rights in any of the ways specified in subsection (2) or, as the case may be, subsection (3) of section 95.

(3) Where subsection (2) applies, this section and sections 94, 95 and 97 are to be construed as conferring on the member an option only in respect of the balance of the cash equivalent to which the member would otherwise be entitled, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability—

- (a) in the case of a transfer from an occupational pension scheme, in respect of the member's and the member's widow's or, as the case may be, widower's guaranteed minimum pensions or the member's protected rights; and
- (b) in the case of a transfer from a personal pension scheme, of the member's protected rights.

Calculation of
cash equivalents.

97.—(1) Cash equivalents are to be calculated and verified in the prescribed manner.

(2) Regulations may provide—

- (a) that in calculating cash equivalents account shall be taken—
 - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under section 95;
 - (ii) in a case where subsection (2) of section 96 applies, of the need to deduct an appropriate amount to provide for the liabilities mentioned in subsection (3) of that section; and
- (b) that in prescribed circumstances a cash equivalent shall be increased or reduced.

(3) Without prejudice to the generality of subsection (2), the circumstances that may be specified by virtue of paragraph (b) of that subsection include—

- (a) in the case of an occupational pension scheme, the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Chapter or regulations made under it;
- (b) failure by the trustees or managers of the scheme to do what is needed to carry out what a member of the scheme requires within 6 months of the date on which they receive an application from him under section 95; and
- (c) the state of the funding of the scheme.

(4) Regulations under subsection (2) may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.

98.—(1) Regulations may provide that a member of an occupational pension scheme who continues in employment to which the scheme applies after his pensionable service in that employment terminates—

Variation and loss
of rights under
s. 94.

- (a) only acquires a right to the cash equivalent of such part of the benefits specified in section 94(1) as may be prescribed; or
- (b) acquires no right to a cash equivalent.

(2) Regulations may provide for the purposes of subsection (1) that in prescribed circumstances a number of employments (whether or not consecutive) shall be treated as a single employment.

(3) Regulations may provide that where—

- (a) by virtue of regulations under subsection (1) or (2), a member of an occupational pension scheme does not, on the termination of his pensionable service in an employment to which a scheme applies, acquire a right at the relevant date to the cash equivalent of the whole or a part of the benefits specified in section 94(1); and
- (b) his employment terminates at least one year before normal pension age,

that right shall accrue to him on the date when that employment terminates and be valued accordingly.

(4) In relation to any case to which regulations under subsection (3) apply, they may substitute—

- (a) a new definition of “the relevant date” for the definition in section 94(2); and
- (b) a new definition of “the last option date” for the definition in section 95(8).

(5) Where the whole or any part of the benefits payable to a member of a personal pension scheme under the scheme have become payable on or before the relevant date, the right which he acquires under section 94 is only to the cash equivalent of any of the benefits mentioned in that section which have not become payable.

(6) A member of an occupational pension scheme or a personal pension scheme loses the right to any cash equivalent under this Chapter if the scheme is wound up.

(7) A member of an occupational pension scheme also loses that right—

- (a) if his pension or benefit in lieu of a pension or any part of it becomes payable before he attains normal pension age; or
- (b) he fails to exercise the option conferred by section 95 on or before the last option date (within the meaning of subsection (7) of that section).

(8) In this section “the relevant date” has the same meaning as in section 94(2).

Trustees’ duties
after exercise of
option.

99.—(1) Where—

- (a) a member has exercised the option conferred by section 95; and
- (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,

the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in such cases as are mentioned in section 96(2), to the extent that an obligation to provide such guaranteed minimum pensions or give effect to such protected rights continues to subsist.

(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95, they shall do what is needed to carry out what the member requires—

- (a) within 12 months of the date on which they receive the application; or
- (b) in the case of a member of an occupational pension scheme, by the date on which the member attains normal pension age if that is earlier.

(3) If—

- (a) disciplinary proceedings or proceedings before a court have been begun against a member of an occupational pension scheme at any time before the expiry of the period of 12 months beginning with the termination date; and
- (b) it appears to the trustees or managers of the scheme that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited; and
- (c) the date before which they would (apart from this subsection) be obliged under subsection (2) to carry out what the member requires is earlier than the end of the period of 3 months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),

then, subject to the following provisions of this section, they must instead do so before the end of that period of 3 months.

(4) The Board may grant an extension of the period within which the trustees or managers of the scheme are obliged to do what is needed to carry out what a member of the scheme requires—

- (a) in any case where in the opinion of the Board—
 - (i) the scheme is being wound up or is about to be wound up;
 - (ii) the scheme is ceasing to be a contracted-out scheme or, as the case may be, an appropriate scheme;
 - (iii) the interests of the members of the scheme generally will be prejudiced if the trustees or managers of the scheme do what is needed to carry out what is required within that period; or
 - (iv) the member has not taken all such steps as the trustees or managers can reasonably expect him to take in order to satisfy them of any matter which falls to be established before they can properly carry out what he requires;
- (b) in any case where the provisions of sections 52 to 54 apply; and
- (c) in any case where a request for an extension has been made on a ground specified in paragraph (a) or (b), and the Board's consideration of the request cannot be completed before the end of that period.

(5) A request for an extension under subsection (4) may only be made by the trustees or managers.

(6) If the Board are satisfied—

- (a) that there has been a relevant change of circumstances since they granted an extension, or
- (b) that they granted an extension in ignorance of a material fact or on the basis of a mistake as to a material fact,

they may direct that the extension be shortened or revoke it.

100.—(1) Subject to subsection (2), a member of a scheme may withdraw an application under section 95 by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.

Withdrawal of applications.

(2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in subsection (2) or, as the case may be, subsection (3) of section 95.

(3) A member who withdraws an application may make another.

(4) A notice to the trustees or managers of a scheme under this section is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

101. In making any calculation for the purposes of this Chapter—

- (a) any charge or lien on, and

Supplementary provisions.

PART IV
CHAPTER IV

(b) any set-off against,
the whole or part of a pension shall be disregarded.

PART V

ANNUAL INCREASES OF PENSIONS IN PAYMENT

CHAPTER I

PENSIONS UNDER FINAL SALARY SCHEMES ETC.

Scope of Chapter
I: annual increase
of certain
occupational
pensions.

102.—(1) This Chapter shall have effect for the purpose of requiring the provision by schemes to which it applies of annual increases in the annual rates of pensions under those schemes.

(2) This Chapter applies to any occupational pension scheme—

- (a) which is neither a public service pension scheme nor a money purchase scheme; and
- (b) the rules of which do not require the annual rate of every pension to be increased each year by at least the appropriate percentage of that rate;

and in this Chapter such a scheme is referred to as a “qualifying scheme”.

(3) In this Chapter—

“annual rate”, in relation to a pension or a part of a pension, means the annual rate of the pension or that part of it, as previously increased under the rules of the scheme or under this Chapter;

“the appointed day” means the day on which this Chapter comes into force;

“appropriate percentage”, in relation to an increase in the annual rate of a pension or a part of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of 12 months;

“pension”, in relation to a scheme, means any pension which commences or has commenced under the scheme, but does not include—

(a) a guaranteed minimum pension or any increase in such a pension under section 109; or

(b) any money purchase benefit;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with paragraph 2 of Schedule 3.

Annual increase
of later service
component.

103.—(1) If, apart from this Chapter, the annual rate of a pension under a qualifying scheme would not be increased as mentioned in section 102(2)(b), the annual rate of its later service component shall be increased annually by at least the appropriate percentage of the annual rate of that component.

(2) In this section “later service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service on or after the appointed day.

(3) The first increase by virtue of this section in the rate of a pension shall take effect not later than the first anniversary of the commencement of the pension and subsequent increases shall take effect at intervals of not more than 12 months.

(4) This section is subject to sections 105 to 108 and 153.

104.—(1) If on any valuation day the value of a qualifying scheme's assets exceeds the value of its liabilities, the amount of the excess (the "valuation surplus") shall, in accordance with this section but subject to subsection (7), be applied in providing for annual increases in the annual rate of the earlier service component of each pension under the scheme that would not, apart from this Chapter, be increased as mentioned in section 102(2)(b).

Annual increase of earlier service component where scheme is in surplus.

(2) In this section "earlier service component" means so much (if any) of the annual rate of the pension as is attributable to pensionable service before the appointed day.

(3) Each annual increase to be provided in pursuance of this section shall be equal to the appropriate percentage of the annual rate of the earlier service component of the pension in question.

(4) Except in a case where regulations otherwise provide, the days which are "valuation days" for the purposes of this section are—

- (a) the appointed day; and
- (b) each subsequent day as at which the assets and liabilities of the scheme in question are actuarially valued for any purpose.

(5) Where, in consequence of a valuation surplus, this section requires provision to be made for annual increases in the annual rate of the earlier service component of a pension, the first of those increases shall take effect not later than the first anniversary of the later of—

- (a) the valuation day as at which the valuation was made which disclosed the valuation surplus; or
- (b) the commencement of the pension;

and subsequent increases shall take effect at intervals of not more than 12 months.

(6) In any case where—

- (a) a valuation of the assets and liabilities of a qualifying scheme discloses a valuation surplus, but
- (b) the amount of the surplus is insufficient to provide in full for the annual increases otherwise required by this section in pensions under the scheme,

the valuation surplus shall be applied in providing for those increases, but only at the percentage rate that would apply year by year in relation to those increases if, for the percentage of 5 per cent. specified in paragraph 2(6)(a) of Schedule 3, there were substituted such lower percentage as represents the greatest percentage by reference to which the valuation surplus is sufficient to provide for annual increases in the earlier service component of the pensions in question.

(7) If a valuation surplus is disclosed on a valuation at any time when either—

- (a) provision has already been made by the scheme for the annual rate of the earlier service component of every such pension as is mentioned in subsection (1) to be increased annually in the aggregate by at least the appropriate percentage of that rate, or
- (b) the application of part only of the valuation surplus would be sufficient to secure that result,

this section does not require that surplus or, as the case may be, the remaining part of it to be applied in the provision of increases under this section.

(8) The value of a qualifying scheme's assets and liabilities for the purposes of subsection (1) and the percentage to be substituted under subsection (6) shall be determined in accordance with regulations.

(9) This section is subject to sections 105 to 108 and 153.

Proportional
increase where
first period is less
than 12 months.

105.—(1) Where the first increase of a pension required under section 103 is to take effect on a date when the pension has been in payment for a period of less than 12 months, that increase shall be of an amount equal to one twelfth of the amount of the increase so required (apart from this subsection) for each complete month in that period.

(2) This section shall apply in relation to the first increase of a pension by virtue of section 104 in consequence of each successive valuation surplus as it applies in relation to the first increase of a pension under section 103.

Restriction on
increase where
member is under
55.

106.—(1) Subject to subsection (2), no increase under section 103 or 104 is required to be paid to or for a member of a scheme whose pension has commenced but who has not attained the age of 55 at the time when the increase takes effect.

(2) Subsection (1) does not apply if the member—

- (a) is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or
- (b) has retired on account of mental or physical infirmity from the employment in respect of which, or on retirement from which, the pension is payable.

(3) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of subsection (2), the member—

- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but
- (b) continues to be entitled to the pension,

any increases subsequently taking effect under section 103 or 104 in the annual rate of the pension shall not be paid or shall not be paid in full.

(4) In any case where—

- (a) by virtue only of subsection (1) or (3), increases are not paid to or for a member or are not paid in full, but

PART V
CHAPTER I

- (b) the member attains the age of 55 or, in a case falling within subsection (3), again satisfies the condition set out in subsection (2)(a) or (b),

his pension shall then become payable at the annual rate at which it would have been payable apart from subsection (1) or (3).

107. Regulations may provide that the provisions of this Chapter shall apply in relation to any pension under a qualifying scheme as if so much of the annual rate of the pension as would not otherwise be attributable to pensionable service were attributable—

Application of Chapter I to pensions not attributable to pensionable service.

- (a) to pensionable service before the appointed day;
- (b) to pensionable service on or after that day; or
- (c) partly to pensionable service before and partly to pensionable service on or after that day.

108.—(1) No payment shall be made out of the resources of a qualifying scheme which is constituted by trust deed to or for a person who is or has been the employer of persons in the description or category of employment to which the scheme relates until such time as provision has been made by the scheme for every pension which commences or has commenced under it to be increased as mentioned in section 102(2)(b).

No payments to employers from non-complying schemes.

(2) Nothing in subsection (1) applies in relation to payments made to or for a person by virtue of his or any other person's membership of the scheme in question.

CHAPTER II

GUARANTEED MINIMUM PENSIONS

109.—(1) The Secretary of State shall in each tax year review the general level of prices in Great Britain for the period of 12 months commencing at the end of the period last reviewed under this section.

Annual increase of guaranteed minimum pensions.

(2) Where it appears to the Secretary of State that that level has increased at the end of the period under review, he shall lay before Parliament the draft of an order specifying a percentage by which there is to be an increase of the rate of that part of guaranteed minimum pensions which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years for—

- (a) earners who have attained pensionable age; and
- (b) widows and widowers.

(3) The percentage shall be—

- (a) the percentage by which that level has increased at the end of the period under review; or
- (b) 3 per cent.,

whichever is less.

(4) If a draft order laid before Parliament in pursuance of this section is approved by a resolution of each House, the Secretary of State shall make the order in the form of the draft.

PART V
CHAPTER II

(5) An order under this section shall be so framed as to bring the alterations to which it relates into force on the first day of the next tax year after that in which the order is made.

(6) Where the benefits mentioned in section 46(1) to (7) are not increased on the day on which an order under this section takes effect, the order shall be treated for the purposes of that section as not taking effect until the day on which those benefits are next increased.

Requirement as to resources for annual increase of guaranteed minimum pensions.

110.—(1) Except as permitted by subsection (2) or (3), the trustees or managers of a scheme may not make an increase in a person's pension which is required by virtue of section 109 out of money which would otherwise fall to be used for the payment of benefits under the scheme to or in respect of that person unless—

- (a) the payment is to an earner in respect of the tax year in which he attains pensionable age and the increase is the one required to be made in the next tax year; or
- (b) the payment is to a person as the widow or widower of an earner who died before attaining pensionable age and is in respect of the tax year in which the person became a widow or widower, and the increase is the one required to be made in the next tax year.

(2) Where in any tax year the trustees or managers of an occupational pension scheme make an increase otherwise than in pursuance of section 109, they may deduct the amount of the increase from any increase which, but for this subsection, they would be required to make under that section in the next tax year.

(3) Where in any tax year the trustees or managers of a scheme make an increase which is partly made otherwise than in pursuance of section 109, they may deduct the part of the increase so made from any increase which, but for this subsection, they would be required to make under that section in the next year.

(4) Where by virtue of subsection (2) or (3) guaranteed minimum pensions are not required to be increased in pursuance of section 109, or not by the full amount that they otherwise would be, their amount shall be calculated for any purpose as if they had been increased in pursuance of that section or, as the case may be, by that full amount.

PART VI

FURTHER REQUIREMENTS FOR PROTECTION OF SCHEME MEMBERS

Voluntary contributions.

111.—(1) Except in such cases as may be prescribed, and except so far as is necessary to ensure that an occupational pension scheme or a personal pension scheme has, or may be expected to qualify for, tax-exemption or tax-approval, the rules of the scheme—

- (a) must not prohibit, or allow any person to prohibit, the payment by a member of voluntary contributions;
- (b) must not impose, or allow any person to impose, any upper or lower limit on the payment by a member of voluntary contributions;
- (c) must secure that any voluntary contributions paid by a member are to be used by the trustees or managers of the scheme to provide additional benefits for or in respect of him; and

PART VI

(d) must secure that the value of the additional benefits is reasonable, having regard—

- (i) to the amount of the voluntary contributions; and
- (ii) to the value of the other benefits under the scheme.

(2) The requirements specified in this section are in this Act referred to as “the voluntary contributions requirements”.

(3) This section does not apply in relation to any pension payable under the Judicial Pensions and Retirement Act 1993, the Judicial Pensions Act 1981 or the Sheriffs’ Pensions (Scotland) Act 1961; and accordingly none of the provisions of this Act shall, in so far as it has effect in relation to the voluntary contributions requirements, apply to any such pension.

1993 c. 8.
1981 c. 20.
1961 c. 42.

112.—(1) An occupational pension scheme shall comply with such restrictions as may be prescribed with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.

Restrictions on
investment of
scheme’s resources
in employer-
related assets.

(2) In this section—

“employer-related investments” means—

- (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer;
- (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person;
- (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person;
- (d) loans to the employer or any such person;

“the employer” means the employer of persons in the description or category of employment to which the scheme in question relates;

“securities” means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.

1986 c. 60.

(3) If and to the extent that any sums due and payable by a person to the trustees or managers of a scheme remain unpaid—

- (a) those sums shall be regarded for the purposes of this section as loans made to that person by the trustees or managers, and
- (b) resources of the scheme shall be regarded as invested accordingly.

(4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of this section as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 (associated persons) shall apply for the purposes of this section as it applies for the purposes of that Act of 1985.

1986 c. 45
1985 c. 66.

113.—(1) The Secretary of State may by regulations specify requirements to be complied with in the case of an occupational pension scheme or a personal pension scheme with respect to keeping the persons mentioned in subsection (2) informed—

Disclosure of
information
about schemes to
members etc.

PART VI

- (a) of its constitution;
- (b) of its administration and finances;
- (c) of the rights and obligations that arise or may arise under it; and
- (d) of any other matters that appear to the Secretary of State to be relevant to occupational pension schemes or personal pension schemes in general or to schemes of a description to which the scheme in question belongs.

(2) The persons referred to in subsection (1) are—

- (a) members and, in the case of an occupational pension scheme, prospective members of the scheme;
- (b) spouses of members and, in the case of an occupational pension scheme, of prospective members;
- (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits;
- (d) in the case of an occupational pension scheme, independent trade unions recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.

(3) Without prejudice to the generality of section 182(2), the regulations may distinguish between—

- (a) cases in which information is to be given as of course; and
- (b) cases in which information need only be given on request or in other prescribed circumstances.

(4) The regulations shall make provision for referring to an industrial tribunal any question whether an organisation is such a trade union as is mentioned in subsection (2)(d).

Additional
documents for
members etc. and
Registrar.

114.—(1) Without prejudice to the generality of the power conferred on him by section 113(1), the Secretary of State may by regulations require the trustees of an occupational pension scheme or, if there are no trustees, the managers—

- (a) to obtain at such times as may be prescribed documents to which this subsection applies; and
- (b) to make copies of them available to the persons specified in section 113(2).

(2) In relation to any scheme, the documents to which subsection (1) applies are—

- (a) its audited accounts;
- (b) an auditor's statement about contributions under it;
- (c) an actuarial valuation of its assets in relation to its liabilities; and
- (d) an actuary's statement concerning such aspects of any such valuation as may be prescribed.

(3) The Secretary of State may by regulations—

- (a) prescribe the persons who may act as auditors or actuaries for the purposes of this section; or
- (b) provide that the persons who may so act shall be—

PART VI

- (i) persons with prescribed professional qualifications or experience; or
- (ii) persons approved by the Secretary of State.

(4) The Secretary of State may by regulations make provision as to the form and content of any such document as is mentioned in subsection (2).

115.—(1) If the trustees or managers of an occupational pension scheme or a personal pension scheme, having made default in complying with regulations under section 113 or 114(1)(b), fail to make good the default within 14 days after the service on them of a notice requiring them to do so, an order may be made under this subsection.

Powers as respects failure to comply with information requirements.

(2) The Secretary of State may by regulations specify forms for notices under subsection (1).

(3) An order under subsection (1) is an order directing the trustees or managers to make good the default within such time as may be specified in the order.

(4) The power to make such an order shall be exercisable by the appropriate court on the application of any person mentioned in subsection (5).

(5) The persons referred to in subsection (4) are—

- (a) the Secretary of State;
- (b) any person authorised by the Secretary of State to make an application under this section; and
- (c) any aggrieved person.

(6) In this section “the appropriate court” means—

- (a) in England and Wales, a county court; and
- (b) in Scotland, the sheriff.

(7) An application to the sheriff shall be made by summary application.

(8) An order under this section may provide that all costs (or, in Scotland, expenses) of and incidental to the application shall be borne personally by any of the trustees or managers of the scheme.

116. The Secretary of State may by regulations make provision as to—

Regulations as to auditors.

- (a) the appointment, resignation and removal of auditors of occupational pension schemes;
- (b) the duty of employers and auditors of employers to disclose information to the trustees or managers of occupational pension schemes and the auditors of such schemes;
- (c) the duty of trustees or managers of an occupational pension scheme to disclose information and to make documents available to the auditors of the scheme.

117. Regulations may be made relating to the form and content of advertisements and such other material as may be prescribed issued by or on behalf of the trustees or managers of a personal or occupational pension scheme for the purposes of the scheme.

Regulations as to form and content of advertisements.

PART VI

Equal access
requirements.

118.—(1) Subject to section 153(3), the equal access requirements in relation to an occupational pension scheme are that membership of the scheme is open to both men and women on terms which are the same as to age and length of service needed for becoming a member.

(2) A rule does not contravene the equal access requirements only because it confers on the scheme's trustees or managers, or others, a discretion whose exercise may result in a person being more or less favourably treated than he otherwise would be, so long as it does not provide for the discretion to be exercised in any discriminatory manner as between men and women.

(3) The equal access requirements have effect in relation to any occupational pension scheme whose resources are derived in whole or in part from—

- (a) payments made or to be made by one or more employers of earners to whom the scheme applies, being payments either—
 - (i) under an actual or contingent legal obligation; or
 - (ii) in the exercise of a power conferred, or the discharge of a duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money; or
- (b) such other payments by the earner or his employer, or both, as may be prescribed for different categories of scheme.

(4) Regulations may make provision—

1970 c. 41.

- (a) for the Equal Pay Act 1970 to have effect, in relation to terms of employment relating to membership of an occupational pension scheme, with such modifications as may be prescribed;
- (b) for imposing requirements on employers as to the payment of contributions and otherwise in case of their failing or having failed to comply with any such terms;
- (c) for the consequential modification of a scheme's rules where there has been an alteration under the Equal Pay Act 1970 of any such terms.

(5) A reference in this section to terms of employment includes (where the context permits) a reference to—

- (a) any collective agreement or pay structure;
- (b) a wages regulation order within section 4 of the Equal Pay Act 1970; and

PART VI

- (c) an agricultural wages order within section 5 of that Act.

PART VII

INSOLVENCY OF EMPLOYERS

CHAPTER I

INDEPENDENT TRUSTEES

119.—(1) This section applies in relation to an occupational pension scheme which is constituted by trust deed—

Requirement for independent trustee where employer becomes insolvent etc.

- (a) if a person (“the practitioner”) commences to act as an insolvency practitioner in relation to a company which, or an individual who, is the employer of persons in the description or category of employment to which the scheme relates; or

- (b) if the official receiver becomes—

(i) the liquidator or provisional liquidator of a company which is the employer of any such persons, or

(ii) the receiver and the manager, or the trustee, of the estate of a bankrupt who is the employer of any such persons.

(2) If and so long as this section applies to a scheme, subject to subsection (5), it shall be the duty of the practitioner or official receiver—

- (a) to satisfy himself that at all times at least one of the trustees of the scheme is an independent person; and

- (b) if at any time he is not so satisfied, to appoint under this paragraph, or to secure the appointment of, an independent person as a trustee of the scheme.

(3) For the purposes of subsection (2) a person is “independent” only if—

- (a) he has no interest in the assets of the employer or of the scheme, otherwise than as trustee of the scheme;

- (b) he is neither connected with, nor an associate of—

(i) the employer;

(ii) any person for the time being acting as an insolvency practitioner in relation to the employer; or

(iii) the official receiver, acting in any of the capacities mentioned in subsection (1)(b) in relation to the employer; and

- (c) he satisfies such other requirements as may be prescribed;

and any reference in this section or sections 120 to 122 to an “independent trustee” shall be construed accordingly.

(4) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons) shall apply for the purposes of paragraph (b) of subsection (3) as they apply for the purposes of that Act; and section 74 of the Bankruptcy (Scotland) Act 1985 (associated persons) shall apply for the purposes of that paragraph as it applies for the purposes of that Act of 1985.

1986 c. 45.

1985 c. 66.

(5) Where, apart from this subsection, the duties imposed by subsection (2) in relation to a scheme would fall to be discharged at the same time by two or more persons acting in different capacities, those duties shall be discharged—

- (a) if the employer is a company, by the person or persons acting as the company's liquidator, provisional liquidator or administrator; or
- (b) if the employer is an individual, by the person or persons acting as his trustee in bankruptcy or interim receiver of his property or as permanent or interim trustee in the sequestration of his estate.

(6) Where this section applies in relation to a scheme, it shall cease to do so—

- (a) if some person other than the employer mentioned in subsection (1) becomes the employer of persons in the description or category of employment to which the scheme relates; or
- (b) if at any time neither the practitioner nor the official receiver is acting in relation to the employer.

(7) Nothing in subsection (6) affects the application of this section in relation to the scheme on any subsequent occasion when the conditions specified in subsection (1)(a) or (b) are satisfied in relation to it.

(8) In this section—

“acting as an insolvency practitioner” and “official receiver” shall be construed in accordance with sections 388 and 399 of the Insolvency Act 1986;

1986 c. 45.

“bankrupt” has the meaning given by section 381 of the Insolvency Act 1986;

1985 c. 6.

“company” means a company within the meaning given by section 735(1) of the Companies Act 1985 or a company which may be wound up under Part V of the Insolvency Act 1986 (unregistered companies);

1985 c. 66.

“interim trustee” and “permanent trustee” have the same meanings as they have in the Bankruptcy (Scotland) Act 1985.

(9) References in this section to an individual include, except where the context otherwise requires, references to a partnership and to any debtor within the meaning of the Bankruptcy (Scotland) Act 1985.

Members' powers
to apply to court
to enforce duty
under s. 119.

120.—(1) If—

- (a) section 119 applies in relation to a scheme; but
- (b) the practitioner or official receiver neglects or refuses to discharge any duty imposed on him by subsection (2) of that section in relation to the scheme,

any member of the scheme may apply to the appropriate court for an order requiring him to discharge his duties under that subsection.

(2) In subsection (1) “the appropriate court” means—

- (a) if the employer in question is a company—
 - (i) where a winding-up order has been made or a provisional liquidator appointed, the court which made the order or appointed the liquidator;

(ii) in any other case, any court having jurisdiction to wind up the company; and

(b) in any other case—

(i) in England and Wales, the court (as defined in section 385 of the Insolvency Act 1986); or

1986 c. 45.

(ii) in Scotland, where a sequestration has been awarded or, by virtue of the proviso to section 13(1) of the Bankruptcy (Scotland) Act 1985 (petition presented by creditor or trustee acting under trust deed) an interim trustee has been appointed, the court which made the award or appointment and, if no such award or appointment has been made, any court having jurisdiction under section 9 of that Act.

1985 c. 66.

(3) In this section “interim trustee” and “company” have the same meanings as in section 119.

121.—(1) If, immediately before the appointment of an independent trustee under subsection (2)(b) of section 119, there is no trustee of the scheme other than the employer, the employer shall cease to be a trustee upon the appointment of the independent trustee.

Further provisions as to appointment and powers of independent trustees.

(2) If and so long as section 119 applies in relation to a scheme—

(a) any power vested in the trustees or managers of the scheme and exercisable at their discretion shall be exercisable only by the independent trustee; and

(b) any power—

(i) which the scheme confers on the employer (otherwise than as trustee or manager of the scheme), and

(ii) which is exercisable by him at his discretion but only as trustee of the power,

shall be exercisable only by the independent trustee;

but if, in either case, there is more than one independent trustee, the power shall also be exercisable with the consent of at least half of those trustees by any person who could exercise it apart from this subsection.

(3) If and so long as section 119 applies in relation to a scheme, no independent trustee of the scheme shall be removed from being a trustee by virtue only of any provision of the scheme.

(4) If a trustee appointed under subsection (2)(b) of section 119 ceases to be an independent trustee, then—

(a) he shall immediately give written notice of that fact to the practitioner or official receiver by whom the duties under that provision fall to be discharged; and

(b) subject to subsection (5), he shall cease to be a trustee of the scheme.

(5) If, in a case where subsection (4) applies, there is no other trustee of the scheme than the former independent trustee, he shall not cease by virtue of that subsection to be a trustee until such time as another trustee is appointed.

PART VII
CHAPTER I

(6) A trustee appointed under subsection (2)(b) of section 119 shall be entitled to be paid out of the scheme's resources his reasonable fees for acting in that capacity and any expenses reasonably incurred by him in doing so, and to be so paid in priority to all other claims falling to be met out of the scheme's resources.

Duty of
insolvency
practitioner or
official receiver to
give information
to scheme
trustees.
1986 c. 45.

122.—(1) Notwithstanding anything in section 155 of the Insolvency Act 1986 (court orders for inspection etc.), if and so long as section 119 applies in relation to a scheme, it shall be the duty of the practitioner or official receiver to provide the trustees of the scheme, as soon as practicable after the receipt of a request, with any information which the trustees may reasonably require for the purposes of the scheme.

(2) Any expenses incurred by the practitioner or official receiver in complying with a request under subsection (1) shall be recoverable by him as part of the expenses incurred by him in discharge of his duties.

(3) The practitioner or official receiver shall not be required under subsection (1) to take any action which involves expenses that cannot be so recovered, unless the trustees of the scheme undertake to meet them.

CHAPTER II

PAYMENT BY SECRETARY OF STATE OF UNPAID SCHEME CONTRIBUTIONS

Interpretation of
Chapter II.

123.—(1) For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in England and Wales—

- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (b) he has died and his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986; or
- (c) where the employer is a company—
 - (i) a winding-up order or an administration order is made or a resolution for voluntary winding up is passed with respect to it,
 - (ii) a receiver or manager of its undertaking is duly appointed,
 - (iii) possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or
 - (iv) a voluntary arrangement proposed for the purpose of Part I of the Insolvency Act 1986 is approved under that Part.

(2) For the purposes of this Chapter, an employer shall be taken to be insolvent if, but only if, in Scotland—

- (a) sequestration of his estate is awarded or he executes a trust deed for his creditors or enters into a composition contract;
- (b) he has died and a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide his insolvent estate among his creditors; or
- (c) where the employer is a company—
 - (i) a winding-up order or an administration order is made or a resolution for voluntary winding up is passed with respect to it,

1889 c. 39.

- (ii) a receiver of its undertaking is duly appointed, or
- (iii) a voluntary arrangement proposed for the purpose of Part I of the Insolvency Act 1986 is approved under that Part. 1986 c. 45.

(3) In this Chapter—

“contract of employment”, “employee”, “employer” and “employment” and other expressions which are defined in the Employment Protection (Consolidation) Act 1978 have the same meaning as in that Act; 1978 c. 44.

“holiday pay” means—

- (a) pay in respect of holiday actually taken; or
- (b) any accrued holiday pay which under the employee’s contract of employment would in the ordinary course have become payable to him in respect of the period of a holiday if his employment with the employer had continued until he became entitled to a holiday;

“occupational pension scheme” means any scheme or arrangement which provides or is capable of providing, in relation to employees in any description of employment, benefits, in the form of pensions or otherwise, payable to or in respect of any such employees on the termination of their employment or on their death or retirement.

(4) For the purposes of this Chapter, the definition of “personal pension scheme” in section 1 has effect with the substitution for the words “employed earners” of the word “employees”.

(5) Any reference in this Chapter to the resources of a scheme is a reference to the funds out of which the benefits provided by the scheme are from time to time payable.

124.—(1) If, on an application made to him in writing by the persons competent to act in respect of an occupational pension scheme or a personal pension scheme, the Secretary of State is satisfied—

Duty of Secretary of State to pay unpaid contributions to schemes.

- (a) that an employer has become insolvent; and
- (b) that at the time he did so there remained unpaid relevant contributions falling to be paid by him to the scheme,

then, subject to the provisions of this section and section 125, the Secretary of State shall pay into the resources of the scheme the sum which in his opinion is payable in respect of the unpaid relevant contributions.

(2) In this section and section 125 “relevant contributions” means contributions falling to be paid by an employer to an occupational pension scheme or a personal pension scheme, either on his own account or on behalf of an employee; and for the purposes of this section a contribution shall not be treated as falling to be paid on behalf of an employee unless a sum equal to that amount has been deducted from the pay of the employee by way of a contribution from him.

(3) The sum payable under this section in respect of unpaid contributions of an employer on his own account to an occupational pension scheme or a personal pension scheme shall be the least of the following amounts—

PART VII
CHAPTER II

- (a) the balance of relevant contributions remaining unpaid on the date when he became insolvent and payable by the employer on his own account to the scheme in respect of the 12 months immediately preceding that date;
- (b) the amount certified by an actuary to be necessary for the purpose of meeting the liability of the scheme on dissolution to pay the benefits provided by the scheme to or in respect of the employees of the employer;
- (c) an amount equal to 10 per cent. of the total amount of remuneration paid or payable to those employees in respect of the 12 months immediately preceding the date on which the employer became insolvent.

1986 c. 50.
1992 c. 4.
1978 c. 44.

(4) For the purposes of subsection (3)(c), "remuneration" includes holiday pay, statutory sick pay, statutory maternity pay under Part V of the Social Security Act 1986 or Part XII of the Social Security Contributions and Benefits Act 1992, maternity pay under Part III of the Employment Protection (Consolidation) Act 1978 and any such payment as is referred to in section 122(4) of that Act (guarantee payments etc.).

(5) Any sum payable under this section in respect of unpaid contributions on behalf of an employee shall not exceed the amount deducted from the pay of the employee in respect of the employee's contributions to the scheme during the 12 months immediately preceding the date on which the employer became insolvent.

Certification of
amounts payable
under s. 124 by
insolvency officers.

125.—(1) This section applies where one of the officers mentioned in subsection (2) ("the relevant officer") has been or is required to be appointed in connection with an employer's insolvency.

(2) The officers referred to in subsection (1) are—

- (a) a trustee in bankruptcy;
- (b) a liquidator;
- (c) an administrator;
- (d) a receiver or manager; or
- (e) a trustee under a composition or arrangement between the employer and his creditors or under a trust deed for his creditors executed by the employer;

and in this subsection "trustee", in relation to a composition or arrangement, includes the supervisor of a voluntary arrangement proposed for the purposes of and approved under Part I or VIII of the Insolvency Act 1986.

1986 c. 45.

(3) Subject to subsection (5), where this section applies the Secretary of State shall not make any payment under section 124 in respect of unpaid relevant contributions until he has received a statement from the relevant officer of the amount of relevant contributions which appear to have been unpaid on the date on which the employer became insolvent and to remain unpaid; and the relevant officer shall on request by the Secretary of State provide him as soon as reasonably practicable with such a statement.

(4) Subject to subsection (5), an amount shall be taken to be payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124 only if it is so certified by the relevant officer.

(5) If the Secretary of State is satisfied—

- (a) that he does not require a statement under subsection (3) in order to determine the amount of relevant contributions that was unpaid on the date on which the employer became insolvent and remains unpaid, or
- (b) that he does not require a certificate under subsection (4) in order to determine the amounts payable, paid or deducted as mentioned in subsection (3)(a) or (c) or (5) of section 124,

he may make a payment under that section in respect of the contributions in question without having received such a statement or, as the case may be, such a certificate.

126.—(1) Any persons who are competent to act in respect of an occupational pension scheme or a personal pension scheme and who have applied for a payment to be made under section 124 into the resources of the scheme may present a complaint to an industrial tribunal that—

Complaint to
industrial tribunal.

- (a) the Secretary of State has failed to make any such payment; or
- (b) any such payment made by him is less than the amount which should have been paid.

(2) Such a complaint must be presented within the period of three months beginning with the date on which the decision of the Secretary of State on that application was communicated to the persons presenting it or, if that is not reasonably practicable, within such further period as is reasonable.

(3) Where an industrial tribunal finds that the Secretary of State ought to make a payment under section 124, it shall make a declaration to that effect and shall also declare the amount of any such payment which it finds that the Secretary of State ought to make.

127.—(1) Where in pursuance of section 124 the Secretary of State makes any payment into the resources of an occupational pension scheme or a personal pension scheme in respect of any contributions to the scheme, any rights and remedies in respect of those contributions belonging to the persons competent to act in respect of the scheme shall, on the making of the payment, become rights and remedies of the Secretary of State.

Transfer to
Secretary of State
of rights and
remedies.

(2) Where the Secretary of State makes any such payment as is mentioned in subsection (1) and the sum (or any part of the sum) falling to be paid by the employer on account of the contributions in respect of which the payment is made constitutes—

- (a) a preferential debt within the meaning of the Insolvency Act 1986 for the purposes of any provision of that Act (including any such provision as applied by an order made under that Act) or any provision of the Companies Act 1985; or

1986 c. 45.

1985 c. 6.

PART VII
CHAPTER II

- 1985 c. 66. (b) a preferred debt within the meaning of the Bankruptcy (Scotland) Act 1985 for the purposes of any provision of that Act (including any such provision as applied by section 11A of the Judicial Factors (Scotland) Act 1889),
- 1889 c. 39.

then, without prejudice to the generality of subsection (1), there shall be included among the rights and remedies which become rights and remedies of the Secretary of State in accordance with that subsection any right arising under any such provision by reason of the status of that sum (or that part of it) as a preferential or preferred debt.

(3) In computing for the purposes of any provision referred to in subsection (2)(a) or (b) the aggregate amount payable in priority to other creditors of the employer in respect of—

- (a) any claim of the Secretary of State to be so paid by virtue of subsection (2); and
- (b) any claim by the persons competent to act in respect of the scheme,

any claim falling within paragraph (a) shall be treated as if it were a claim of those persons; but the Secretary of State shall be entitled, as against those persons, to be so paid in respect of any such claim of his (up to the full amount of the claim) before any payment is made to them in respect of any claim falling within paragraph (b).

CHAPTER III

PRIORITY IN BANKRUPTCY

Priority in
bankruptcy etc.
1986 c. 45.

128. Schedule 4 shall have effect for the purposes of paragraph 8 of Schedule 6 to the Insolvency Act 1986 and paragraph 4 of Schedule 3 to the Bankruptcy (Scotland) Act 1985 (by virtue of which sums to which Schedule 4 to this Act applies are preferential or, as the case may be, preferred debts in cases of insolvency).

PART VIII

RELATIONSHIP BETWEEN REQUIREMENTS AND SCHEME RULES

Overriding
requirements.

129.—(1) Subject to subsection (2), the provisions of Chapters II, III and IV of Part IV, Chapter I of Part V, section 110(1), sections 119 to 122 and any regulations made under Chapter I of Part V or under section 113 or 114 or sections 119 to 122 override any provision of a scheme to which they apply to the extent that it conflicts with them.

(2) Chapter II of Part IV (as it applies to occupational pension schemes), Chapter III of that Part and Chapter I of Part V (except section 108) do not override a protected provision of a scheme and Chapter IV of Part IV does not override a provision falling within paragraph (b) of subsection (3).

(3) In subsection (2) “protected provision” means—

- (a) any provision contained in a scheme by virtue of section 73(2), 77(3), (4), (5) or (6), 78(2), (3), (4), (5) or (7) or 79;
- (b) any provision of a scheme to the extent that it deals with priorities on a winding up;
- (c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 20(1);

PART VIII

- (d) any provision of a scheme to the extent that it deals with commutation, suspension or forfeiture of the whole or part of a pension; and
- (e) any provision of a scheme whereby, as respects so much of a widow's or widower's pension as exceeds the guaranteed minimum pension—
 - (i) no pension or a pension at a reduced rate is payable if the earner and the widow or widower married not more than six months before the earner's death;
 - (ii) the whole or any part of the pension is not paid to the widow or widower, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
 - (iii) no pension, or a pension at a reduced rate, is payable to the widow or widower (or, where a provision such as is mentioned in sub-paragraph (ii) operates, to another dependant of the deceased earner) who was more than ten years younger than the deceased earner.

(4) For the purposes of the application of Chapter II of Part IV to schemes which are not contracted-out, subsection (3) shall have effect with the omission—

- (a) from paragraph (c), of the words from “authorised” to the end; and
- (b) from paragraph (e), of the words from “as respects” to “guaranteed minimum pension”.

130. It is hereby declared that—

- (a) nothing in Part III precludes an occupational pension scheme from providing benefits that are more favourable than those required for contracting-out purposes and, in particular, nothing in section 16(3) is to be taken as preventing the scheme from providing increases above the alternative minima there mentioned; and
- (b) nothing in the provisions of Chapter II or IV of Part IV precludes a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.

Extra-statutory benefits.

131. It is hereby declared that nothing in Chapter I of Part IV—

- (a) applies with direct effect to any scheme, or to the rights or liabilities of any person in, under or by virtue of a scheme; or
- (b) precludes a scheme from being so framed as to provide benefits on any ampler scale, or (subject to any express provision made in that Chapter) payable at any earlier time or otherwise more favourable to beneficiaries, than is called for by the preservation requirements.

Relationship of preservation requirements and scheme rules.

132. Where the rules of an occupational pension scheme to which the preservation requirements, the equal access requirements or the voluntary contributions requirements apply or the rules of a personal pension scheme to which the voluntary contributions requirements apply do not comply with those requirements it shall be the responsibility of—

Duty to bring schemes into conformity with indirectly-applying requirements.

PART VIII

- (a) the trustees and managers of the scheme; or
- (b) in the case of a public service pension scheme, the Minister, government department or other person or body concerned with its administration,

to take such steps as are open to them for bringing the rules of the scheme into conformity with those requirements.

Advice of the Board as to conformity of schemes with requirements.

133.—(1) The Board may at any time, and shall if requested by the persons responsible under section 132 for taking steps to bring a scheme into conformity with the preservation requirements, the equal access requirements or the voluntary contributions requirements, advise whether the rules of a scheme to which those requirements apply do or do not in the Board's opinion conform with any of those requirements.

(2) Where the Board advise that the rules do not conform, they shall indicate what steps they consider should be taken with a view to securing conformity.

(3) The Board may at any time, and shall if requested by the trustees or managers of a scheme, advise on any question whether—

- (a) any provision mentioned in subsection (4) does or does not override any provision of a scheme;
- (b) any benefit is a money purchase benefit, or an average salary benefit or a flat rate benefit (within the meaning of section 84).

(4) The provisions referred to in subsection (3)(a) are any provision of Chapter II, III or IV of Part IV, section 110(1) or regulations under section 113 or 114.

Determination of questions whether schemes conform with requirements.

134.—(1) Subject to subsection (2), on an application made to them in respect of a scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Board shall issue a determination on any such question as is mentioned in section 133.

(2) No application may be made under subsection (1) as respects the requirements of Chapter III of Part IV in respect of a money purchase contracted-out scheme.

(3) The Board may at any time of their own motion issue in respect of a scheme which has come to their notice any determination which they could issue in the case of that scheme on application to them under subsection (1) as respects the preservation requirements, the equal access requirements or the voluntary contributions requirements.

(4) At any time when the Board are concerned with a scheme for the purpose of issuing a determination under this section as respects the preservation requirements or the equal access requirements, they may include a determination (whether or not applied for) as to any of the particular matters specified in Chapter I of Part IV or, as the case may be, section 118(1).

(5) If the Board think it expedient to do so, having regard—

- (a) to the structure and character of a scheme in relation to which they are issuing a determination under this section; and

PART VIII

- (b) to any anomalous or impractical consequences that may be expected to follow from its modification to achieve conformity with any particular provision of Chapter I of Part IV,

they may determine that that provision shall not apply to that scheme or shall apply to it with such modifications as may be specified in the determination.

135.—(1) The persons competent to make an application under section 134 in respect of a scheme are—

Persons competent to make applications under s. 134.

- (a) in any case—
 - (i) the trustees or managers of the scheme;
 - (ii) any person other than the trustees or managers who has power to alter any of the rules of the scheme; and
 - (iii) any member of the scheme;
- (b) in any case where the scheme is an occupational pension scheme, any person who is an employer of persons in service in an employment to which the scheme applies;
- (c) in any case where the scheme is an occupational pension scheme and in the case of any application in respect of the voluntary contributions requirements, any prospective member of the scheme; and
- (d) in any case other than an application in respect of a personal pension scheme in relation to requirements under section 113, such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.

(2) The reference in paragraph (d) of subsection (1) to other persons shall be construed in relation to any case as including persons other than those mentioned in paragraphs (a) to (c) by whom an application may be made in that case.

PART IX

MODIFICATION AND WINDING UP OF SCHEMES

Modification

136.—(1) On an application made to them in respect of an occupational pension scheme or a personal pension scheme by persons competent to make such an application, the Board may make an order—

Applications to the Board to modify schemes (other than public service schemes).

- (a) authorising the modification of the scheme with a view to achieving—
 - (i) any one or more of the purposes specified in subsection (2); or
 - (ii) any one or more of such other purposes as may be prescribed; or
- (b) modifying the scheme with a view to achieving any one or more of those purposes.

PART IX

(2) The purposes referred to in subsection (1)(a)(i) are—

- (a) to enable the scheme to provide for the transfer of accrued rights (including any transfer credits allowed under the scheme) to another scheme (whether an occupational or personal pension scheme) with a view to the acquisition, for those whose rights are transferred, of rights under the other scheme in connection with change of employment or otherwise, and for the allowance of transfer credits;
- (b) to enable the scheme to be one to which section 163 applies or to have included in or removed from it provisions designed to avoid the effect of the rules of law relating to perpetuities;
- (c) without prejudice to section 139(2), to comply with the voluntary contributions requirements;
- (d) to enable the trustees or managers of the scheme, or others concerned with or having rights under it, to enter into alternative arrangements having regard to any provision of this Act, or of any other Act (passed or to be passed) amending or replacing any such provision or making provision for similar purposes; or
- (e) in the case of an occupational pension scheme only, to enable the scheme—
 - (i) to be so treated that an employment to which it applies may be contracted-out employment by reference to it;
 - (ii) to qualify for the approval of the Inland Revenue for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988 or to provide benefits enhanced up to the limits suitable in a scheme for which such approval is sought;
 - (iii) to provide for accrued rights to benefit (whether in payment or not), so far as payable out of the resources of the scheme, to be surrendered by beneficiaries (at their option and not otherwise, so long as the scheme remains in force and is not being, or to be, wound up) in exchange for other rights assured by means of one or more policies of insurance or annuity contracts, or by other means; or
 - (iv) without prejudice to section 139(2), to comply with the preservation requirements or the equal access requirements.

1988 c. 1.

(3) An order under subsection (1)(a)—

- (a) shall be framed so as to confer the power of modification on such persons as the Board think proper (who may include persons who were not parties to the application made to the Board); and
- (b) shall include such directions as the Board think appropriate, having regard to the purposes of the order, indicating the modifications which they consider to be called for.

Persons competent to make applications under s. 136.

137. The persons competent to make an application under section 136(1) in respect of a scheme are—

- (a) the trustees or managers of the scheme;
- (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;

PART IX

- (c) in the case of an occupational pension scheme only, any person who is an employer of persons in service in an employment to which the scheme applies; and
- (d) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make such an application in respect of a scheme of that category.

138.—(1) The Board shall not entertain an application for an order by them under section 136 unless they are satisfied that the purposes of the application—

Further provisions concerning the Board's powers under s. 136.

- (a) cannot be achieved otherwise than by means of such an order; or
- (b) can only be achieved in accordance with a procedure which—
 - (i) is liable to be unduly complex or protracted, or
 - (ii) involves the obtaining of consents which cannot be obtained, or can only be obtained with undue delay or difficulty.

(2) Subject to subsection (1), the Board may on such an application make (with the consent of the applicants) any one or more such orders as are specified in section 136(1) and may exercise any of their powers to make such orders from time to time.

(3) The extent of those powers is not limited, in relation to any purposes for which they are exercisable, to the minimum necessary to achieve those purposes.

(4) The Board shall not make an order under section 136(1) unless they are satisfied that it is reasonable in all the circumstances to make it.

(5) The Board shall not make any such order under that section as would, or might in their opinion, result in any existing or prospective entitlement of a member of the scheme, in respect of a period before the coming into force of the order or of any modification which the order authorises, being diminished or curtailed without his consent, unless they are satisfied that it is in the interests of the generality of members that the order should be made.

(6) In considering whether or not to make an order under that section, the Board shall have regard—

- (a) to the structure and character of the scheme and the benefits provided by it;
- (b) to the provisions of this Act and Chapter I of Part XIV of the Income and Corporation Taxes Act 1988; and
- (c) to all the circumstances in general.

1988 c. 1.

(7) Regulations may provide that in prescribed circumstances subsections (4) and (5) shall not apply to occupational pension schemes or shall apply to them with prescribed modifications.

139.—(1) If in the case of a scheme to which section 53 applies the Board are not satisfied as to the soundness and adequacy of any investments held for the purposes of the scheme (so far as relevant to the considerations of section 24(1)), they may by order—

Other functions of the Board as respects modification of schemes.

- (a) modify the scheme's rules, or

PART IX

- (b) direct the scheme's trustees or managers to take such steps as the order may specify,

with a view to ensuring that the guaranteed minimum pensions under the scheme are adequately secured to its beneficiaries, both present and future.

(2) If the Board determine under section 134 that a scheme does not conform with the preservation requirements, the equal access requirements or the voluntary contributions requirements they shall, either at the time of issuing their determination or as soon afterwards as they think expedient—

- (a) by order direct the trustees or managers of the scheme or any other persons who have power to alter any of its rules to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (including in their order such directions as they think appropriate to indicate the modification appearing to them to be called for); or
- (b) if there is no person with power to modify the scheme as required by the Board, by order authorise the trustees or managers, or other persons named in the order (and, in particular, in the case of an occupational pension scheme, any employer of persons in service in an employment to which the scheme applies) to make that modification; or
- (c) themselves by order modify the scheme with a view to bringing it into conformity with the requirements in question.

(3) The Board may exercise their powers under subsection (2) in relation to any scheme in respect of which they have issued a determination under section 134, and may exercise the powers together or separately.

Effect of orders
under ss. 136 and
139.

140.—(1) An order under paragraph (a) of section 136(1) may enable those exercising any power conferred by the order to exercise it retrospectively (whether or not the power could otherwise be so exercised) and an order under paragraph (b) of that section may modify a scheme retrospectively.

(2) An order under paragraph (a) of section 139(2) may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under paragraph (b) or (c) of that section may operate retrospectively.

(3) In this section “retrospectively” means with effect from a date before that on which the power is exercised or, as the case may be, the order is made, but—

- (a) in the case of an order under section 136(1), that date shall be such date as may be proposed for the purposes of this subsection by the persons applying for the order; and
- (b) in the case of an order under section 139(2), that date shall not be a date earlier than the operative date for the requirements.

(4) In subsection (3)(b) “the operative date for the requirements” means—

- (a) in the case of the preservation requirements, 5th September 1973;

PART IX

(b) in the case of the voluntary contributions requirements—

(i) as respects a personal pension scheme in so far as it is comprised in an annuity contract, 1st July 1988, but otherwise 4th January 1988, and

(ii) as respects an occupational pension scheme, 6th April 1988; and

(c) in the case of the equal access requirements, 6th April 1978.

(5) Any modification of a scheme made in pursuance of an order of the Board under section 136(1) or 139(2)(b) or (c) shall be as effective in law as if it had been made under powers conferred by or under the scheme.

(6) An order under section 136(1) or 139(2)(b) or (c) may be made and complied with in relation to a scheme—

(a) notwithstanding any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the modification being made;

(b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to the making of the modification.

141.—(1) Nothing in the previous provisions of this Part applies to public service pension schemes but, subject to the provisions of this section, the appropriate authority shall, in relation to such a scheme, have power to make such provision for the modification of the scheme as could be made by an order of the Board under subsection (1)(b) of section 136 with a view to achieving any of the purposes mentioned in subsection (2) of that section in the case of a scheme other than a public service pension scheme.

Modification of
public service
schemes.

(2) In this section “the appropriate authority”, in relation to a scheme, means such Minister of the Crown or government department as may be designated by the Treasury as having responsibility for the particular scheme.

(3) The powers of the appropriate authority under this section shall be exercisable by means of an order—

(a) directly modifying the scheme (without regard, in the case of a scheme contained in or made under powers conferred by an enactment, to the terms of the enactment or any of its restrictions); or

(b) modifying an enactment under which the scheme was made or by virtue of which it has effect.

(4) Any such order shall contain such incidental, supplementary and transitional provisions as the appropriate authority considers to be required for the purposes of the order, including provisions adapting, amending or repealing any such enactment as is referred to in paragraph (a) or (b) of subsection (3).

PART IX

Winding up

Powers of the Board to wind up schemes.

142.—(1) On an application made to them in respect of an occupational pension scheme or a personal pension scheme by persons competent to make such an application, the Board may make an order directing or authorising the scheme to be wound up on grounds specified in subsection (2).

(2) Those grounds are that, having regard to any provision of this Act, or to any other Act (passed or to be passed) amending or replacing any such provision or making provision for similar purposes, the scheme—

(a) ought to be replaced (in whole or in part) by a different scheme, or

(b) is no longer required.

(3) An order of the Board under subsection (1) authorising a scheme to be wound up shall include such directions with respect to the manner and timing of the winding up as the Board think appropriate having regard to the purposes of the order.

(4) Sections 137 and 138 and subsections (5) and (6) of section 140 shall apply with the necessary modifications in relation to an application or an order under subsection (1) as they apply in relation to an application or, as the case may be, an order under section 136(1), taking references in those subsections to modification as references to winding up.

(5) If in the case of a scheme to which section 53 applies the Board are satisfied that the guaranteed minimum pensions under the scheme are not, and cannot be, adequately secured to its beneficiaries, they may by order—

(a) require the scheme to be wound up in accordance with such directions in that behalf as may be contained in the order; or

(b) direct the trustees or managers to take such steps for the winding up of the scheme as the order may specify.

(6) On a winding up in pursuance of an order under subsection (5) the same powers shall be exercisable by the Board in relation to the scheme's winding-up rules as are exercisable by them under section 53(4) and (5) in relation to other rules.

Winding up of public service schemes.

143.—(1) Nothing in section 142 applies to public service pension schemes but, subject to the provisions of this section, the appropriate authority shall, in relation to such a scheme, have power to make such provision for the winding up of the scheme as could be made by an order of the Board under subsection (1) of that section in the case of a scheme other than a public service pension scheme.

(2) The powers of the appropriate authority under this section shall be exercisable by means of an order directing that the scheme be wound up and including directions with respect to the manner and timing of the winding up.

(3) Subsections (2) and (4) of section 141 apply to an order under this section as they apply to an order under subsection (1) of that section.

PART IX

Deficiencies in the assets of a scheme on winding up.

144.—(1) If, in the case of an occupational pension scheme which is not a money purchase scheme, the value at the applicable time of the scheme's liabilities exceeds the value of its assets, then an amount equal to the excess shall be treated as a debt due from the employer to the trustees of the scheme.

(2) If—

- (a) a relevant insolvency event occurs in relation to the employer; and
- (b) the debt mentioned in subsection (1) has not been discharged at the time that event occurs,

then, for the purposes of the law relating to winding up, bankruptcy or sequestration as it applies in relation to the employer, that debt shall be taken to arise immediately before that time.

(3) In this section—

“the applicable time” means —

- (a) if the scheme is being wound up before a relevant insolvency event occurs in relation to the employer, any time when it is being wound up before such an event occurs; and
- (b) otherwise, immediately before the relevant insolvency event occurs; and

“the employer” means the employer of persons of the description or category of employment to which the scheme relates.

(4) For the purposes of this section a relevant insolvency event occurs in relation to the employer—

(a) in England and Wales—

- (i) where the employer is a company, when it goes into liquidation, within the meaning of section 247(2) of the Insolvency Act 1986; or
- (ii) where the employer is an individual, at the commencement of his bankruptcy, within the meaning of section 278 of that Act; or

1986 c. 45.

(b) in Scotland—

- (i) where the employer is a company, at the commencement of its winding up, within the meaning of section 129 of that Act; or
- (ii) where the employer is a debtor within the meaning of the Bankruptcy (Scotland) Act 1985, on the date of sequestration as defined in section 12(4) of that Act.

1985 c. 66.

(5) The value of a scheme's assets and liabilities for the purposes of subsection (1) shall be determined in accordance with regulations and such regulations may provide that, in calculating the value of the scheme's liabilities, any provision of the scheme which limits the amount of its liabilities by reference to the amount of its assets is to be disregarded.

(6) This section is without prejudice to any other right or remedy which the trustees may have in respect of the deficiency in the scheme's assets.

PART IX

- (7) A debt due by virtue only of this section shall not be regarded—
- 1986 c. 45. (a) as a preferential debt for the purposes of the Insolvency Act 1986, nor
- 1985 c. 66. (b) as a preferred debt for the purposes of the Bankruptcy (Scotland) Act 1985.
- (8) The provisions of this section and of any regulations made under section 153(5) modifying this section override any provision of a scheme to the extent that it conflicts with this section or those regulations.

PART X

INVESTIGATIONS: THE PENSIONS OMBUDSMAN

The Pensions
Ombudsman.

145.—(1) For the purpose of conducting investigations in accordance with this Part or any corresponding legislation having effect in Northern Ireland there shall be a commissioner to be known as the Pensions Ombudsman.

(2) The Pensions Ombudsman shall be appointed by the Secretary of State and shall hold office upon such terms and conditions as the Secretary of State may think fit.

(3) The Pensions Ombudsman may at any time—

- (a) be removed from office by notice in writing given to him by the Secretary of State; or
- (b) resign his office by giving such notice to the Secretary of State.

(4) The Secretary of State may make available such staff and other facilities as he thinks fit for the Pensions Ombudsman and any function of the Pensions Ombudsman, other than the determination of complaints made and disputes referred under this Part, may be performed by any member of that staff who is authorised for that purpose by the Pensions Ombudsman.

(5) The Secretary of State may—

- (a) pay to or in respect of the Pensions Ombudsman such amounts by way of remuneration, compensation for loss of office, pension, allowances and gratuities, or by way of provision for any such benefits, as the Secretary of State may determine with the approval of the Treasury; and
- (b) reimburse him in respect of any expenses incurred by him in the performance of his functions.

(6) The Pensions Ombudsman shall prepare a report on the discharge of his functions for each financial year, and shall submit it to the Secretary of State as soon as practicable afterwards.

(7) The Secretary of State shall arrange for the publication of each report submitted to him under subsection (6).

Functions of the
Pensions
Ombudsman.

146.—(1) The Pensions Ombudsman may investigate and determine any complaint made to him in writing by or on behalf of an authorised complainant who alleges that he has sustained injustice in consequence of maladministration in connection with any act or omission of the trustees or managers of an occupational pension scheme or personal pension scheme.

PART X

(2) The Pensions Ombudsman may also investigate and determine any dispute of fact or law which arises in relation to such a scheme between—

- (a) the trustees or managers of the scheme, and
- (b) an authorised complainant,

and which is referred to him in writing by or on behalf of the authorised complainant.

(3) Subsection (2) does not have effect in relation to any scheme constituted under or by virtue of—

- (a) the Sheriffs' Pensions (Scotland) Act 1961; 1961 c. 42.
- (b) the Judicial Pensions Act 1981; or 1981 c. 20.
- (c) the Judicial Pensions and Retirement Act 1993. 1993 c. 8.

(4) The Secretary of State may by regulations provide that, subject to any modifications or exceptions specified in the regulations, this Part shall apply in relation to—

- (a) the employer in relation to any description or category of employment to which an occupational pension scheme relates or has related, or
- (b) any prescribed person or body of persons concerned with the financing or administration of, or the provision of benefits under, any occupational or personal pension scheme,

as it applies in relation to the trustees or managers of such a scheme.

(5) The Pensions Ombudsman may investigate a complaint or dispute notwithstanding that it arose, or relates to a matter which arose, before 1st October 1990 (the date on which the provisions under which his office was constituted came into force).

(6) The Pensions Ombudsman shall not investigate or determine a complaint or dispute—

- (a) if before the making of the complaint or the reference of the dispute, proceedings have been begun in any court in respect of the matters which would be the subject of the investigation;
- (b) if the scheme is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection; or
- (c) if and to the extent that the complaint or dispute, or any matter arising in connection with the complaint or dispute, is of a description which is excluded from the jurisdiction of the Pensions Ombudsman by regulations under this subsection.

(7) The persons who, for the purposes of this Part are “authorised complainants” in relation to a scheme are—

- (a) a member of the scheme,
- (b) the widow or widower, or any surviving dependant, of a deceased member of the scheme;
- (c) where the complaint or dispute relates to the question—
 - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) is such a person, or

PART X

(ii) whether a person who claims to be entitled to become a member of the scheme is so entitled, the person so claiming.

(8) In this Part—

“employer”, in relation to a pension scheme, includes a person—

(a) who is or has been an employer in relation to the scheme, or

(b) who is or has been treated under section 181(2) as an employer in relation to the scheme for the purposes of any provision of this Act, or under section 176(2) of the Pension Schemes (Northern Ireland) Act 1993 as an employer in relation to the scheme for the purposes of any provision of that Act;

1993 c. 49.

“member”, in relation to a pension scheme, includes a person—

(a) who is or has been in pensionable service under the scheme, or

(b) who is or has been treated under section 181(4) as a member in relation to the scheme for the purposes of any provision of this Act or under section 176(3) of the Pension Schemes (Northern Ireland) Act 1993 as a member in relation to the scheme for the purposes of any provision of that Act;

“Northern Ireland public service pension scheme” means a public service pension scheme within the meaning of section 176(1) of that Act;

“pensionable service” in this subsection includes pensionable service as defined in section 176(1) of that Act;

“trustees or managers”, in relation to a pension scheme which is a public service pension scheme or a Northern Ireland public service pension scheme, includes the scheme’s administrators.

Death, insolvency or disability of authorised complainant.

147.—(1) Where an authorised complainant dies or is a minor or is otherwise unable to act for himself, then, unless subsection (3) applies—

(a) any complaint or dispute (whenever arising) which the authorised complainant might otherwise have made or referred under this Part may be made or referred by the appropriate person, and

(b) anything in the process of being done by or in relation to the authorised complainant under or by virtue of this Part may be continued by or in relation to the appropriate person,

and any reference in this Part, except this section, to an authorised complainant shall be construed as including a reference to the appropriate person.

(2) For the purposes of subsection (1) “the appropriate person” means—

(a) where the authorised complainant has died, his personal representatives; or

(b) in any other case, a member of the authorised complainant’s family, or some body or individual suitable to represent him.

PART X

(3) Where a person is acting as an insolvency practitioner in relation to an authorised complainant, investigations under this Part shall be regarded for the purposes of the Insolvency Act 1986 and the Bankruptcy (Scotland) Act 1985 as legal proceedings.

1986 c. 45.
1985 c. 66.

(4) In this section “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986, but disregarding subsection (5) of that section (exclusion of official receiver).

148.—(1) This section applies where—

- (a) a complaint has been made or a dispute referred to the Pensions Ombudsman; and
- (b) any party to the investigation subsequently commences any legal proceedings in any court against any other party to the investigation in respect of any of the matters which are the subject of the complaint or dispute.

Staying court
proceedings
where a complaint
is made or a
dispute is referred.

(2) In England and Wales, where this section applies any party to the legal proceedings may at any time after acknowledgement of service, and before delivering any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.

(3) In Scotland, where this section applies any party to the legal proceedings may—

- (a) if the proceedings are in the Court of Session, at any time—
 - (i) after appearance has been entered but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in procedure by petition) after intimation and service but before answers have been lodged or any other step in the proceedings has been taken; and
- (b) if the proceedings are in the sheriff court, at any time—
 - (i) after notice has been given of intention to defend but before defences have been lodged or any other step in the proceedings has been taken; or
 - (ii) (in summary cause procedure) after appearance has been made, or notice of intention to appear has been lodged, but before any defence has been stated or any other step in the proceedings has been taken,

apply to the court for a sist of process.

(4) On an application under subsection (2) or (3) the court may make an order staying or, in Scotland, sisting the proceedings if it is satisfied—

- (a) that there is no sufficient reason why the matter should not be investigated by the Pensions Ombudsman; and
 - (b) that the applicant was at the time when the legal proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the investigation.
- (5) For the purposes of this section the parties to an investigation are—
- (a) the authorised complainant in question;
 - (b) the trustees or managers of the scheme in question;
 - (c) any person against whom allegations are made in the complaint or reference; and

PART X

- (d) any person claiming under a person falling within paragraphs (a) to (c).

Procedure on an investigation.

149.—(1) Where the Pensions Ombudsman proposes to conduct an investigation into a complaint made or dispute referred under this Part, he shall give—

- (a) the trustees and managers of the scheme concerned, and
- (b) any other person against whom allegations are made in the complaint or reference,

an opportunity to comment on any allegations contained in the complaint or reference.

(2) The Secretary of State may make rules with respect to the procedure which is to be adopted in connection with the making of complaints, the reference of disputes, and the investigation of complaints made and disputes referred, under this Part.

(3) The rules may include provision—

- (a) requiring any oral hearing held in connection with such an investigation to take place in public, except in such cases as may be specified in the rules; and
- (b) as to the persons entitled to appear and be heard on behalf of parties to an investigation, as defined in section 148(5).

(4) Subject to any provision made by the rules, the procedure for conducting such an investigation shall be such as the Pensions Ombudsman considers appropriate in the circumstances of the case; and he may, in particular, obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

Investigations:
further provisions.

150.—(1) For the purposes of an investigation under this Part or under any corresponding legislation having effect in Northern Ireland, the Pensions Ombudsman may require—

- (a) any trustee or manager of the scheme concerned, or
- (b) any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation,

to furnish any such information or produce any such documents.

(2) For the purposes of any such investigation the Pensions Ombudsman shall have the same powers as the court in respect of the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad) and in respect of the production of documents.

(3) No person shall be compelled for the purposes of any such investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the court.

(4) If any person without lawful excuse obstructs the Pensions Ombudsman in the performance of his functions or is guilty of any act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the court, would constitute contempt of court, the Pensions Ombudsman may certify the offence to the court.

PART X

(5) Where an offence is certified under subsection (4) the court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence and hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

(6) To assist him in an investigation, the Pensions Ombudsman may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may with the approval of the Treasury determine.

(7) The Pensions Ombudsman may refer any question of law arising for determination in connection with a complaint or dispute to the High Court or, in Scotland, the Court of Session.

(8) In this section “the court” means—

- (a) in England and Wales, a county court;
- (b) in Scotland, the sheriff.

(9) Subsections (4) and (5) shall be construed, in their application to Scotland, as if contempt of court were categorised as an offence in Scots law.

151.—(1) Where the Pensions Ombudsman has conducted an investigation under this Part he shall send a written statement of his determination of the complaint or dispute in question—

Determinations of
the Pensions
Ombudsman.

- (a) to the authorised complainant in question; and
 - (b) to the trustees or managers of the scheme in question;
- and any such statement shall contain the reasons for his determination.

(2) Where the Pensions Ombudsman makes a determination under this Part or under any corresponding legislation having effect in Northern Ireland, he may direct the trustees or managers of the scheme concerned to take, or refrain from taking, such steps as he may specify in the statement referred to in subsection (1) or otherwise in writing.

(3) Subject to subsection (4), the determination by the Pensions Ombudsman of a complaint or dispute, and any direction given by him under subsection (2), shall be final and binding on—

- (a) the authorised complainant in question;
- (b) the trustees or managers of the scheme concerned; and
- (c) any person claiming under them respectively.

(4) An appeal on a point of law shall lie to the High Court or, in Scotland, the Court of Session from a determination or direction of the Pensions Ombudsman at the instance of any person falling within paragraphs (a) to (c) of subsection (3).

(5) Any determination or direction of the Pensions Ombudsman shall be enforceable—

- (a) in England and Wales, in a county court as if it were a judgment or order of that court, and
- (b) in Scotland, by the sheriff, as if it were a judgment or order of the sheriff and whether or not the sheriff could himself have granted such judgment or order.

PART X

(6) If the Pensions Ombudsman considers it appropriate to do so in any particular case, he may publish in such form and manner as he thinks fit a report of any investigation under this Part and of the result of that investigation.

(7) For the purposes of the law of defamation, the publication of any matter by the Pensions Ombudsman—

- (a) in submitting or publishing a report under section 145(6) or subsection (6) of this section, or
- (b) in sending to any person a statement under subsection (1) or a direction under subsection (2),

shall be absolutely privileged.

Power to make special county court rules.

152.—(1) The Secretary of State may make rules—

- (a) regulating the practice, and the forms of proceedings, which are to be followed in county courts in any proceedings under or by virtue of this Part; and
- (b) prescribing the scales of costs to be paid in connection with any such proceedings.

(2) Without prejudice to the generality of subsection (1), rules under this section may, to any extent and with or without modifications, apply any county court rules to proceedings under or by virtue of this Part.

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Modification powers

Power to modify certain provisions of this Act.

153.—(1) The Secretary of State may by regulations direct that Chapters II, III and IV of Part IV and Chapter I of Part V (except section 108) shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.

(2) Regulations may modify Chapter I of Part IV—

- (a) in its application to cases where an earner is for the time being, or has been, employed in pensionable service under, or in contracted-out employment by reference to, different schemes applying to the same employment;
- (b) in such manner as the Secretary of State thinks fit for securing that the preservation requirements include requirements for provision to be made in a scheme as to the preservation of a member's benefit in the event of the scheme being wound up;
- (c) without prejudice to paragraph (a) or (b), so that the preservation requirements apply with such modifications and exceptions as the Secretary of State considers to be necessary for particular cases or classes of case;

and regulations under paragraph (a) may relate to service under or, as the case may be, by reference to different schemes at the same time, or at different times.

PART XI

(3) Regulations may provide for the equal access requirements to apply, whether to an occupational pension scheme or to terms of employment relating to membership of it, or to both, with such modifications and exceptions as the Secretary of State considers necessary for particular cases or classes of case.

(4) Subsection (5) of section 118 applies to subsection (3) as if it were in that section.

(5) The Secretary of State may make regulations modifying Chapter I of Part VII, section 129 (so far as it applies to that Chapter) or section 144, in their application—

- (a) to any occupational pension scheme which applies to earners in employments under different employers;
- (b) to any occupational pension scheme of which there are no members who are in pensionable service under the scheme;
- (c) to any case where a partnership is the employer, or one of the employers, in relation to an occupational pension scheme; or
- (d) in the case of regulations modifying section 144, to any case where the assets and liabilities of the scheme are transferred to another occupational pension scheme.

(6) Regulations may also provide that sections 119 to 122 and section 129 (so far as it applies to those sections) shall not apply in relation to an occupational pension scheme of a prescribed description.

(7) Regulations may modify the provisions of section 144 in any manner which the Secretary of State thinks appropriate with a view to securing the orderly implementation of those provisions and to obtaining general compliance with them.

(8) The Secretary of State may by order provide that any enactment in Chapter II of Part VII which is specified in the order—

- (a) shall not apply to persons or to employments of such classes as may be prescribed in the order; or
- (b) shall apply to persons or employments of such classes as may be so prescribed subject, but without prejudice to paragraph (a), to such exceptions or modifications as may be so prescribed;

and in this subsection “employments” has the same meaning as in that Chapter.

154.—(1) Regulations may provide that any provision of this Act which relates to occupational pension schemes (other than a provision to which subsection (2) applies) shall have effect in relation to personal pension schemes subject to prescribed modifications.

Application of enactments as respects personal pension schemes.

(2) This subsection applies to section 66, section 111 so far as it relates to occupational pension schemes, (and Part VIII and section 153 so far as they have effect for the purposes of section 111 as it so relates), sections 117, 123 to 127, 155, 157, 160 and 161.

Information about schemes

155. Regulations may require the furnishing by prescribed persons to the Secretary of State or the Board of such information as he or they require for the purposes of sections 7, 9, 26 to 33, 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates

Requirement to give information to the Secretary of State or the Board for the purposes of certain provisions.

PART XI

to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), section 117 and section 159 (so far as it relates to protected rights payments).

Information as to
guaranteed
minimum
pensions.

156. The Secretary of State may give—

- (a) the trustees or managers of an occupational pension scheme which is not a money purchase contracted-out scheme; and
- (b) such other persons as may be prescribed,

information as to the amount of the guaranteed minimum pension to which it appears to him that any person is immediately or prospectively entitled under the scheme or as to any other matter required for calculating that amount.

Power of
Secretary of State
to obtain
information in
connection with
applications
under s. 124.

157.—(1) Where an application is made to the Secretary of State under section 124 in respect of contributions to an occupational pension scheme or personal pension scheme falling to be made, by an employer, the Secretary of State may require—

- (a) the employer to provide him with such information as the Secretary of State may reasonably require for the purpose of determining whether the application is well founded; and
- (b) any person having the custody or control of any relevant records or other documents to produce for examination on behalf of the Secretary of State any such document in that person's custody or under his control which is of such a description as the Secretary of State may require.

(2) Any such requirement shall be made in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.

(3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) This section shall be construed as if it were in Chapter II of Part VII.

Disclosure of
information
between
government
departments etc.

158.—(1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to the Inland Revenue shall prevent information obtained or held in connection with the assessment or collection of income tax from being disclosed—

- (a) to the Secretary of State,
- (b) to the Department of Health and Social Services for Northern Ireland, or

PART XI

- (c) to an officer of either of them authorised to receive such information, in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161) or of any corresponding enactment of Northern Ireland legislation.

(2) No such obligation shall prevent information from being disclosed to any member of the Board, or an officer of the Board authorised to receive it, in connection with the exercise by the Board of any of their functions.

(3) No such obligation shall prevent such information as is mentioned in subsection (2) from being disclosed to any person whose duty it is to give advice to the Board, in so far as the information—

- (a) is required by him solely to enable him to perform that duty adequately; and
- (b) is information which the Board have power under any enactment to require any person to provide.

(4) In relation to persons who are carrying on or have carried on a trade, profession or vocation income from which is chargeable to tax under Case I or II of Schedule D, disclosure under subsection (1) relating to that trade, profession or vocation shall be limited to information about the commencement or cessation of, and employed earners engaged in, that trade, profession or vocation, but sufficient information may also be given to identify the persons concerned.

(5) Subsections (1) to (3) extend only to disclosure by or under the authority of the Inland Revenue.

(6) Subject to subsection (7), information which is the subject of disclosure to any person by virtue of subsection (1), (2) or (3) shall not be further disclosed to any other person, except where the further disclosure is made—

- (a) to a person to whom disclosure could by virtue of this section have been made by or under the authority of the Inland Revenue; or
- (b) for the purposes of any civil or criminal proceedings in connection with the operation of this Act (except Chapter II of Part VII and sections 157 and 161); or
- (c) for the purposes of sections 17 to 62 of the Social Security Administration Act 1992 or any corresponding provisions of Northern Ireland legislation; or
- (d) in the case of such information as is mentioned in subsection (2), where the further disclosure—
 - (i) is made to the trustees or managers of an occupational pension scheme,
 - (ii) relates to a member of the scheme, and
 - (iii) is made with his consent.

(7) The Secretary of State, the Inland Revenue and the Board may provide the Registrar with such information as he may request for the purposes of the register; and no obligation as to secrecy or confidentiality imposed by statute or otherwise on—

- (a) persons employed in the Department of Social Security,
- (b) persons employed in relation to the Inland Revenue, or

PART XI

(c) the staff of the Board,

shall prevent them from disclosing to the Registrar such information as is necessary for the purposes of the register.

(8) The Board may inform any person claiming to be entitled to a pension under an occupational pension scheme or a personal pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of this section.

Avoidance of certain transactions and provisions

Inalienability of
guaranteed
minimum pension
and protected
rights payments.

159.—(1) Where—

- (a) a person is entitled or prospectively entitled to a guaranteed minimum pension under an occupational pension scheme or to payments giving effect to protected rights under such a scheme; and
- (b) his entitlement is in respect of his or another person's service in employment which was contracted-out by reference to that scheme;

then—

- (i) every assignment of or charge on that pension or those payments, and
- (ii) every agreement to assign or charge that pension or those payments,

shall be void.

(2) In subsection (1), the references to assignments of and agreements to assign a guaranteed minimum pension do not include references to any assignment of or agreement to assign a policy of insurance or annuity contract in accordance with conditions prescribed by regulations under section 19(4)(b).

(3) Subsection (1) has effect whether or not the assignment, charge or agreement was made at a time when the employment was contracted-out employment or the scheme was a contracted-out scheme in relation to the employment.

(4) Every assignment of or charge on and every agreement to assign or charge protected rights under a personal pension scheme or payments giving effect to such protected rights shall be void.

(5) On the bankruptcy of a person who—

- (a) is entitled or prospectively entitled as is mentioned in subsection (1), or
- (b) is entitled to such rights or to such a payment as is mentioned in subsection (4),

nothing shall pass to any trustee or other person acting on behalf of his creditors the assignment of which is or would be made void by either of those subsections.

(6) 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

PART XI

- (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. 1980 c. 46.

160.—(1) Subject to such exceptions as may be prescribed—

Terms of contracts of service or schemes restricting choice to be void.

- (a) any term of a contract of service (whenever made) or any rule of a personal or occupational pension scheme to the effect that an employed earner must be a member—

- (i) of a personal or occupational pension scheme,
- (ii) of a particular personal or occupational pension scheme, or
- (iii) of one or other of a number of particular personal or occupational pension schemes,

shall be void; and

- (b) any such term or rule to the effect that contributions shall be paid by or in respect of an employed earner—

- (i) to a particular personal or occupational pension scheme of which the earner is not a member, or
- (ii) to one or other of a number of personal or occupational pension schemes of none of which he is a member,

shall be unenforceable for so long as he is not a member of the scheme or any of the schemes.

- (2) Subsection (1) shall not be construed so as to have the effect that an employer is required, when he would not otherwise be—

- (a) to make contributions to a personal or occupational pension scheme; or
- (b) to increase an employed earner's pay in lieu of making contributions to a personal or occupational pension scheme.

161. Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

Provisions excluding Chapter II of Part VII to be void.

- (a) to exclude or limit the operation of any provision of Chapter II of Part VII of this Act; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings before, an industrial tribunal under that Chapter.

162.—(1) The Secretary of State may make such regulations as he thinks appropriate for enabling a friendly society to conduct group insurance business with a view to the establishment of occupational pension schemes or personal pension schemes.

Removal of restrictions on friendly societies' pension business.

- (2) The power to make regulations under this section shall extend to enabling friendly societies to conduct group insurance business freed from any restrictions of the relevant legislation as to the amounts which a member, or a person claiming through a member, is entitled to receive from any one or more societies or branches.

PART XI

(3) Regulations under this section may include such adaptations and modifications of the relevant legislation, and such other supplementary and incidental provisions, as the Secretary of State considers to be necessary or expedient for achieving the purposes referred to in subsection (1).

(4) In this section—

1974 c. 46.
1992 c. 40.
1988 c. 1.

(a) “the relevant legislation” means the Friendly Societies Act 1974, the Friendly Societies Act 1992 and section 464 of the Income and Corporation Taxes Act 1988;

(b) “friendly society”, has the same meaning as in the Friendly Societies Act 1992; and

(c) “group insurance business” means—

(i) in relation to a registered friendly society, group insurance business within the meaning of section 65A of the Friendly Societies Act 1974, and

(ii) in relation to an incorporated friendly society, group insurance business within the meaning of section 11 of the Friendly Societies Act 1992,

and in this paragraph “registered friendly society” and “incorporated friendly society” have the same meaning as in that Act of 1992.

Exemption of
certain schemes
from rule against
perpetuities.

163.—(1) The rules of law relating to perpetuities shall not apply to the trusts of, or any disposition made under or for the purposes of a personal or occupational pension scheme at any time when this section applies to it.

(2) This section applies to—

(a) a public service pension scheme;

(b) an occupational pension scheme which is a contracted-out scheme in relation to any employment;

(c) a personal pension scheme which is an appropriate scheme; and

(d) an occupational or personal pension scheme which satisfies prescribed requirements.

(3) Subsection (1) applies whether the trusts or dispositions in question are created or made before or after this section first applies to the scheme, but this section does not validate with retrospective effect any trusts or dispositions which the rules of law relating to perpetuities (including, where applicable, section 3(1) of the Perpetuities and Accumulations Act 1964 (“wait and see”)) already require to be treated as void before this section applies to the scheme.

1964 c. 55.

(4) Regulations under subsection (2)(d) may require a scheme—

(a) to contain provisions in any prescribed form, or to any prescribed effect; or

(b) to have tax-exemption or tax-approval or to be such a scheme that it may be expected to qualify for tax-exemption or tax-approval.

PART XI

(5) Such regulations may be so framed that, in prescribed circumstances, the requirements can be treated as satisfied if application has been duly made to the Inland Revenue with a view to obtaining tax-approval for the scheme.

(6) Regulations may include provision by which a scheme (other than a public service pension scheme) to which this section ceases to apply may nevertheless be treated as continuing to be a scheme to which it applies for a period of two years from its ceasing to be such a scheme, or for such longer period as the Board consider to be reasonable in the case of a particular scheme.

(7) If this section ceases to apply to a scheme, trusts created and dispositions made under it or for its purposes shall then again be subject to the rules of law relating to perpetuities as if this section had never applied to it.

(8) Subsection (7) is without prejudice to any rights which vested while this section applied.

(9) Regulations may provide for a scheme, whose fund was registered under the Superannuation and other Trust Funds (Validation) Act 1927 immediately before the repeal of that Act took effect, to retain the benefit of that Act subject to prescribed conditions and either indefinitely or for a prescribed period. 1927 c. 41.

Special classes of earner

164.—(1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person— Crown employment.

(a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;

(b) the remaining provisions of this Act except for—

(i) sections 2 to 5, 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1;

(ii) Chapter II of Part VII and sections 157 and 161;

(iii) section 166 and the provisions mentioned in subsection (2).

(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.

(3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.

PART XI

(4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the provisions within subsection (1)(b) and those within subsection (2) (except for sections 154 and 166) as an employed earner in respect of his membership of those forces.

(5) The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.

1978 c. 44.

(6) For the purposes of the application of Chapter II of Part VII and sections 157(1) and (2) and 161 in relation to employment by any such body as is referred to in Schedule 5 to the Employment Protection (Consolidation) Act 1978, that body shall not be regarded as performing functions on behalf of the Crown.

(7) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

Application of
certain provisions
to cases with
foreign element.

165.—(1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—

- (a) employed on board any ship, vessel, hovercraft or aircraft;
- (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
- (c) in prescribed employment in connection with continental shelf operations.

(2) The provisions referred to in subsection (1) are—

- (a) sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166; and
- (b) sections 41 and 42, subsections (1), (6) and (7) of section 46 (and subsection (8) of that section so far as it has effect for the purposes of those subsections), and sections 47(2) and (5) and 48.

(3) Subject to subsection (4), regulations under subsection (1) may in particular provide—

- (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
- (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;

PART XI

- (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with regulations.

(4) Paragraph (b) of subsection (3) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of that subsection do not apply as respects the application of those provisions to such persons as are mentioned in paragraph (b) or (c) of subsection (1).

(5) Without prejudice to the generality of subsection (1)(c), regulations made by virtue of that subsection as respects any provision mentioned in subsection (2)(b) may provide for that provision to apply to such a person as is mentioned in that subsection notwithstanding that he does not fall within the description of an employed or self-employed earner or does not fulfil conditions as to residence or presence in Great Britain.

(6) Without prejudice to the generality of section 153(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.

(7) Chapter II of Part VII and section 157 do not apply—

- (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
- (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel,

and sections 124 and 125 do not apply to employment as a merchant seaman, but section 137 of the Employment Protection (Consolidation) Act 1978 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 157 as it does to the provisions of that Act. 1978 c. 44.

(8) In this section—

“continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section; and 1982 c. 23.

“employment as a merchant seaman” has the meaning given in section 144(5) of the Employment Protection (Consolidation) Act 1978.

Reciprocity with other countries

166.—(1) For the purpose of giving effect—

- (a) to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to the purposes of this Act, or

Reciprocity with other countries.

PART XI

- (b) to any such agreement as it would be if it were altered in accordance with proposals to alter it which, in consequence of any change in the law of Great Britain, the government of the United Kingdom has made to the other government in question,

Her Majesty may by Order in Council make provision for modifying or adapting this Act in its application to cases affected by the agreement or proposed alterations.

(2) An Order in Council made by virtue of subsection (1) may, instead of or in addition to making specific modifications or adaptations, provide generally that this Act shall be modified to such extent as may be required to give effect to the provisions contained in the agreement or, as the case may be, alterations in question.

(3) The modifications of this Act which may be made by virtue of subsection (1) include provision—

- (a) for securing that acts, omissions and events having effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Act (but not so as to confer a right to a double benefit);
- (b) for determining in cases where rights accrue both under this Act and under the law of that country, which of those rights is to be available to the person concerned; and
- (c) for making any necessary financial adjustments.

(4) An Order in Council made by virtue of subsection (1) which modifies or adapts any of the provisions referred to in section 164 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.

(5) References in this section to this Act do not include references to sections 2 to 5, Chapter I of Part IV, Chapter II of Part VII, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 157, 158(1) to (5), 161, 162, 163, 172, 173 and 176 and Schedule 1.

Application of provisions relating to social security administration

Application of
general
provisions
relating to
administration of
social security.
1992 c. 5.

167.—(1) The Social Security Administration Act 1992 shall apply as if references to that Act in the provisions mentioned in subsection (2) included references to the provisions referred to in section 164(1)(b) of this Act (in this section referred to as “the relevant provisions”).

(2) The provisions referred to in subsection (1) are the following provisions of the Social Security Administration Act 1992—

- section 116 (legal proceedings)
- section 125 (regulations as to notification of deaths)
- section 177 (co-ordination with Northern Ireland)
- section 180 (payment of travelling expenses by the Secretary of State).

(3) Section 58 of that Act (regulations as to determination of questions and matters arising out of, or pending, reviews and appeals) shall apply to the relevant provisions as it applies to the Social Security Contributions and Benefits Act 1992.

1992 c. 4.

PART XI

(4) The references in section 59(2)(a) of the Social Security Administration Act 1992 (procedure regulations) and in section 61(1)(a) of that Act (regulations as to matters arising pending determinations) to Parts II to IV of the Social Security Contributions and Benefits Act 1992 and to Part I of that Act shall be taken respectively to include a reference to section 46 and a reference to sections 41 and 42 of this Act.

1992 c. 5.

1992 c. 4.

(5) Section 124 of the Social Security Administration Act 1992 (provisions relating to age, death and marriage) shall apply as if the information mentioned in subsection (1) of that section included information for the purposes of the relevant provisions.

(6) Section 121 of the Social Security Contributions and Benefits Act 1992 (treatment of certain marriages) shall apply to the relevant provisions.

General provisions as to offences

168. Regulations under any provision of this Act (other than Chapter II of Part VII) may provide for the contravention of, or failure to comply with any provision contained in regulations under any such provision to be an offence under this Act and for the recovery on summary conviction for any such offence of penalties not exceeding—

Breach of regulations.

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

169.—(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against accordingly.

Offences by bodies corporate.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

General provisions as to determinations and appeals

170.—(1) The questions to which section 17(1) of the Social Security Administration Act 1992 (questions for determination by the Secretary of State) applies include—

Determination of questions by Secretary of State.

- (a) any question as to the amount of a person's guaranteed minimum for the purposes of section 13 or 17;
- (b) any question—
 - (i) whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium; or
 - (ii) otherwise arising in connection with any state scheme premium;
- (c) any question whether for the purposes of this Act a cash sum paid or an alternative arrangement made under the Policyholders Protection Act 1975 provides the whole or any

1975 c. 75.

PART XI

part of the guaranteed minimum pension to which an earner or an earner's widow or widower was entitled under a contracted-out scheme; and

1986 c. 50. (d) any question arising in connection with minimum contributions or payments under section 7 of the Social Security Act 1986, other than a question such as is mentioned in paragraph (b)(ii) or (d) which is required by virtue of this Act to be determined by the Board.

(2) The Secretary of State may make any determination required by subsection (1)(c) on such basis as he considers appropriate.

(3) Any question arising under this Act as to whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Secretary of State to the Board and determined by them.

1992 c. 5. (4) Neither section 17(1) nor section 20(1) of the Social Security Administration Act 1992 (questions for determination by adjudication officers) shall apply to any such question as is mentioned in subsection (3).

(5) Any question arising in proceedings before any court or tribunal or before the Industrial Arbitration Board whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to and determined by the Board.

(6) Subsection (4) of section 134 shall apply to determinations under subsection (5) as it applies to determinations under that section.

Questions arising in proceedings.

171.—(1) Where in any proceedings—

- (a) for an offence under this Act; or
- (b) involving any question as to the payment of a state scheme premium;

any such question arises as is mentioned in section 170(1)(a), (b)(i) or (c), the decision of the Secretary of State shall be conclusive for the purpose of the proceedings.

(2) If—

- (a) a decision on any such question is necessary for the determination of the proceedings; and
- (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,

the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with sections 17 to 19 of the Social Security Administration Act 1992.

(3) Subsection (1) does not apply if—

- (a) an appeal under section 18 of that Act is pending; or
- (b) the time for appealing has not expired; or
- (c) a question has been raised with a view to a review of the Secretary of State's decision under section 19 of that Act,

and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

PART XI

Review of the
Board's
determinations.

172.—(1) Subject to the provisions of this section and section 173, where the Board have—

- (a) determined to issue, cancel or vary a contracting-out certificate or an appropriate scheme certificate; or
- (b) determined to make, or not to make, any order which they have power to make under section 136, 139 or 142; or
- (c) determined any other question which it is within their functions to determine,

their determination shall be final.

(2) The Board may on the application of a person appearing to them to be interested—

- (a) at any time review any such determination of theirs as is mentioned in subsection (1), or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact or was erroneous in point of law;
- (b) at any time within a period of six months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.

(3) The Board's powers on a review under this section shall include power—

- (a) to vary or revoke any determination or order previously made;
- (b) to substitute a different determination or order; and
- (c) generally to deal with the matters arising on the review as if they had arisen on the original determination.

(4) Subject to subsection (5), regulations made by the Secretary of State may make provision with respect to the procedure to be adopted on any application for a review under this section or under any corresponding provision in force in Northern Ireland and generally with respect to such applications and reviews.

(5) Nothing in subsection (4) shall be taken to prevent such a review being entered upon by the Board without an application being made.

173.—(1) Any question of law arising in connection with—

- (a) any matter arising under this Act for determination by the Board;
- (b) any other matter which under section 170(3) falls to be determined by them;
- (c) any matter arising on an application to the Board for a review of a determination by them, or on a review by them entered upon without an application,

References and
appeals from the
Board.

may, if the Board think fit, be referred for decision to the court.

(2) If the Board determine in accordance with subsection (1) to refer any question of law to the court, they shall give notice in writing of their intention to do so—

PART XI

- (a) in a case where the question arises on an application made to the Board, to the applicant; and
 - (b) in any case to such persons as appear to them to be concerned with the question.
- (3) Any person who is aggrieved—
- (a) by a determination of the Board given on a review under section 172, or
 - (b) by the refusal of the Board to review a determination,
- where the determination involves a question of law and that question is not referred by the Board to the court under subsection (1), may on that question appeal from the determination to the court.
- (4) The Board shall be entitled to appear and be heard on any reference or appeal under this section.
- (5) The provision made by rules of court shall include provision for regulating references and appeals to the court under this section and for limiting the time within which such appeals may be brought.
- (6) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final.
- (7) On any such reference or appeal the court may order the Board to pay the costs or, in Scotland, the expenses of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.
- (8) In this section "the court" means—
- (a) in England and Wales, the High Court;
 - (b) in Scotland, the Court of Session.

Financial provisions

Grants by the
Board to advisory
bodies etc.

174.—(1) The Board may make grants on such terms and conditions as they think fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.

(2) The Secretary of State may pay the Board such sums as he may think fit towards any expenditure of theirs in making grants under this section.

Levies towards
meeting certain
costs and grants.

175.—(1) For the purpose of meeting some or all of the expenditure under sections 6 and 174 and Part X regulations may make provision for imposing a levy in respect of such occupational or personal pension schemes as may be prescribed.

(2) Any levy imposed under this section shall be payable to the Secretary of State by or on behalf of—

- (a) the administrators of such public service pension schemes as may be prescribed;
 - (b) the trustees or managers of such other occupational or personal pension schemes as may be prescribed; or
 - (c) such other persons as may be prescribed,
- at such rates and at such times as may be prescribed.

PART XI

(3) The amount payable by any person on account of the levy shall be a debt due from him to the Secretary of State and shall be recoverable accordingly.

(4) Without prejudice to the generality of subsection (1), regulations under this section may include provision relating to the collection and recovery of amounts payable by way of levy under this section.

176. Where at the request of the trustees or managers of an occupational pension scheme or a personal pension scheme or of any employer of earners who are members of such a scheme, official services are provided in connection with the operation or administration of the scheme either by the Secretary of State or by the Board on his behalf, the Secretary of State may require the payment of fees for the provision of those services.

Fees for official services to schemes.

177.—(1) Subject to the following provisions of this section, all expenses incurred by the Secretary of State under this Act shall be paid out of money provided by Parliament except so far as they may be required by any enactment to be paid or borne in some other way.

General financial arrangements.

(2) There shall be paid out of the National Insurance Fund—

- (a) minimum contributions paid by the Secretary of State under section 43;
- (b) payments by him under section 124.

(3) Subject to subsection (4), there shall be paid out of the National Insurance Fund into the Consolidated Fund—

- (a) sums equal to the amount of any expenses incurred by the Secretary of State (or by persons acting on his behalf) in exercising his functions under Chapter II of Part VII and section 157;
- (b) such sums as the Secretary of State may estimate to be the amount of the administrative expenses of the Secretary of State or any government department in carrying into effect the remaining provisions of this Act, other than—

(i) sections 2 to 5, Chapter I of Part IV and Part VIII so far as it applies for the purposes of that Chapter, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1;

(ii) sections 7, 9, 26 to 34, 38 and 50 (so far as they relate to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 and section 159 (so far as it relates to protected rights payments) and sections 160 and 166.

(4) The sums payable under subsection (3)(b)—

- (a) shall be estimated in accordance with any directions given by the Treasury and (except in the case of functions relating to minimum contributions) shall exclude such categories of expenses as the Treasury may direct, or any enactment may require, to be so excluded; and

PART XI

- (b) shall be payable at such times and in such manner as the Treasury may direct.
- (5) There shall be paid into the Consolidated Fund—
 - (a) subject to subsection (6), so far as it relates to payments out of money provided by Parliament, any sum recovered by the Secretary of State under or by virtue of the provisions within subsection (3)(b)(ii); and
 - (b) all fees paid to the Registrar.
- (6) So far as any such sum relates to a payment out of the National Insurance Fund, it shall be paid into that Fund.
- (7) There shall also be paid into the National Insurance Fund—
 - (a) sums recovered under section 43(5) or (6);
 - (b) any personal pension protected rights premium;
 - (c) any sum recovered by the Secretary of State in exercising any right or pursuing any remedy which is his by virtue of section 127; and
 - (d) any sums received by him by way of such payments as are mentioned in paragraph 5(4) of Schedule 2.

PART XII

SUPPLEMENTARY PROVISIONS

Interpretation

Trustees and
managers of
schemes.

1992 c. 5.

178. The Secretary of State may by regulations provide—

- (a) 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 157), the Social Security Acts 1975 to 1991, or Part VI of the Social Security Administration Act 1992; or
- (b) who is to be treated as a trustee of a scheme for the purposes of sections 2 to 5, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1.

Linked qualifying
service.

179.—(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

PART XII

- (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.

180.—(1) In this Act “normal pension age”, in relation to a scheme and a member’s pensionable service under it, means—

Normal pension age.

- (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.

181.—(1) In this Act, unless the context otherwise requires—

General interpretation.

“accrued rights premium” has the meaning given in section 55(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 7;

“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 Act 1992;

1992 c. 4.

PART XII

1992 c. 4.

“contract of service” has the same meaning as in section 122(1) of the Social Security Contributions and Benefits Act 1992;

“contracted-out employment” shall be construed in accordance with section 8;

“contracted-out protected rights premium” has the meaning given in section 55(6)(c);

“contracting-out certificate” and references to a contracted-out scheme and to contracting-out shall be construed in accordance with section 7;

“contributions equivalent premium” has the meaning given in section 55(6)(e);

“earner” and “earnings” shall be construed in accordance with sections 3, 4 and 112 of the Social Security Contributions and Benefits Act 1992;

“earnings factors” shall be construed in accordance with sections 22 and 23 of the Social Security Contributions and Benefits Act 1992;

“employed earner” has the same meaning as in section 2 of the Social Security Contributions and Benefits Act 1992;

“employee” means a person gainfully employed in Great Britain 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—

(i) 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 118(1);

“guaranteed minimum pension” has the meaning given in section 8(2);

1992 c. 52.

“independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992;

1978 c. 44.

“industrial tribunal” means a tribunal established or having effect as if established under section 128 of the Employment Protection (Consolidation) Act 1978;

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

1982 c. 50.

“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 55(6)(g);

PART XII

- “linked qualifying service” has the meaning given in section 179;
- “long-term benefit” has the meaning given in section 20(2) of the Social Security Contributions and Benefits Act 1992;
- “lower earnings limit” and “upper earnings limit” shall be construed in accordance with section 5 of the Social Security Contributions and Benefits 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 43 to 45;
- “minimum payment” has the meaning given in section 8(2);
- “modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;
- “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 8(1)(a)(ii);
- “money purchase scheme” means a pension scheme under which all the benefits that may be provided are money purchase benefits;
- “normal pension age” has the meaning given in section 180;
- “occupational pension scheme” has the meaning given in section 1;
- “pensionable age” has the same meaning as in section 122 of the Social Security Contributions and Benefits Act 1992;
- “pensionable service” has the meaning given in section 70(2);
- “pensioner’s rights premium” has the meaning given in section 55(6)(b);
- “personal pension protected rights premium” has the meaning given in section 55(6)(d);
- “personal pension scheme” has the meaning given in section 1;
- “prescribe” means prescribe by regulations and “prescribed” shall be construed accordingly;
- “the prescribed equivalent” means the equivalent prescribed under sections 6(1) and 8(3) of the Social Security Contributions and Benefits Act 1992;
- “the preservation requirements” has the meaning given in section 69(2);
- “primary Class 1 contributions” and “secondary Class 1 contributions” have the same meanings as in the Social Security Contributions and Benefits Act 1992;
- “protected rights” has the meaning given in section 10;
- “public service pension scheme” has the meaning given in section 1;
- “the register” has the meaning given in section 6;
- “the Registrar” has the meaning given in section 6;
- “regulations” means regulations made by the Secretary of State under this Act;

1992 c. 4.

PART XII

1988 c. 1.

“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 73, 136 or 179) 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 71(2);

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

“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;

“trade or business”, in relation to a public or local authority, includes the exercise and performance of the powers and duties of the authority;

“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 55(6)(f);

“voluntary contributions requirements” has the meaning given in section 111(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 Act 1992.

1992 c. 4.

(2) References to employers in the provisions of this Act (other than sections 123 to 127, 157, 160 and section 137 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

PART XII

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 sections 2 to 6, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 and Schedule 1) 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 6, 27, 28, 29, 31, 32, 43, 44, 111, 160, 164, 165 or 169) 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 165 and 166—

- (a) references to the United Kingdom include references to the territorial waters of the United Kingdom; and
- (b) references to Great Britain include references to the territorial waters of the United Kingdom adjacent to Great Britain.

(6) Any reference in section 185 or 186 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) In the application of section 158 and Schedule 1 to Northern Ireland any reference to a government department is to be taken to be, or to include (as the context may require), a Northern Ireland department.

Subordinate legislation etc.

182.—(1) Any power under this Act to make regulations or orders (except a power of the Board or the court to make orders) and the powers to make rules under sections 149(2) and 152(1) shall be exercisable by statutory instrument.

Orders and regulations (general provisions).

(2) Except in so far as this Act otherwise provides, any power conferred by it to make an Order in Council, regulations or an order (except an order under section 153(8)) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—

PART XII

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,

(iii) any such provision either unconditionally or subject to any specified condition,

and where such a power 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; and any power to make an Order in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make an Order in Council, regulations or an order for the purposes of any other provision.

(3) Any power conferred by it to make an Order in Council, regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to Her Majesty or the authority making the regulations or order to be expedient for the purposes of the Order in Council, regulations or order.

(4) Any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

(5) Any power conferred on the Secretary of State by any provision of this Act to make any regulations or order (except an order under section 153(8)), where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

Sub-delegation.

183.—(1) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council, regulations or an order (other than regulations and orders made under sections 2 to 5, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 or Schedule 1) includes power to provide for a person to exercise a discretion in dealing with any matter.

(2) Where any provision in Parts I to VI (except section 6), Chapter I or III of Part VII, Part VIII or IX or section 153 (except subsection (8)), 156, 162, 163, or 174 allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Secretary of State or by him and the Treasury 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 section 27(3), 63(2), 97(1), 104(8) and 144(5) may provide that the values there mentioned shall be calculated and verified or, in the case of regulations under section 104(8), that the percentage there mentioned shall be determined—

PART XII

- (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 Secretary of State; or
 - (b) in accordance with guidance prepared by a prescribed body;
- and regulations under section 104(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.

184.—(1) Subject to section 173 of the Social Security Administration Act 1992 (cases where consultation not required), where the Secretary of State proposes to make regulations under section 36(6), he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).

Consultation with Social Security Advisory Committee about regulations under s. 36(6).
1992 c. 5.

(2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) and shall make to the Secretary of State a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.

(3) If after receiving a report of the Committee the Secretary of State lays before Parliament regulations which comprise the whole or part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee’s report and a statement showing—

- (a) the extent (if any) to which he 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, his reasons why not.

185.—(1) Subject to subsections (2) and (6), where the Secretary of State proposes to make any regulations for the purposes of Parts I to VI, Chapter I or III of Part VII, Part VIII, IX or X or section 153, 154, 155, 156, 160, 162, 163, 174 or 175 of this Act he shall refer the proposals, in the form of draft regulations or otherwise, to the Board.

Consultations about other regulations.

(2) Subsection (1) does not apply to—

- (a) regulations prescribing actuarial tables; or
- (b) regulations made for the purpose only of consolidating other regulations revoked by them; or
- (c) regulations under section 36(6).

(3) The Board shall consider any proposals referred to them under subsection (1) and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject matter of the proposals.

PART XII

(4) If after receiving the Board's report under subsection (3) the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject matter of proposals referred to the Board, he shall lay with the regulations or draft a copy of the report and a statement showing—

- (a) the extent (if any) to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board's report; and
- (b) in so far as he has not given effect to any such recommendations, his reasons for not doing so.

(5) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in subsections (1) to (4) to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.

1992 c. 5.

(6) Section 173 of the Social Security Administration Act 1992 (cases in which consultation about regulations is not required) shall apply as if references in that section to the Social Security Advisory Committee included references to the Board.

(7) The power of the Secretary of State to make regulations under section 162 of this Act shall be exercisable only after consultation with the Chief Registrar of Friendly Societies or the Friendly Societies Commission.

(8) The power of the Secretary of State to make regulations under section 172(4) shall be exercisable only after consultation with the Council on Tribunals.

(9) Before making any regulations under paragraph 7 of Schedule 2 the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.

Parliamentary
control of orders
and regulations.

186.—(1) Subject to subsections (2) and (3), a statutory instrument which contains (whether alone or with other provisions) any regulations or order made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Subsection (1) shall not apply to any order which under any provision of this Act is required to be laid before Parliament after being made or is subject to a requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament or to any order made under section 193 or paragraph 1 of Schedule 9.

(3) Subject to subsection (4), a statutory instrument which contains (whether alone or with other provisions)—

- (a) regulations made by virtue of section 49, or
- (b) an order under section 153(8), or
- (c) regulations made by virtue of subsection (1)(a) of section 165 applying such provisions as mentioned in subsection (2)(b) of that section,

shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

PART XII

(4) Subsection (3) does not apply to such regulations as mentioned in paragraph (a) or (c) of that subsection if—

- (a) they are made for the purpose only of consolidating regulations which they revoke, or
- (b) so far as they are made under powers conferred by the provisions mentioned in that paragraph, they only replace provisions of previous regulations with new provisions to the same effect.

(5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 184(3) or section 185(4) shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement in question are laid before that House not later than the second day on which the House sits after the laying of the regulations.

187.—(1) Subject to any Order made after 13th July 1990 by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters specified in subsection (2) shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

Northern Ireland
Constitution Act
1973: “reserved
matters”.
1973 c. 36.

(2) The matters referred to in subsection (1) are the matters dealt with by section 6(1) and (2) (except paragraph (a)(ii)), (3), (4) and (8) and by section 145 (except subsections (4) and (5)(b)).

Supplemental provisions

188.—(1) The enactments specified in Parts I, II and III of Schedule 5 are repealed to the extent specified in the third column.

Repeals.

(2) The subordinate legislation specified in Part IV 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 6.

189.—(1) Schedule 6 (which makes transitional provision and contains savings in connection with the repeals and revocations made by this Act) shall have effect.

Transitional
provisions and
savings.

(2) Nothing in that Schedule affects the general operation of section 16 of the Interpretation Act 1978 (general savings implied on repeal).

1978 c.30.

190. Schedule 7 (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 8 (which makes other consequential amendments) shall have effect, subject to any relevant transitional provisions in Schedule 6.

Prospective and
consequential
amendments.

191. Schedule 9 (which makes transitory modifications of this Act pending the commencement of the provisions there mentioned) shall have effect.

Transitory
modifications.

PART XII**Extent.**

192.—(1) Where any enactment repealed or amended by this Act extends to any part of the United Kingdom, the repeal or amendment extends to that part, except that the repeals in Part III of Schedule 5 do not extend to Northern Ireland.

(2) The following provisions of this Act extend to Northern Ireland—
sections 1 to 5,
section 6(1) and (2) (except paragraph (a)(ii)), (3), (4), and (8),
section 145 (except subsections (4) and (5)(b)),
section 154 (as it has effect for the purposes of provisions extending to Northern Ireland),
section 172(4) and (5),
section 179,
sections 181 to 183 (as they have effect for those purposes),
sections 185 and 186 (as they have effect for those purposes),
section 187,
sections 188 to 191 (as they have effect for those purposes, but subject to subsection (1)),
this section,
section 193,
paragraph 17 of Schedule 6.

(3) Except as provided by subsection (2), this Act does not extend to Northern Ireland.

**Short title and
commencement.**

193.—(1) This Act may be cited as the Pension Schemes Act 1993.

(2) Subject to the provisions of Schedule 9, this Act shall come into force on such day as the Secretary of State may by order appoint.

(3) As respects the coming into force of—

(a) Part II of Schedule 5 and section 188(1) so far as it relates to it;
or

(b) Schedule 7 and section 190 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.

SCHEDULES

SCHEDULE 1

Section 5.

THE OCCUPATIONAL PENSIONS BOARD

Introductory

1. The following provisions of this Schedule shall have effect as respects the membership, the remuneration and expenses of members, the procedure and the staff of the Board and other matters relating to them.

Membership

2. Subject to the following provisions, a person shall hold and vacate office as chairman, deputy chairman or other member of the Board in accordance with the terms of the instrument appointing him.

3. A person may at any time resign office as chairman, deputy chairman or other member of the Board by giving written notice of his resignation signed by him to the Secretary of State.

4.—(1) If a member of the Board becomes or ceases to be chairman or deputy chairman, the Secretary of State may vary the terms of the instrument appointing him to be a member so as to alter the date on which he is to vacate office.

(2) If the chairman or deputy chairman ceases to be a member he shall cease to be chairman or, as the case may be, deputy chairman.

5.—(1) If the Secretary of State is satisfied that a member of the Board—

- (a) has been absent from meetings of the Board for a period longer than 3 consecutive months without the Board's permission; or
- (b) has become bankrupt or made an arrangement with his creditors,

the Secretary of State may remove that member.

(2) In the application of sub-paragraph (1) to Scotland, for the references to a member's having become bankrupt and to his having made an arrangement with his creditors there shall be substituted respectively references to sequestration of the member's estate having been awarded and to his having made a trust deed for the behoof of his creditors or a composition contract.

(3) Without prejudice to the previous provisions, the Secretary of State may remove a member of the Board on the ground of incapacity or misbehaviour.

Expenses, remuneration, etc. of members

6. The expenses of the Board, to such an amount as may be approved by the Treasury, shall be paid by the Secretary of State.

7. There may be paid as part of the expenses of the Board—

- (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances;
- (b) to persons attending their meetings at the request of the Board, such travelling and other allowances (including compensation for loss of remunerative time); and
- (c) to persons from whom the Board may decide to seek advice, as being persons considered by the Board to be specially qualified to advise them on particular matters, such fees,

as the Secretary of State may with the consent of the Treasury determine.

SCH. 1

8. The Secretary of State may with the consent of the Treasury provide for the payment of pensions, allowances or gratuities to or in respect of such members of the Board as may be so determined.

9. Where—

- (a) a person ceases to be a member of the Board otherwise than on the expiration of his term of office, and
- (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,

the Secretary of State may with the consent of the Treasury make to that person a payment of such amount as the Secretary of State may with the consent of the Treasury determine.

Procedure

10.—(1) The Secretary of State may make regulations generally as to the procedure to be followed by the Board in the exercise of their functions and the manner in which their functions are to be exercised.

(2) Such regulations may in particular make provision—

- (a) as to the procedure to be adopted in connection with the issue, cancellation, variation or surrender of contracting-out certificates and appropriate scheme certificates, and with applications, determinations and the making of orders;
- (b) as to the hearing of parties, the taking of evidence and the circumstances (if any) in which a document of any prescribed description is to be treated, for the purposes of any proceedings before the Board, as evidence, or conclusive evidence, of any prescribed matter;
- (c) as to the time to be allowed for making any application or renewed application to the Board (whether for an order or determination of the Board or for the review of a determination, or otherwise);
- (d) as to the manner in which parties to any proceedings before the Board may or are to be represented for the purposes of the proceedings.

(3) References in sub-paragraph (2) to contracting-out certificates and appropriate scheme certificates include references to contracting-out certificates and appropriate scheme certificates within the meaning of any provisions in force in Northern Ireland which correspond to provisions of this Act.

(4) Regulations under sub-paragraph (1) may provide for enabling the Board to summon persons—

- (a) to attend before them and give evidence (including evidence on oath) for any purposes of proceedings in connection with an occupational pension scheme,
- (b) to produce any documents required by the Board for those purposes, or
- (c) to furnish any information which the Board may require relating to any such scheme which is the subject matter of proceedings pending before them.

11. Subject to regulations made by the Secretary of State under paragraph 10(1) and section 172(4), the procedure of the Board in relation to the discharge of any of their functions shall be such as the Board may determine.

Proceedings

12. The quorum of the Board and the arrangements relating to their meetings shall be such as the Board may determine.

13. The validity of the proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

14.—(1) Where the Board give a decision on any matter dealt with by them by means of a formal hearing, or on review, they shall furnish a statement, either written or oral, of the reasons for the decision if they are requested, on or before the giving or notification of the decision, to state their reasons.

(2) Any statement by the Board of their reasons for a decision, whether the statement is given by them in pursuance of this paragraph or otherwise, shall be taken to form part of the decision and accordingly to be incorporated in the record.

Staff etc.

15.—(1) The Secretary of State may make available to the Board the services of such officers and servants of his department as he may consider appropriate for the proper discharge of the functions of the Board.

(2) The Board may authorise any member, or any officer or servant of the Secretary of State's department, to perform on the Board's behalf such of their functions (including the power to give an authorisation for the purposes of this paragraph) as may be specified in the authorisation.

Fees

16. Regulations made by the Secretary of State may authorise the Board to charge fees for their services in respect of the modification of an occupational pension scheme on an application made under section 136 or under any corresponding provision in force in Northern Ireland, including services in connection with the drawing up of any order of the Board made on application.

Instruments and contracts

17. The fixing of the common seal of the Board shall be authenticated by the signature of the secretary of the Board or some other person authorised by them to act for that purpose.

18. A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

SCHEDULE 2

Section 39.

CERTIFICATION REGULATIONS

PART I

OCCUPATIONAL PENSION SCHEMES

General regulations: beginning and ending of employment

1.—(1) In relation to employments which are or at any time have been contracted-out employments, and to the operation of schemes by reference to which employments are or have been contracted-out, regulations may make provision generally as to the circumstances in which an earner's employment is or is not to be treated as having begun, or as having come to an end and, in particular, as to the matters mentioned in sub-paragraphs (2) to (4).

(2) Regulations may make provision for treating an earner's employment which ends before a person succeeds to the business of the earner's employer as having been employment under the employer's successor.

SCH. 2

(3) Regulations may make provision—

- (a) for changes in an earner's employment due to the death of an employer or another cause, or any cesser of contracted-out employment so due, to be disregarded; or
- (b) for employment under one employer to be treated as a continuation of that under another and any contracting-out certificate issued to, or election made by, the former employer to be treated as issued to or made by the latter.

(4) Regulations may also make provision—

- (a) for temporary interruptions in an earner's employment or contracted-out employment to be disregarded; and
- (b) for the employment in either case to be treated as continuing during the interruption.

(5) References in this paragraph to an earner's employment beginning or ending shall include references to his employment becoming or ceasing to be contracted-out employment.

2.—(1) Subject to sub-paragraph (2), regulations may enable the Board to determine in prescribed circumstances that an earner, or any group of earners whose employment falls within a particular category or description of contracted-out employments, has been in such employment from a date ("the determined date") earlier than would otherwise be the case.

(2) The determined date for any earner may not be earlier than—

- (a) the date on which his relevant employment began, or
- (b) the date on which a contracting-out certificate was issued in respect of it,

whichever is the later.

3. Provision may be made by regulations for requiring an employer to give notice to the Secretary of State—

- (a) when an earner's employment becomes or ceases to be contracted-out employment; and
- (b) when an earner's employment in contracted-out employment begins or ends.

Power to modify Part III etc.

4.—(1) Regulations may modify the provisions of Part III (other than sections 18, 19 and 66 to 68), Chapter III of Part IV and Chapter II of Part V (except, so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to cases in which—

- (a) a person is employed at the same time in two or more employments (whether or not under the same employer); and
- (b) at least one but not all of those employments is contracted-out employment,

with a view to enabling the employments to be treated either separately or together for the purposes of those provisions.

(2) Regulations may also modify those provisions in their application to cases in which—

- (a) any description of benefit under a scheme is subject to a limit (however imposed) operating so as to prevent service beyond a particular length from qualifying for further benefits; or
- (b) earners qualify for the benefits of a scheme by reference to both—

(i) service in employment which is contracted-out in relation to them by reference to the scheme; and

(ii) service in the same employment or another employment (whether or not contracted-out employment) before the scheme was contracted-out in relation to them or their employment.

(3) Regulations under this paragraph may include provision for securing that in the cases to which they apply an earner's employment does not cease to be contracted-out employment only because his service for the time being does not qualify him for a guaranteed minimum pension.

State scheme premiums

5.—(1) Regulations may make provision for requiring persons to furnish the Secretary of State or the Board with such information as he or, as the case may be, the Board may require for the purposes of sections 37, 38, 50 to 65, 139(1), 142(5) and (6) and 159(1) to (3), (5) and (6) (except as they apply to personal pension schemes, the members of such schemes or rights in respect of them).

(2) Regulations may provide that for the purposes of sections 50, 55 to 60 and 63 to 65 (except as they so apply) the prescribed person shall be treated as the employer—

(a) of any employed earners who, in any period of service in contracted-out employment—

(i) have been paid earnings in any income tax week by more than one person in respect of different employments; or

(ii) have worked under the general control or management of a person other than their immediate employer, or

(b) of any other employed earners in the case of whom it appears to the Secretary of State that such provision is needed.

(3) Regulations may, in relation to state scheme premiums, provide—

(a) for dispensing with the payment of a premium where its amount would be inconsiderable;

(b) where there has been a failure to pay a premium and the failure is shown not to have been with the consent or connivance of, or attributable to any negligence on the part of, the person in respect of whom it is payable, for treating the premium as having been paid;

(c) for treating part of a premium payable in prescribed circumstances in respect of a person as having been paid and for modifying the provisions mentioned in paragraph 4(1) in relation to a case in which such a part is so treated;

(d) for treating a premium wrongly paid or an overpayment in respect of a premium as paid (wholly or in part) in discharge of a liability for another premium or for contributions under Part I of the Social Security Contributions and Benefits Act 1992;

1992 c. 4.

(e) for the return of premiums paid in error or, in prescribed circumstances, of premiums which the Secretary of State is satisfied ought to be repaid;

(f) for the Secretary of State, in prescribed circumstances where a premium has been paid in respect of a person, to direct the payment out of the National Insurance Fund to that person or his estate of an amount equal to a prescribed part of the premium;

(g) for any other matters incidental to the payment, collection or return of premiums.

(4) The Secretary of State may accept payments in connection with a case in which a premium or part of it is treated as having been paid.

SCH. 2

(5) Without prejudice to sub-paragraph (3), regulations may provide—

(a) that—

(i) for the purpose of extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions or,

(ii) in the case of a contracted-out protected rights premium, for the purpose of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled,

a state scheme premium is to be treated as having been paid on a date determined under the regulations;

(b) for disregarding the effect of regulations made by virtue of paragraph (a) in a case where the premium in question is not paid on or before the date when it becomes payable or such later date as may be determined under the regulations; and

(c) for obtaining repayment of benefits paid by virtue of regulations made by virtue of paragraph (a) in a case where the effect of the regulations is to be disregarded under paragraph (b), and, where the repayment is obtained from assets of the relevant scheme, for reducing the sums payable under the scheme to the beneficiary by the amount of the repayment.

Schemes covering different employers

6.—(1) Regulations may modify Chapters I and III of Part III (other than sections 8, 18, 19, 35 to 39, and 66 to 68), Chapter III of Part IV and Chapter II of Part V (except so far as they relate to personal pension schemes, the members of such schemes or rights in respect of them) in their application to employments in the case of which earners under different employers qualify by virtue of their respective service in those employments for the benefits of the same occupational pension scheme.

(2) Regulations under this paragraph may provide for the adjustment of rights and liabilities as between employers, earners and the trustees or managers.

Special provisions for certain public service pension schemes

7.—(1) This paragraph applies to the following classes of employments, that is to say employments in which an earner's service qualifies him for benefit under—

1947 c.41.

(a) section 26 of the Fire Service Act 1947;

1976 c.35.

(b) the Police Pensions Act 1976;

1972 c.11.

(c) sections 7 to 10 of the Superannuation Act 1972.

1948 c. 33.

(2) Where employment would fall within one of the classes specified in sub-paragraph (1) but for rules having effect under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (persons transferring to and from certain employments), the employment shall be treated as falling within that class and not within any other class to which this paragraph applies.

(3) Where a local Act contains a provision for the payment of benefits in respect of service which but for the provision would qualify a person for such benefits under the enactments specified in sub-paragraph (1), that provision shall be deemed to be included among the enactments so specified.

(4) In relation to employments of any class to which this paragraph applies, the Secretary of State may by regulations—

(a) direct that elections with a view to the issue, variation or surrender of contracting-out certificates shall be made and revoked by him instead of by the employer;

SCH. 2

- (b) make provision for other things which by or under the provisions mentioned in paragraph 4(1) are required or authorised to be done by or to an employer to be done instead by or to the Secretary of State;
- (c) make provision for treating any employments of the class in question as employments under a single employer different from the employer in any other employment;
- (d) make provision for the recovery by the Secretary of State of any state scheme premium from any person where it has been paid by the Secretary of State instead of by that person.

Incidental matters

8. Regulations may make provision—

- (a) for any incidental matters connected with the provisions mentioned in paragraph 4(1) in relation to any employment which is, has been or may become contracted-out employment; and
- (b) for any incidental matters otherwise connected with those provisions.

PART II

PERSONAL PENSION SCHEMES

9.—(1) Subject to the following provisions, paragraph 5 applies in relation to personal pension schemes as it applies to occupational pension schemes.

(2) In sub-paragraph (1) the words from “(except” onwards and in sub-paragraph (2) the words “(except as they so apply)” shall be omitted.

(3) In sub-paragraph (3)(c) for the reference to the provisions there mentioned there shall be substituted a reference to Part III (other than sections 18, 19 and 66 to 68) so far as it relates to personal pension schemes, the members of such schemes or rights in respect of them.

(4) In sub-paragraph (3)(d) the words “or for” onwards shall be omitted.

(5) In sub-paragraph (5)(a) for the words from “that” to “state scheme premium” there shall be substituted the words “that for the purposes of extinguishing protected rights and reducing any guaranteed minimum pension to which a person is treated as entitled, a personal pension protected rights premium”.

SCHEDULE 3

METHODS OF REVALUING ACCRUED PENSION BENEFITS

Sections 84 and
102(3).

The final salary method

1.—(1) The final salary method is to add to the amount that would be payable but for Chapter II of Part IV or regulations made under it—

(a) in a case where—

(i) the termination of pensionable service occurs on or after 1st January 1991; or

(ii) the whole of the member's pensionable service falls on or after 1st January 1985,

an amount equal to the appropriate revaluation percentage of the amount of the pension or other benefit which on the termination date has accrued to him or to any other person in respect of him (excluding any part of that amount which consists of the member's or the member's widow's or widower's guaranteed minimum); and

SCH. 3

- (b) in any other case, an amount equal to such proportion of the appropriate revaluation percentage of the amount of that pension or other benefit (excluding any such part) as the member's pensionable service falling on or after 1st January 1985 bears to his total pensionable service.

(2) In sub-paragraph (1) "pensionable service" includes any notional pensionable service which is credited to the member by the scheme.

(3) For the purposes of sub-paragraph (1)(b), any notional pensionable service which is credited to a member by a scheme shall be taken to have ended immediately before the member's actual pensionable service began.

(4) Any rule of a scheme the effect of which is that benefit falls to be revalued by reference to any period is to be disregarded in making any calculation required by this method.

The revaluation percentage and the appropriate revaluation percentage

2.—(1) For the purposes of paragraph 1 the Secretary of State shall in each calendar year by order specify a revaluation percentage for each period which is a revaluation period in relation to that order.

(2) A period is a "revaluation period", in relation to an order under this paragraph, if it is a period which—

- (a) begins with 1st January 1986 or with an anniversary of that date falling before the making of the order; and
- (b) ends with the next day after the making of the order which is 31st December.

(3) The revaluation percentage which the Secretary of State is to specify in relation to each revaluation period is—

- (a) the percentage which appears to him to be the percentage increase in the general level of prices in Great Britain during the period which is the reference period in relation to that revaluation period; or
- (b) the maximum rate,

whichever is the less.

(4) The Secretary of State may estimate the percentage increase mentioned in sub-paragraph (3)(a) in such manner as he thinks fit.

(5) For the purposes of that sub-paragraph, the reference period in relation to a revaluation period is—

- (a) in the case of the revaluation period beginning on 1st January 1986, the period which begins with 1st October 1985 and ends with the last day before the making of the order which is 30th September; and
- (b) in the case of the revaluation periods with later commencement dates, the period which—
 - (i) begins with the last day before the commencement of the revaluation period which is 1st October; and
 - (ii) ends with the last day before the making of the order which is 30th September.

(6) For the purposes of sub-paragraph (3)(b) "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.

(7) In paragraph 1 “the appropriate revaluation percentage” means the revaluation percentage specified in the last calendar year before the date on which the member attains normal pension age as the revaluation percentage for the revaluation period which is of the same length as the number of complete years in the pre-pension period.

The average salary method

3.—(1) The average salary method is to revalue the member’s salaries as respects the pre-pension period in any way in which they would have been revalued during that period if he had remained in the same pensionable service.

(2) In this paragraph “salaries” means, subject to sub-paragraph (4), the member’s salaries for the period between the date when his pensionable service began and the termination date, or such part of them as was relevant under the scheme to the calculation of the retirement benefits payable under the scheme to him or to any other person in respect of him.

(3) For the purpose of this paragraph those salaries are to be taken to include—

- (a) any amount which is attributed to them, otherwise than by virtue of this paragraph, as the result of a revaluation for which the rules of the scheme provide; and
- (b) any amount which is for any reason credited to the member by way of salary notionally earned.

(4) Where the member’s pensionable service ended before 1st January 1991, sub-paragraph (2) shall have effect with the substitution for the words from “means” to “termination date” of the words “means the member’s salaries for the period between 1st January 1985 and the termination date”.

(5) For the purposes of the application of this paragraph to a case where a member is credited with an amount by reference to salary notionally earned over a period of time of a particular length, that period shall be taken to have ended immediately before the member’s actual pensionable service began.

The flat rate method

4. The flat rate method is to revalue the benefits which have accrued to the member as respects the pre-pension period in any way in which they would have been revalued during that period if he had remained in the same pensionable service.

The money purchase method

5.—(1) Subject to sub-paragraphs (2) and (3), the money purchase method is to apply the investment yield and any bonuses arising from payments made by or on behalf of a member towards providing any pension or other retirement benefit which is payable under the scheme to him or to any other person in respect of him in the manner in which they would have been applied if his pensionable service had not terminated.

(2) The Secretary of State may by regulations authorise trustees and managers of occupational pension schemes to deduct from any pension or other retirement benefit provided by virtue of the money purchase method an appropriate amount in respect of the administrative expenses incurred by them in carrying this method into effect.

(3) The trustees and managers of a personal pension scheme may, when providing a pension or other retirement benefit by virtue of the money purchase method, deduct—

- (a) the actual administrative expenses of doing so, or

SCH. 3

- (b) the amount of the administrative expenses which would have been incurred in providing a money purchase benefit for the same member if contributions had not ceased to be paid to the scheme in respect of him, whichever is the less.

Section 128.

SCHEDULE 4

PRIORITY IN BANKRUPTCY ETC

Earners's contributions to occupational pension scheme

1. This Schedule applies to any sum owed on account of an earner's contributions to an occupational pension scheme being contributions deducted from earnings paid in the period of four months immediately preceding the relevant date or otherwise due in respect of earnings paid or payable in that period.

Employer's contributions to occupational pension scheme

- 2.—(1) This Schedule applies to any sum owed on account of an employer's contributions to a contracted-out scheme, being contributions payable—

- (a) in the period of 12 months immediately preceding the relevant date; and
- (b) in respect of earners in employment which is contracted-out by reference to the scheme towards the provision for those earners of guaranteed minimum pensions under the scheme.

- (2) This Schedule applies to any sum owed on account of an employer's minimum payments to a contracted-out scheme falling to be made in the period of 12 months immediately preceding the relevant date.

- (3) In so far as contributions or payments cannot from the terms of the scheme be identified as falling within sub-paragraph (1) or (2), the amount of the debt having priority by virtue of that sub-paragraph shall be deemed to be an amount equal to—

- (a) 4.8 per cent. of the total reckonable earnings paid or payable, in the period of 12 months referred to in that sub-paragraph, to or for the benefit of non-contributing earners; and
- (b) 3 per cent. of the total reckonable earnings paid or payable in that period to or for the benefit of contributing earners.

- (4) For the purposes of sub-paragraph (3)—

- (a) the earnings to be taken into account as reckonable earnings are those paid or payable to or for the benefit of earners in employment which is contracted-out by reference to the scheme in the whole or any part of the period of 12 months there mentioned; and
- (b) earners are to be identified as contributing or non-contributing in relation to service of theirs in employment which is contracted-out by reference to the scheme according to whether or not in the period in question they were liable under the terms of the scheme to contribute in respect of that service towards the provision of pensions under the scheme.

- (5) In this paragraph—

“employer” shall be construed in accordance with regulations made under section 181(2); and

“reckonable earnings”, in relation to any employment, means the earner's earnings from that employment so far as those earnings—

SCH. 4

(a) were comprised in any payment of earnings made to him or for his benefit at a time when the employment was contracted-out employment; and

(b) exceeded the current lower earnings limit but not the current upper earnings limit.

State scheme premiums

3.—(1) This Schedule applies to any sum owed on account of a state scheme premium payable at any time before, or in consequence of, a person going into liquidation or being adjudged bankrupt, or in Scotland, the sequestration of a debtor's estate, or (in the case of a company not in liquidation)—

- (a) the appointment of a receiver as mentioned in section 40 of the Insolvency Act 1986 (debenture-holders secured by floating charge), or 1986 c. 45.
- (b) the appointment of a receiver under section 53(6) or 54(5) of that Act (Scottish company with property subject to floating charge), or
- (c) the taking of possession by debenture-holders (so secured) as mentioned in section 196 of the Companies Act 1985. 1985 c. 6.

(2) Where any such premium is payable in respect of a period of service of more than 12 months (taking into account any previous linked qualifying service), the amount to be paid in priority by virtue of this paragraph shall be limited to the amount of the premium that would have been payable if the service had been confined to the last 12 months taken into account in fixing the actual amount of the premium.

(3) Where—

- (a) by virtue of this paragraph the whole or part of a premium is required to be paid in priority to other debts of the debtor or his estate; and
- (b) the person liable for the payment would be entitled to recover the whole or part of any sum paid on account of it from another person either under section 61 or under any provision made by the relevant scheme for the purposes of that section or otherwise,

then, subject to sub-paragraph (4), that other person shall be liable for any part of the premium for the time being unpaid.

(4) No person shall be liable by virtue of sub-paragraph (3) for an amount in excess of the sum which might be so recovered from him if the premium had been paid in full by the person liable for it, after deducting from that sum any amount which has been or may be recovered from him in respect of any part of that payment paid otherwise than under that sub-paragraph.

(5) The payment under sub-paragraph (3) of any amount in respect of a premium shall have the same effect on the rights and liabilities of the person making it (other than his liabilities under that sub-paragraph) as if it had been a payment of that amount on account of the sum recoverable from him in respect of a premium as mentioned in sub-paragraph (3)(b).

Interpretation

4.—(1) In this Schedule—

- (a) in its application in England and Wales, section 196(3) of the Companies Act 1985 and section 387 of the Insolvency Act 1986 apply as regards the meaning of the expression “the relevant date”; and
- (b) in its application in Scotland, that expression has the same meaning as in Part I of Schedule 3 to the Bankruptcy (Scotland) Act 1985. 1985 c. 66.

SCH. 4

(2) In this Schedule references to a contracted-out scheme, contracted-out employment and a state scheme premium include references to a contracted-out scheme, contracted-out employment and a state scheme premium (other than a personal pension protected rights premium) within the meaning of any provisions in force in Northern Ireland and corresponding to the provisions of this Act.

Section 188.

SCHEDULE 5

REPEALS

PART I

GENERAL

Chapter	Short title	Extent of repeal
1973 c. 38.	The Social Security Act 1973.	Section 51(3)(b), (5) and (10). Section 52(8). Section 58(1) to (2B). Section 59(1). Sections 63 to 68. In section 69, subsections (1) to (6). Sections 71 and 72. Section 86. In section 96(1), the words from “(except” to “Part II)”. In section 99, subsection (5) and in subsection (17) the word “68” and the words “or regulations” in both places where they occur. Schedules 16 and 17.
1974 c. 14.	The National Insurance Act 1974.	Section 6(4).
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 2, paragraph 52.
1975 c. 60.	The Social Security Pensions Act 1975.	Sections 26 to 58B. Sections 59B to 60B. In section 61(2), paragraphs (a) and (b) and the words from “regulations under” to “or”. Section 61A. Section 62(4). Section 63(2)(g). Section 66. In section 68(4), the words from the beginning to “Ireland; and” and paragraphs (a) and (b).

SCH. 5

Chapter	Short title	Extent of repeal
		Schedules 1A, 2, 3 and 3A. In Schedule 4, paragraphs 2 and 23 to 29 and 31 to 33.
1976 c. 35.	The Police Pensions Act 1976.	In Schedule 2, paragraph 11.
1977 c. 5.	The Social Security (Miscellaneous Provisions) Act 1977.	Section 3(2). Section 21. Section 22(7), (8), (13), (14).
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	Section 123. In section 124, subsection (2) and in subsection (3) the words "or 123". Section 125(3) to (3B). In section 126(1), the words "or 123" and "or contributions to an occupational pension scheme falling to be made". In section 127(3), the definition of "occupational pension scheme" and the words following it. In section 144(4), the words "and 123".
1979 c. 18.	The Social Security Act 1979.	Section 18. In Schedule 3, paragraphs 3 and 18.
1980 c. 30.	The Social Security Act 1980.	Section 3(4), (7) to (10) and (12).
1981 c. 33.	The Social Security Act 1981.	In Schedule 2, paragraph 1.
1982 c. 24.	The Social Security and Housing Benefits Act 1982.	Section 40. In Schedule 4, paragraphs 20 and 21.
1984 c. 48.	The Health and Social Security Act 1984.	Sections 19 and 20. Schedule 6. In Schedule 7, paragraphs 4 and 5.
1985 c. 53.	The Social Security Act 1985.	Sections 1 to 6. Section 26. Section 28(2). Schedules 1 to 3. In Schedule 5, paragraphs 1, 3, 4, 17, 18, 20, 21, 23 to 27, 29 to 32, 34 and 36.

SCH. 5

Chapter	Short title	Extent of repeal
1985 c. 65.	The Insolvency Act 1985.	In Schedule 8, paragraphs 26 and 31(3).
1985 c. 66.	The Bankruptcy (Scotland) Act 1985.	In Schedule 7, paragraph 13.
1986 c. 45.	The Insolvency Act 1986.	In Schedule 14, the entries relating to the Social Security Pensions Act 1975.
1986 c. 50.	The Social Security Act 1986.	Sections 1 to 8. Section 9(1) to (7). Sections 10 to 17A. Section 52(1) and (2). Sections 59 to 61. Section 75. Sections 78 to 80. Section 83(3). In section 84; in subsection (1), the definitions of “average salary benefits”, “contract of service”, “employed earner”, “employer”, “employee”, “insurance company”, “minimum contributions”, money purchase benefits”, “occupational pension scheme”, “personal pension scheme”, “protected rights”, “tax exemption”, “tax approval” and “tax year” and subsection (2). Section 85(3), (8) and (8A). Section 87(1)(a). Schedules 1 and 2. In Schedule 5, in Part I, paragraph 1 and in Part II, paragraph (a). In Schedule 8, paragraphs 4 and 8 to 11. In Schedule 10, paragraphs 2 to 9, 12 to 31 and 82.
1988 c.7.	The Social Security Act 1988.	Section 9. In Schedule 2, paragraphs 1(2), (3), 2 and 3. In Schedule 4, paragraph 22.

Chapter	Short title	Extent of repeal
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 1(d).
1989 c. 24.	The Social Security Act 1989.	Section 7(6). Section 20. In Schedule 1, paragraph 11. In Schedule 5, paragraphs 11 and 13. In Schedule 6, paragraphs 1 to 5 and 8 to 20. In Schedule 7, paragraphs 1 and 21. In Schedule 8, paragraph 12(1)(a) and (b). In Schedule 9, the entries relating to section 64(3)(dd) of the Social Security Act 1973 and sections 53 to 56 of the Social Security Pensions Act 1975.
1989 c. 38.	The Employment Act 1989.	Section 19(2).
1990 c. 27.	The Social Security Act 1990.	Sections 11 and 12(1). Sections 13 and 14. Section 22(2), (3). In section 23(5), paragraph (a), in paragraph (b) the words "section 22 above and" and paragraph (d). Schedules 2, 3 and 4.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 82(2).
1992 c. 6.	The Social Security (Consequential Provisions) Act 1992.	In Schedule 2, paragraphs 20 to 33, 35, 36, 40 to 42, 44, 49, 67 and 76 to 83.
1992 c. 52.	The Trade Union and Labour Relations (Consolidation) Act 1992.	In Schedule 2, paragraph 5.
1993 c. 3.	The Social Security Act 1993.	Section 1. In section 5, in subsection (2) the words "section 1(1) and (2) and" and subsection (3).
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	In Schedule 8, paragraphs 12 and 18.

PART II

PROVISIONS RELATING TO EQUAL ACCESS

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	Section 118. In section 132, the words “the equal access requirements”. In section 133(1), the words “the equal access requirements”. In section 134, in subsection (3), the words “the equal access requirements” and in subsection (4) the words “or the equal access requirements” and the words from “or as the case may be” onwards. In section 136(2)(e)(iv), the words “or the equal access requirements”. In section 139(2), the words “the equal access requirements”. In section 140(4), paragraph (c) and the word “and” immediately preceding it. Section 153(3) and (4). Section 170((5) and (6). In section 181(1), the definition of “equal access requirements”.

PART III

PROVISIONS REPEALED AS RESPECTS GREAT BRITAIN ONLY

Chapter	Short title	Extent of Repeal
1973 c. 38.	The Social Security Act 1973.	Section 51(3). In section 69(7), the words from “but” onwards. Section 89. In section 96, in subsections (1), (2), (3) and (6) the words “regulations or”. In section 97, in subsection (3) the words “regulations and” and subsection (4). In section 99, subsections (1) and (3).

Chapter	Short title	Extent of Repeal
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 2, paragraph 58.
1975 c. 60.	The Social Security Pensions Act 1975.	In Schedule 4, paragraph 30.
1985 c. 53.	The Social Security Act 1985.	In Schedule 5, paragraph 2.

PART IV

SUBORDINATE LEGISLATION REVOKED

Number	Short title	Extent of revocation
S.I. 1987/1116.	The Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987.	All the Regulations.
S.I. 1988/474.	The Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988.	Regulation 8.
S.I. 1988/1016.	The Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations 1988.	Regulation 4(2).
S.I. 1989/500.	The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1989.	Regulation 3.
S.I. 1990/1141.	The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990.	Regulation 7.
S.I. 1992/795.	The Social Security (Class 1 Contributions - Contracted-out Percentages) Order 1992.	The whole order.

Sections 188, 189
and 190.

SCHEDULE 6

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

GENERAL PROVISIONS

1. In this Schedule “the repealed enactments” means the enactments repealed or revoked by this Act.

2.—(1) The substitution of this Act for the repealed enactments does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision of the repealed enactments has effect, if it could have been done under or for the purposes of the corresponding provision of this Act, as if done under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in this Act or any other enactment, instrument or document to a provision of this Act shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the repealed enactments has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any enactment, instrument or document to a provision of the repealed enactments shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of this Act.

3. Where—

(a) this Act repeals an enactment relating to the coming into force of another provision, including—

(i) an enactment deeming a provision always to have had effect, or to have had effect from a date earlier than that which would otherwise apply, or enabling regulations or an order made under a provision to be framed so as to have such an effect, and

(ii) an enactment conferring power by regulations to provide or make savings in preparation for or in connection with the coming into force of a provision, and

(b) the effect of that provision is reproduced in this Act,

the repeal does not affect the operation of that enactment, in so far as it is not specifically reproduced in this Act but remains capable of having effect, in relation to the corresponding provision of this Act.

4.—(1) The repeal or revocation by this Act of an enactment previously repealed or revoked subject to savings does not affect the continued operation of those savings.

(2) The repeal or revocation by this Act of a saving to which a previous repeal or revocation of an enactment is subject does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.

5. The repeal or revocation by this Act of an enactment which has effect as respects any provision of the repealed enactments (being a provision which is not reproduced in this Act but continues in effect by virtue of this Schedule or the Interpretation Act 1978) does not affect its operation as respects that provision.

SCH. 6

6. Any document made, served or issued after this Act comes into force which contains a reference to any of the repealed enactments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Act.

PART II

SPECIFIC PROVISIONS

Contracting-out requirements for schemes providing guaranteed minimum pensions

7. An occupational pension scheme which—

(a) at any time before the coming into operation of the first regulations made under—

(i) paragraph (a) of subsection (2) of section 32 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 9(2)(a) of this Act), or 1975 c. 60.

(ii) subsection (8) of section 35 of the Social Security Pensions Act 1975 (which made corresponding provision to that made by section 16(4) of this Act),

did not satisfy that paragraph or, as the case may be, that subsection; but

(b) would have satisfied it if those regulations had then been in operation, shall, for the purpose of determining whether the scheme satisfied that paragraph or, as the case may be, that subsection, be treated as if those regulations had been in operation at that time.

8. Any document the contents of which are in terms corresponding to those of section 35(7) of the Social Security Pensions Act 1975, as that subsection stood immediately before the passing of the Social Security Act 1985 (which corresponded to subsection (2) of section 16 of this Act, but with the substitution for the words from “is terminated before” onwards of the words “is terminated before he attains the scheme’s normal pension age shall be determined for the purposes of section 14(2) without reference to any order that comes into force under section 21 of the Social Security Pensions Act 1975 after the relevant year in which his service ends”) shall be construed as if its contents were and always had been in terms corresponding to those of section 16(2) of this Act. 1985 c. 53.

9. The requirement of the Social Security Pensions Act 1975 that for an occupational pension scheme to be contracted-out in relation to an earner’s employment it must provide requisite benefits shall, except so far as it relates to guaranteed minimum pensions, be treated for the purposes of section 37 of that Act as if it had never existed.

10.—(1) Where in the tax year 1989-90 the trustees or managers of an occupational pension scheme made an increase in the rate of pensions currently payable to the members of the scheme who had attained pensionable age or to the widows or widowers of members, they may deduct the amount of the increase from any increase which, but for this sub-paragraph, they would be required to make under section 109 in the tax year 1990-91.

(2) Subsections (1) and (4) of section 110 shall apply to sub-paragraph (1) as they apply to subsections (2) and (3) of that section.

SCH. 6

Overriding effect of certain requirements for existing contracted-out and appropriate schemes

1990 c. 27. 11.—(1) Subject to sub-paragraph (2), if immediately before paragraph 7 of Schedule 4 to the Social Security Act 1990 came into force a contracting-out certificate was in force in relation to an occupational pension scheme then, to the extent that the rules of the scheme are inconsistent with the inclusion in section 13(2)(a) of this Act of the words “and does not have a guaranteed minimum under sections 14 to 16” and the inclusion in section 14 of this Act of subsection (3) of that section, they shall be overridden by them.

(2) If paragraph 4(3) of Schedule 9 has or ever had effect in respect of this paragraph, sub-paragraph (1) above shall have effect with the substitution for the words “paragraph 7 of Schedule 4 to the Social Security Act 1990” of the words “this paragraph”.

12. If immediately before 13th July 1990—

1975 c. 60. (a) there was in force in relation to an occupational pension scheme a contracting-out certificate which stated that the scheme was contracted-out by virtue of section 32(2A) of the Social Security Pensions Act 1975, or
(b) there was in force in relation to a personal pension scheme an appropriate scheme certificate,

1989 c. 24. then, to the extent that the rules of the scheme are inconsistent with any provision of this Act derived from provision made by paragraph 19(1) or (2) or 20(1) to (3) of Schedule 6 to the Social Security Act 1989 (by virtue of which—

- (i) section 27(3) applies to all protected rights and not only such rights as are mentioned in section 10(2) or (3);
 - (ii) section 28 includes subsection (1) and, in subsection (3), the words “Subject to subsections (5) and (7)”, the words from “except” to “subsection (4)” and the word “shall”; and
 - (iii) section 29 includes subsection (2))
- they shall be overridden by that provision.

Transactions discharging trustees

1978 c. 30. 13. Without prejudice to section 16 of the Interpretation Act 1978—
(a) as respects a transaction which took place before 1st January 1986, sections 19(1) and 81 have effect with the omission of paragraph (c), and
(b) as respects a transaction which took place before 1st November 1986, section 19 has effect with the substitution for the references to guaranteed minimum pensions of references to requisite benefits.

Contributions equivalent premiums: earnings before 1987-88

1992 c. 4. 14.—(1) Where an earner’s earnings paid in any period before the tax year 1987-88—
(a) exceeded the lower earnings limit; but
(b) were not such that primary Class 1 contributions within Bracket 3 fell to be paid in respect of them,
it shall be assumed for the purposes of sections 58(4) and 61(2) that his earnings paid in that period were such that, taking the rate specified in Bracket 3 as the appropriate rate, the same amount of primary Class 1 contributions fell to be paid in respect of them as in fact fell to be paid in respect of them; and in this paragraph “Bracket 3” has the meaning given in section 9(3) of the Social Security Contributions and Benefits Act 1992.

(2) Section 63(3) applies for the purposes of sub-paragraph (1), in so far as it applies as respects section 58(4), as if the reference in paragraph (b) of section 63(3) to earnings included a reference to earnings relevant for any purpose of that sub-paragraph.

(3) Where the Secretary of State has acted in pursuance of section 63(3) as applied by sub-paragraph (2) and he subsequently ascertains the amount of those earnings—

- (a) if it appears to him that the amount of the contributions equivalent premium would have been less if he had not made the calculation on the basis described in sub-paragraph (1), he shall refund the difference to the prescribed person, and
- (b) if it appears to the Secretary of State that that premium would have been greater if he had not done so, the prescribed person shall pay the difference to him.

Preservation

15. Without prejudice to paragraph 3, in any case where—

- (a) the pensionable service of a member of a scheme terminated during the period beginning with 6th April 1988 and ending with 27th February 1991, otherwise than on the termination of his service in relevant employment, and
- (b) during that period no payments in discharge of his rights under the scheme were made in consequence of that termination,

paragraph 6(1) of Schedule 16 to the Social Security Act 1973 (which corresponded to section 71(1) of this Act) shall be taken at all times on and after 6th April 1988 to have had effect in relation to the member and his rights under the scheme with the amendment made by paragraph 5(1) of Schedule 4 to the Social Security Act 1990 (which substituted the words “pensionable service” for the words “service in relevant employment”).

1973 c. 38.

1990 c. 27.

Anti-franking

16.—(1) If before 21st July 1989 an earner ceased to be in contracted-out employment by reference to an occupational pension scheme other than a money purchase contracted-out scheme, Chapter III of Part IV shall apply in relation to him with the modifications set out in sub-paragraphs (2) and (3).

(2) In section 87—

- (a) in subsection (3) for the words “at any time” there shall be substituted the words “on the relevant date and at any time thereafter”;
- (b) after that subsection there shall be inserted—

“(3A) In subsection (3) “relevant date”—

(a) in the application of that subsection to a case where a scheme provides for any part of the pension in excess of the earner’s guaranteed minimum to commence from a date not more than 3 months after that on which he attains pensionable age or to be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining that age, is to be construed in relation to the part of the pension as to which such provision is made as a reference to the date on which by virtue of it that part of the pension begins to be paid; and

(b) in any other case means the commencement of payment date.”;

- (c) in subsection (4) of that section paragraph (d) shall be omitted.

(3) Section 90 shall be omitted.

SCH. 6

Modifications in consequence of enactment of Part I of the Social Security Act 1986

1986 c. 50. 17.—(1) Regulations may provide that any provision of this Act to which section 154 applies shall have effect subject to such modifications (other than those which may be made by virtue of that section) as the Secretary of State may consider necessary or expedient in consequence of Part I of the Social Security Act 1986 or any provision of this Act deriving from that Part.

(2) Regulations may provide that any provision contained in an Act to which this sub-paragraph applies shall have effect subject to such modifications as the Secretary of State may consider necessary or expedient in consequence of the provisions mentioned in sub-paragraph (1) or in consequence of any corresponding enactment extending to Northern Ireland.

(3) The Acts to which sub-paragraph (2) applies are—

- 1947 c. 41. (a) the Fire Services Act 1947;
- 1961 c. 42. (b) the Sheriffs' Pensions (Scotland) Act 1961;
- 1972 c. 11. (c) the Superannuation Act 1972;
- 1972 c. 48. (d) the Parliamentary and other Pensions Act 1972;
- 1973 c. 37. (e) the Water Act 1973;
- 1976 c. 35. (f) the Police Pensions Act 1976;
- 1978 c. 56. (g) the Parliamentary Pensions Act 1978;
- 1981 c. 20. (h) the Judicial Pensions Act 1981;
- 1964 c. 40. (i) any Act which relates to the employment of persons by a harbour authority (within the meaning of section 57(1) of the Harbours Act 1964);
- 1993 c. 8. (j) the Judicial Pensions and Retirement Act 1993.

Savings for statutory instruments

1985 c. 53. 18. The repeal by this Act of section 26 of the Social Security Act 1985 (disapplication of requirement that regulations be referred to the Board in the case of certain regulations made shortly after the commencement of that Act) shall not affect the validity of any regulations to which that section applied.

19. The repeal of subsection (2) of section 17A of the Social Security Act 1986 shall not affect the validity of any Order containing such provision as there mentioned (provision for the Secretary of State to make payments in relation to the provisions contained in Part I of that Act for any period beginning on or after 6th April 1987).

Provisions contained in this Act by virtue of statutory instruments

20. Without prejudice to any express provision in this Act, where this Act repeals any provision contained in any enactment by virtue of any order or regulations (including a provision which has not come into force at the time of the repeal) and the provision is reproduced in this Act, the Secretary of State shall have the like power to make orders or regulations repealing or amending the provision of this Act which reproduces the effect of the repealed provision as he had in relation to that provision.

SCH. 6

Saving for application of general provisions relating to social security

21. The repeals made by this Act do not affect the operation of section 66(2) of the Social Security Pensions Act 1975 (or of any other provision in that Act or any other enactment as it applies by virtue of that section), so far as it is not given effect to in this Act but remains capable of having effect (and paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 shall continue to have effect accordingly). 1975 c. 60. 1992 c. 6.

Saving for section 7 of the Social Security Act 1986

22. The repeal by this Act of section 7 of the Social Security Act 1986 (schemes becoming contracted-out between 1986 and 1993) or of any reference to that section in another of the repealed enactments does not affect— 1986 c. 50.

- (a) the operation of that section so far as it is not reproduced in this Act but remains capable of having effect; or
- (b) the operation of that enactment so far as the reference is not reproduced in the corresponding provision of this Act and that enactment remains capable of having effect in relation to that section.

SCHEDULE 7

Section 190.

RE-ENACTMENT OR AMENDMENT OF CERTAIN PROVISIONS NOT IN FORCE

The Equal Pay Act 1970 (c. 41)

1. In section 6(1A)(a) of the Equal Pay Act 1970 for the words following “1993)” there shall be substituted the words “which is also an employment-related benefit scheme, within the meaning of Schedule 5 to the Social Security Act 1989, so far as those terms relate to any matter in respect of which the scheme has to comply with the principle of equal treatment in accordance with that Schedule; but”.

The Social Security Act 1989 (c.24)

2. In Schedule 5 to the Social Security Act 1989—

- (a) in paragraph 2(8) for the words “section 84(1) of the 1986 Act” there shall be substituted the words “section 181(1) of the Pension Schemes Act 1993”;
- (b) in paragraph 7(d) for the words “the meaning given by section 51(3)(b) of the 1973 Act” there shall be substituted the words “the same meaning as “public service pension scheme” in section 1 of the Pension Schemes Act 1993”;
- (c) in paragraph 8 for the words “section 15(1) of the 1986 Act” there shall be substituted the words “section 160(1) of the Pension Schemes Act 1993”.

This Act

3. The following provisions of this Act shall cease to have effect—

- (a) section 118;
- (b) in sections 132 and 133(1), the words “the equal access requirements”;
- (c) in section 134, in subsection (3), the words “the equal access requirements” and, in subsection (4), the words “or the equal access requirements” and the words from “or, as the case may be,” onwards;
- (d) in section 136(2)(e)(iv), the words “or the equal access requirements”;
- (e) in section 139(2), the words “the equal access requirements”;

SCH. 7

- (f) in section 140(4), paragraph (c) and the word “and” immediately preceding it;
- (g) section 153(3) and (4);
- (h) section 170(5) and (6);
- (i) in section 181(1), the definition of “equal access requirements”.

Section 190.

SCHEDULE 8

CONSEQUENTIAL AMENDMENTS

The Parliamentary Commissioner Act 1967 (c. 13)

1. In paragraph 10 of Schedule 1 to the Parliamentary Commissioner Act 1967, in the definition of “judicial pension scheme”, for the words “section 66(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”.

The Administration of Justice Act 1970 (c. 31)

2. In paragraph 3 of Schedule 4 to the Administration of Justice Act 1970 for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”.

The Equal Pay Act 1970 (c. 41)

3. In section 6(1A)(a) of the Equal Pay Act 1970—
- (a) for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”;
 - (b) for the words “Part IV” there shall be substituted the words “Part VI”.

The Attachment of Earnings Act 1971 (c. 32)

4. In section 24(2) of and paragraph 3 of Schedule 2 to the Attachment of Earnings Act 1971 for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”.

The Pensions (Increase) Act 1971 (c. 56)

5. In section 17(1) of the Pensions (Increase) Act 1971, in the definition of “money purchase benefits”, for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 181(1) of the Pension Schemes Act 1993”.

The Superannuation Act 1972 (c. 11)

6. In section 1(9) of the Superannuation Act 1972, in the definition of “money purchase scheme”, for the words from “means” onwards there shall be substituted the words “has the meaning given by section 181(1) of the Pension Schemes Act 1993”.

7. In sections 9(6) and 10(6) of that Act, in the definition of “money purchase benefits”, for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 181(1) of the Pension Schemes Act 1993”.

8. In section 13(15), in the definition of “judicial pension scheme”, for the words “section 66(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;

The Social Security Pensions Act 1975 (c. 60)

9.—(1) In section 59 of the Social Security Pensions Act 1975—

- (a) in subsection (5A), for the words “section 37A(13), (14) or (15) above” there shall be substituted the words “section 110(2) or (3) of, or paragraph 10 of Schedule 6 to, the Pension Schemes Act 1993”; and
- (b) in subsection (7), after the definition of “beginning date” there shall be inserted—
“employment”, “guaranteed minimum pension” and “transfer credit” have the same meaning as in section 181(1) of the Pension Schemes Act 1993”.

(2) In section 59A(2A) of that Act—

- (a) after the words “tax year” there shall be inserted the words “as defined in section 181(1) of the Pension Schemes Act 1993”;
- (b) for the words “section 37A above” in the first place where they occur there shall be substituted the words “section 109 of the Pension Schemes Act 1993”; and
- (c) for those words in the second place where they occur there shall be substituted the words “that section”.

The Rent Act 1977 (c. 42)

10. In section 653(3) of the Rent Act 1977 for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”.

The Employment Protection (Consolidation) Act 1978 (c. 44)

11.—(1) In section 11(4)(b) of the Employment Protection (Consolidation) Act 1978 for the words “Part III of the Social Security Pensions Act 1975” there shall be substituted the words “Part III of the Pension Schemes Act 1993”.

(2) In section 128(2C)(b) of that Act after “1986” there shall be substituted the words “or section 126 of the Pension Schemes Act 1993”.

The Justices of the Peace Act 1979 (c. 55)

12. In sections 55(2)(b)(ii) and 58(2)(ii) of the Justices of the Peace Act 1979 for the words “Part III of the Social Security Pensions Act 1975” there shall be substituted the words “Chapter III of Part III of the Pension Schemes Act 1993”.

The Judicial Pensions Act 1981 (c. 20)

13. In section 33A(9) of the Judicial Pensions Act 1981—

- (a) in the definition of “employment” for the words “Social Security Pensions Act 1975” and “that Act” there shall be substituted respectively the words “Pension Schemes Act 1993” and “section 2 of the Social Security Contributions and Benefits Act 1992”; and
- (b) in the definition of “occupational pension scheme” for the words “section 66(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;
- (c) in the definition of “personal pension scheme” for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;
- (d) in the definitions of “tax exemption” and “tax approval” for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 181(1) of the Pension Schemes Act 1993”.

SCH. 8

14. In Schedule 1A to that Act—

- (a) in paragraph 1 in the definition of “protected rights” for the words “the Social Security Pensions Act 1975” there shall be substituted the words “the Pension Schemes Act 1993”;
- (b) in paragraph 3 for the words “Part II of Schedule 1A to the Social Security Pensions Act 1975” there shall be substituted the words “Chapter IV of Part IV of the Pension Schemes Act 1993”;
- (c) in paragraph 6(6)(a)(ii) for the words “section 2 of the Social Security Act 1986” there shall be substituted the words “section 7 of the Pension Schemes Act 1993”.

The Forfeiture Act 1982 (c. 34)

15. In the definition of “relevant enactment” in section 4(5) of the Forfeiture Act 1982 there shall be inserted at the appropriate place the words—
“the Pension Schemes Act 1993”.

The Companies Act 1985 (c. 6)

16. In Schedule 2 to the Companies Act 1985—

- (a) in paragraph 3(2)(b) for the words “section 47 of the Social Security Pensions Act 1975 (deduction of premium from refund of contributions)” there shall be substituted the words “section 61 of the Pension Schemes Act 1993 (deduction of contributions equivalent premium from refund of scheme contributions)”;
- (b) in paragraph 7(2)(b)—
 - (i) for the words “section 47 of the Social Security Pensions Act 1975 (deduction of premium from refund of contributions)” there shall be substituted the words “section 61 of the Pension Schemes Act 1993 (deduction of contributions equivalent premium from refund of scheme contributions)”;
 - (ii) for the words “Part III” there shall be substituted the words “Chapter III of Part III”.

The Bankruptcy (Scotland) Act 1985 (c. 66)

17. In paragraph 4 of Schedule 3 to the Bankruptcy (Scotland) Act 1985 for the words “Schedule 3 to the Social Security Pensions Act 1975” there shall be substituted the words “Schedule 4 to the Pension Schemes Act 1993”.

The Insolvency Act 1986 (c. 45)

18. In section 386(3) of and paragraph 8 of Schedule 6 to the Insolvency Act 1986 for the words “Schedule 3 to the Social Security Pensions Act 1975” there shall be substituted the words “Schedule 4 to the Pension Schemes Act 1993”.

The Coal Industry Act 1987 (c. 3)

19. In section 7 of the Coal Industry Act 1987 for the words “section 50(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 37(1) of the Pension Schemes Act 1993”.

The Income and Corporation Taxes Act 1988 (c. 1)

- 20.—(1) In section 464(5)(b) of the Income and Corporation Taxes Act 1988 for the words “section 51(3)(a) of the Social Security Act 1973” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”.
- (2) In section 635(3)(b) of that Act for the words “Social Security Act 1986” there shall be substituted the words “Pension Schemes Act 1993”.

(3) In sections 638(6)(c) and 649(1) of that Act for the words “Part I of the Social Security Act 1986” there shall be substituted the words “section 43 of the Pension Schemes Act 1993”.

(4) In section 649(2) of that Act for the words from “the percentage” to “1986” there shall be substituted the words “so much of the aggregate amount mentioned in section 45(1) of the Pension Schemes Act 1993 as is attributable to the reduction which would fall to be made under section 41(1)(a) of that Act”.

(5) In section 649(6)(b) of that Act for the words “Part I and section 3(3) of the Social Security Act 1986” there shall be substituted the words “section 43, section 45(1) and section 41(1)(a) of the Pension Schemes Act 1993”.

The Official Secrets Act 1989 (c. 6)

21. In paragraph 4 of Schedule 1 to the Official Secrets Act 1989 for the words “Social Security Act 1973” there shall be substituted the words “Pension Schemes Act 1993”.

The Finance Act 1989 (c. 26)

22. In paragraph 11(2)(b) of Schedule 7 to the Finance Act 1989 for the words “Social Security Act 1986” there shall be substituted the words “Pension Schemes Act 1993”.

The Electricity Act 1989 (c. 29)

23. In paragraph 5(1) of Schedule 14 and in paragraph 5(1) of Schedule 15 to the Electricity Act 1989 for the words “Social Security Pensions Act 1975 (contracted-out pension schemes)” there shall be substituted the words “Pension Schemes Act 1993 (so far as relating to occupational pension schemes within the meaning of that Act)”.

The Social Security Administration Act 1992 (c. 5)

24. In section 3(1)(c)(ii) of the Social Security Administration Act 1992 for the words “the Pensions Act” there shall be substituted the words “the Social Security Pensions Act 1975”.

25. At the end of section 70(3) of that Act there shall be inserted the words “or
“(k) the Pensions Act”.

26. In section 110(8) of that Act for paragraphs (d) and (e) there shall be substituted—

“(d) the Social Security Pensions Act 1975; and

(e) the Pensions Act”.

27. In section 148(7) of that Act for the words “section 21 of the Pensions Act” there shall be substituted the words “section 21 of the Social Security Pensions Act 1975”.

28. In section 150 of that Act—

(a) in subsection (1)(e), for the words “section 35(6)” and “section 36(3)” there shall be substituted respectively the words “section 15(1)” and “section 17(2)”;

(b) after subsection (10) there shall be inserted—

SCH. 8

“(10A) Where a member of an appropriate personal pension scheme or a money purchase contracted-out scheme continues in employment after attaining pensionable age and the commencement of his pension under the scheme is postponed, the preceding provisions of this section shall have effect as if—

- (a) the guaranteed minimum pension to which he is treated as entitled by virtue of section 48(2)(a) of the Pensions Act were subject to increases in accordance with the provisions of section 15(1) of that Act; and
- (b) the amounts of any notional increases referred to in paragraph (a) above were subject to annual up-rating in the same way as if they were sums to which subsection (1)(e)(i) above applied.”; and
- (c) in subsection (11), for the words “the Pensions Act” there shall be substituted the words “the Social Security Pensions Act 1975”.

29. In section 151 of that Act—

- (a) in subsection (4), for the words “section 35(6)” and the words “section 37A” in both places where they occur there shall be substituted respectively the words “section 15(1)” and “section 109”; and
- (b) in subsection (5), for the words “section 35(6)” and “section 36(3)” there shall be substituted respectively the words “section 15(1)” and “section 17(2)”.

30. In section 155(7) of that Act, for the words “the Pensions Act” there shall be substituted the words “the Social Security Pensions Act 1975”.

31. In section 191 of that Act—

- (a) the following definitions shall be inserted at the appropriate places—
 - ““money purchase contracted-out scheme” has the same meaning as in section 8(1)(a)(ii) of the Pensions Act;” and
 - ““pensionable age” has the same meaning as in section 122 of the Contributions and Benefits Act”;
- (b) in the definition of “occupational pension scheme”, for the words “section 66(1)” there shall be substituted the words “section 1”;
- (c) in the definition of “the Pensions Act”, for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”;
- (d) in the definition of “personal pension scheme”, for the words “section 84(1) of the 1986 Act” there shall be substituted the words “section 1 of the Pensions Act” and at the end of that definition there shall be added the words “and “appropriate”, in relation to such a scheme, shall be construed in accordance with section 7(4) of that Act.”.

The Social Security Contributions and Benefits Act 1992 (c. 4)

32. In section 1(3) of the Social Security Contributions and Benefits Act 1992 for the words from “Part III” to “contributions)” there shall be substituted the words “Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and benefits for members of certified schemes)”.

33. In section 8(1) of that Act for the words “section 27 of the Pensions Act (contracted-out rates)” there shall be substituted the words “section 41 of the Pensions Act (reduced rates of Class 1 contributions for earners in contracted-out employment)”.

34. In section 9(4) of that Act for the words “section 27” there shall be substituted the words “section 41”.

35. In section 20(3) of that Act for the words from “Part III” to “benefit” there shall be substituted the words “Chapter II of Part III of the Pensions Act (reduction in state scheme contributions and benefits for members of certified schemes)”.

36. In section 23(2) of that Act after the words “the Pensions Act” there shall be inserted the words “or the Social Security Pensions Act 1975”.

37. In section 34(5) of that Act for the words “section 29” there shall be substituted the words “section 46”.

38. In section 44(8) of that Act for the words “section 21 of the Pensions Act” there shall be substituted the words “section 21 of the Social Security Pensions Act 1975”.

39. In section 47(3) of that Act for the words “section 29” there shall be substituted the words “section 46”.

40. In section 50(2) of that Act for the words “section 29B(2)” there shall be substituted the words “section 46(5)”.

41. In section 174 of that Act, in the definition of “the Pensions Act” for the words “Social Security Pensions Act 1975” there shall be substituted the words “Pension Schemes Act 1993”.

42. In Schedule 5 to that Act—

- (a) in paragraph 2(6) for the words “section 29B(2)” there shall be substituted the words “section 46(5)”; and
- (b) in paragraphs 5(1) and 6(1)(c)(i) for the words “section 35(6)” there shall be substituted the words “section 15(1)”; and
- (c) in paragraphs 5(3) and 6(3)(c) and (4)(b) for the words “section 37A” there shall be substituted the words “section 109”.

43. In paragraph 3 of Schedule 7 to that Act—

- (a) in sub-paragraph (3) for the words “section 29” there shall be substituted the words “section 46”; and
- (b) in sub-paragraph (11) for the words from “section 29C” to “supplement)” there shall be substituted the words “section 46(6) and (7) (entitlement to guaranteed minimum pensions and increases of unemployment supplement)”.

The Tribunals and Inquiries Act 1992 (c. 53)

44. In the Tribunals and Inquiries Act 1992—

- (a) In section 14(2) for the words “section 66(7) of the Social Security Act 1973” there shall be substituted the words “paragraph 10(1) of Schedule 1 to the Pension Schemes Act 1993”; and
- (b) in paragraph 35 of Schedule 1—
 - (i) in paragraph (d) for the words “established under section 66 of the Social Security Act 1973 (c. 38)” there shall be substituted the words “constituted under section 2 of the Pension Schemes Act 1993”; and

SCH. 8

(ii) in paragraph (e) for the words “Part IVA of the Social Security Pensions Act 1975 (c. 60)” and “section 59C(2)” there shall be substituted respectively the words “Part X of the Pension Schemes Act 1993” and “section 146(2)”.

The Social Security Act 1993 (c.3)

45. In section 2(4)(b) of the Social Security Act 1993—

- (a) for the words “122(1) and 123(1)” there shall be substituted the words “and 122(1)”; and
- (b) at the end there shall be inserted the words—
“and
- (c) under section 124(1) of the Pension Schemes Act 1993”.

The Judicial Pensions and Retirement Act 1993 (c.8)

46.—(1) In section 10(8) of the Judicial Pensions and Retirement Act 1993—

- (a) in the definition of “employment” for the words “Social Security Pensions Act 1975” and “that Act” there shall be substituted respectively the words “Pension Schemes Act 1993” and “section 2 of the Social Security Contributions and Benefits Act 1992”; and
- (b) in the definition of “occupational pension scheme” for the words “section 66(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;
- (c) in the definition of “personal pension scheme” for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;
- (d) in the definitions of “tax exemption” and “tax approval” for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 181(1) of the Pension Schemes Act 1993”.

(2) In section 13(9) of that Act, in the definition of “personal pension scheme”, for the words “section 2 of the Social Security Act 1986” there shall be substituted the words “section 7 of the Pension Schemes Act 1993”.

(3) In section 16 of that Act, for paragraph (a) there shall be substituted—
“(a) section 141 of the Pension Schemes Act 1993 (modification of public service schemes) or section 143 of that Act (winding up of public service schemes);”.

(4) In section 30(1) of that Act, in the definition of “judicial pension scheme” for the words “section 66(1) of the Social Security Pensions Act 1975” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”.

(5) In Schedule 2 to that Act—

(a) in paragraph 1—

(i) for the words “the Social Security Pensions Act 1975”, in each place where they occur, there shall be substituted the words “the Pension Schemes Act 1993”;

(ii) in the definition of “occupational pension scheme” for the words “section 66(1)” there shall be substituted the words “section 1”;

(iii) in the definition of “personal pension scheme” for the words “section 84(1) of the Social Security Act 1986” there shall be substituted the words “section 1 of the Pension Schemes Act 1993”;

(b) in paragraph 3 for the words “Part II of Schedule 1A to the Social Security Pensions Act 1975” there shall be substituted the words “Chapter IV of Part IV of the Pension Schemes Act 1993”;

SCH. 8

- (c) in paragraph 6(6)(a)(ii) for the words “section 2 of the Social Security Act 1986” there shall be substituted the words “section 7 of the Pension Schemes Act 1993”.

SCHEDULE 9

TRANSITORY MODIFICATIONS

Sections 191 and 193(2).

1.—(1) If—

- (a) no date has been appointed as the date on which a provision mentioned in column 1 of the following Table is to come into force before the commencement date, or
- (b) a date has been appointed which is later than the commencement date, then the paragraph of this Schedule mentioned in column 2 of the Table opposite that provision shall have effect until the appointed day.

TABLE

<i>Provision</i>	<i>Paragraph of this Schedule</i>	
(i) Section 69(7) of the Social Security Act 1973.	Paragraph 2.	1973 c. 38.
(ii) Section 11(1) and (2) of the Social Security Act 1990.	Paragraph 3.	1990 c. 27.
(iii) Paragraph 7(1) of Schedule 4 to the Social Security Act 1990.	Paragraph 4(1).	
(iv) Paragraph 7(2) of Schedule 4 to the Social Security Act 1990.	Paragraph 4(2).	
(v) Paragraph 7(3) of Schedule 4 to the Social Security Act 1990.	Paragraph 4(3).	
(vi) Section 82(2) of the Courts and Legal Services Act 1990.	Paragraph 5.	1990 c. 41.
(vii) Paragraph 23 of Schedule 16 to the Friendly Societies Act 1992.	Paragraph 6.	1992 c. 40.
(viii) Paragraph 12 of Schedule 8 to the Judicial Pensions and Retirement Act 1993.	Paragraph 7(1).	1993 c. 8.
(ix) Paragraph 18(1) of Schedule 8 to the Judicial Pensions and Retirement Act 1993.	Paragraph 7(2).	
(x) Paragraph 18(2) of Schedule 8 to the Judicial Pensions and Retirement Act 1993.	Paragraph 7(3).	

(2) If—

- (a) a date has been appointed as the date on which a provision mentioned in column 1 of the Table in sub-paragraph (1) is to come into force for some purposes of that provision but not for others, and
- (b) that date is on or before the commencement date, then the paragraph mentioned in column 2 of the Table opposite that provision shall have effect for those other purposes of that provision (in so far as it is capable of doing so) until the relevant appointed day.

SCH. 9

(3) In this paragraph—

“the commencement date”, means the date on which the provisions of this Act other than those mentioned in subsection (3) of section 193 come into force by virtue of an order under subsection (2) of that section;

“the appointed day”, in relation to a provision mentioned in column 1 of the Table in sub-paragraph (1), means—

(a) in the case mentioned in paragraph (a) of sub-paragraph (1), such day as may be appointed by order for the purposes of that provision—

(i) in the case of the provisions mentioned in paragraphs (i) to (v) of that Table, by the Secretary of State;

(ii) in the case of the provision mentioned in paragraph (vi) of that Table, by the Lord Chancellor or by the Secretary of State or by both acting jointly;

(iii) in the case of the provision mentioned in paragraph (vii) of that Table, by the Treasury; and

1993 c. 8.

(iv) in the case of the provisions mentioned in paragraphs (viii) to (x) of that Table, by the appropriate Minister (within the meaning of section 30(1) of the Judicial Pensions and Retirement Act 1993); and

(b) in the case mentioned in paragraph (b) of that sub-paragraph, the day appointed as the day on which that provision is to come into force.

(4) An order under sub-paragraph (3) may—

(a) appoint different days for different provisions or for different purposes of the same provision;

1973 c. 38.

(b) in the case of an order appointing a day until which paragraph 2 has effect, may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with section 163(9), and may make such adaptations of that section or of any provision of this Act deriving from the Social Security Act 1973 as appear to the Secretary of State to be necessary or expedient in consequence of the postponed (or partly postponed) operation of that section (whether before on or after the day appointed by the order);

(c) in the case of an order appointing a day until which paragraph 5 has effect, may contain such incidental, supplemental or transitional provisions or savings as the person making it considers expedient;

(d) in the case of an order appointing a day until which paragraph 6 has effect, may make such transitional provision or savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the bringing into force of the words which have effect by virtue of that order;

(e) in the case of an order appointing a day until which paragraph 7 has effect, may make such transitional, consequential, supplementary or incidental provision or savings (whether or not involving the modification of the operation of the Judicial Pensions and Retirement Act 1993 or any other enactment) as appear to the appropriate Minister (within the meaning of section 30(1) of that Act) to be necessary or expedient for the purposes of or in connection with the bringing into force of the provisions which have effect by virtue of that order;

and in sub-paragraph (2) “the relevant appointed day”, in relation to any purpose of a provision, means the day appointed as the day on which the provision is to come into force for that purpose.

(5) The Secretary of State may by regulations make—

(a) such transitional provision,

(b) such consequential provision, or

SCH. 9

(c) such savings,

as he considers necessary or expedient in preparation for or in connection with the coming into force of any provision which comes into force when paragraph 3 or 4 ceases to have effect or the operation of any provision affected by that paragraph during any period when that paragraph has effect in relation to it.

(6) The Treasury may by regulations make such transitional and consequential provisions and such savings as they consider necessary or expedient in preparation for or in connection with or in consequence of the coming into force of the words which come into force when paragraph 6 ceases to have effect and such regulations may make modifications of any enactment contained in the Friendly Societies Act 1992 or in any other Act.

1992 c. 40.

Rule against perpetuities

2. In section 163, subsection (9) shall be omitted.

Limited price indexation

3.—(1) Sections 102 to 107 shall have effect only for the purposes of section 108.

(2) In section 183(3), the words “104(8)”, the words from “or, in” to “determined” and the words following paragraph (b) shall be omitted.

Guaranteed minimum for married women and widows paying reduced rate contributions

4.—(1) In section 13(2)(a), the words from “and does” onwards shall be omitted.

(2) In section 14, subsection (3) shall be omitted.

(3) In Schedule 6, paragraph 11 shall be omitted.

Courts and legal services

5. In section 111, subsection (3) shall be omitted.

Friendly societies

6. In section 162(4)(c)(i), for the words “section 65A” there shall be substituted the words “section 65(2)”.

Judicial pensions

7.—(1) In section 146, subsection (3) shall be omitted.

(2) In section 111(3), the words “the Judicial Pensions and Retirement Act 1993” shall be omitted.

(3) In Schedule 6, paragraph 17(3)(j) shall be omitted.

TABLE OF DERIVATIONS

Notes:

1. This Table shows the derivation of the provisions of the consolidation.

2. The following abbreviations are used in the Table:—

Acts of Parliament

1973	=	Social Security Act 1973 (c. 38)
1975	=	Social Security Act 1975 (c. 14)
1975P	=	Social Security Pensions Act 1975 (c. 60)
1977	=	Social Security (Miscellaneous Provisions) Act 1977 (c. 5)
1978	=	Employment Protection (Consolidation) Act 1978 (c. 44)
1980	=	Social Security Act 1980 (c. 30)
1982	=	Social Security and Housing Benefits Act 1982 (c. 24)
1984	=	Health and Social Security Act 1984 (c. 48)
1985	=	Social Security Act 1985 (c. 53)
1986	=	Social Security Act 1986 (c. 50)
1989	=	Social Security Act 1989 (c. 24)
1990	=	Social Security Act 1990 (c. 27)
1992	=	Social Security (Consequential Provisions) Act 1992 (c. 6)
1993	=	Social Security Act 1993 (c. 3)

Subordinate legislation

S.I. 1987/1116	=	Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987
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3. The abbreviation “Law Com Rec No.” followed by a number refers to the recommendation set out in the paragraph of that number in the Appendix to the Report of the Law Commission and the Scottish Law Commission (Cm.2184).

4. The entry “drafting” indicates a provision of a mechanical or editorial nature only affecting the arrangement of the consolidation.

5. The Table does not show the effect of transfer of functions orders.

6. The Table does not show the effect of the saving by paragraph 10 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c.6), which preserves provisions of the Social Security Act 1975 (c.14) as that Act continues to operate for the purposes of the Social Security Pensions Act 1975 (c.60) by virtue of s.66(2) of the latter Act.

Provision	Derivation
1	1973 ss.51(3), 99(1); 1975P s.66(1); 1980 s.4(1); 1986 s.84, Sch.10 para.28.
2(1) (2)	1973 s.66(1); drafting. 1973 s.66(1), (10)(a); 1985 Sch.5 para.1; 1986 Sch.10 para.4.
3(1), (2)	1973 s.66(2).

Provision	Derivation
4(1), (2) (3)	1973 s.66(6); Social Security Act 1981 (c.33) Sch.2 para.1. 1973 s.66(6A); Social Security Act 1981 (c.33) Sch.2 para.1.
5	Drafting.
6(1) to (5) (6) to (8)	1975P s.59K(1) to (5); 1990 s.13(1). 1975P s.59K(7), (9); 1990 s.13(1).
7(1) (2) (3) (4) (5) (6) (7)	1975P ss.30(1)(pt.), 31(1)(pt.); 1986 ss.1(8), 2(1)(a). 1975P s.31(1)(pt.). 1975P s.32(1). 1986 s.1(8). 1986 s.2(6). 1986 s.2(1)(c). 1975P s.31(7)(pt.); 1986 s.2(5)(pt.).
8(1) (2) (3) (4) (5)	1975P s.30(1); 1986 Sch.2 para.4(a), Sch.10 para.15. 1975P ss.26(2), 30(1A),(1B); 1986 s.9(4), Sch.2 para.4(b), Sch.10 para.12(b). 1975P s.30(1C); 1986 Sch.2 para.4(b). 1975P s.30(3). 1975P s.30(4).
9(1) (2) (3) (4) (5) (6)	1975P s.32(2); 1986 Sch.2 para.5. 1975P s.32(2); 1986 s.9(4)(b), Sch.10 para.16(a). 1975P s.32(2A); 1986 Sch.1 para.6, Sch.2 para.5. 1975P s.32(5). 1986 s.2(2), Sch.1 para.6; S.I. 1987/1116 reg.3(1). 1975P s.32(2)(b), (2A)(c); S.I. 1987/1116 reg.3(1).
10(1) (2) (3)	1986 Sch.1 para.7(1). 1975P s.32(2B)(c); 1986 Sch.1 para.7(2). 1986 Sch.1 para.7(2).
11(1), (2) (3),(4) (5)	1975P s.31(3). 1975P s.31(4). 1975P s.31(5).
12(1), (2) (3)	1975P s.32(2C); 1986 Sch.2 para.5(b). 1975P s.32(2D); 1986 Sch.2 para.5(b).
13(1) (2) (3) (4), (5) (6) to (8)	1975P s.33(1); 1986 Sch.2 para.6(1)(a). 1975P s.33(1A); 1986 Sch.10 para.17; 1990 Sch.4 para.7(1); 1992 Sch.2 para.26. 1975P s.33(2). 1975P s.33(3). 1975P s.33(5) to (7).
14(1) (2) (3) (4) (5),(6) (7) (8)	1975P s.35(1). 1975P s.35(2); 1986 Sch.8 para.8. 1975P s.35(2ZA); 1990 Sch.4 para.7(2); 1992 Sch.2 para.27(1). 1975P s.35(2A); 1989 Sch.6 para.5. 1975P s.35(3); 1986 s.9(1). 1975P s.35(4). 1975P s.35(9).

Provision	Derivation
15(1), (2) (3), (4)	1975P s.35(6); 1977 s.3(2). 1975P s.35(6A), (6B); 1986 s.9(2).
16(1)	1975P s.35(5); Social Security Act 1979 (c.18) Sch.3 para.18(a); Social Security Act 1988 (c. 7) Sch.2 para.1(2), (3); 1992 Sch.2 para.27(2).
(2)	1975P s.35(7)(pt.); 1985 Sch.3 paras.2, 7.
(3)	1975P ss.35(7)(pt.), 45(1)(b); Social Security Act 1979 (c.18) Sch.3 para.18; 1992 Sch.2 para.27(2).
(4)	1975P s.35(8); 1985 Sch.3 para.8.
(5)	1975P s.35(9).
17(1)	1975P s.36(1); 1986 s.9(3)(a), Sch.2 para.6(1)(b).
(2), (3), (4)	1975P s.36(3); 1986 s.9(3)(b).
(5)	1975P s.36(6), (8); 1992 Sch.2 para.28.
(6)	1975P s.36(7A), (8); 1986 s.9(3)(c), (4).
(7)	1975P s.36(7B); 1986 s.9(3)(c).
18(1)	1975P s.60A; Social Security Act 1979 (c.18) s.18.
(2)	1975P s.60B; Social Security Act 1988 (c. 7) Sch.2 para.2.
19(1)	1975P s.52C(1)(pt.); 1985 Sch.1 para.2; 1986 Sch.10 para.26; 1989 Sch.6 para.14.
(2)	1975P s.52C(2); 1985 Sch.1 para.2; 1986 Sch.10 para.26.
(3), (4)	1975P s.52C(4); 1985 Sch.1 para.2; 1986 Sch.10 para.26; 1990 Sch.4 para.10.
(5)	1975P s.52C(5); 1985 Sch.1 para.2; 1986 Sch.10 para.26(2); Law Com Rec No.1.
(6)	1975P s.52C(6); 1985 Sch.1 para.2.
(7)	1975P s.52C(7)(pt.); 1985 Sch.1 para.2.
20(1)	1975P s.38(1); 1984 s.19(1); 1986 Sch.10 para.18.
(2) to (5)	1975P s.38(1A) to (1D); 1984 s.19(1).
(6)	1975P s.38(3); 1986 s.9(4).
21(1)	1975P s.39(1).
(2)	1975P s.39(4); 1986 s.9(4).
22	1975P s.40(1).
23(1)	1975P s.40(2); 1985 Sch.5 para.20(a).
(2), (3)	1975P s.40(3); 1977 s.22(8).
(4)	1975P s.40(2)(pt.), (3)(pt.); 1985 Sch.1 para.2; 1986 s.9(4)(h).
(5)	1975P s.52D(4); 1985 Sch.1 para.2.
(6)	1975P s.40(3)(pt.); 1985 Sch.1 para.2.
(7)	1975P s.40(4).
24(1), (2)	1975P ss.41(1), 52D(4); 1985 Sch.1 para.2, Sch.5 para.20(b); 1986 s.9(4)(h).
(3)	1975P s.41(1A); 1985 Sch.5 para.21.
(4)	1975P s.41(5)(pt.).
25(1)	1975P s.41(1) (pt.), (5) (pt.).
(2)	1975P s.41(2)(pt.).
(3)	1975P s.41(3).
26	1986 Sch.1 para.2.

Provision	Derivation
27(1)	1986 Sch.1 para.7(3).
(2)	1986 Sch.1 para.7(4)(a); 1989 Sch.6 para.19.
(3)	1986 Sch.1 para.7(4)(b).
28(1)	1986 Sch.1 para.8; 1989 Sch.6 para.20.
(2)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(1).
(3)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(2); 1989 Sch.6 para.20.
(4) to (6)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(3) to (5); 1990 Sch.4 para.6(1).
(7)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(6).
29(1)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(7); 1990 Sch.4 para.6(1).
(2)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(7A); 1989 Sch.6 para.20.
(3), (4)	1975P s.32(2B)(a) and (d); 1986 Sch.1 para.9(7) to (9).
30	1975P s.32(2B)(a) and (e); 1986 Sch.1 para.10.
31(1)	1975P s.32(2B)(a); 1986 Sch.1 para.3.
(2)	1975P s.32(2B)(a); 1986 Sch.1 para.4.
(3)	1975P s.32(2B)(a), (b); 1986 Sch.1 para.5(1)(pt.).
(4)	1975P s.32(2B)(a), (b); 1986 Sch.1 para.5(1)(pt.)(2).
32	1975P s.32(2B)(a); 1986 Sch.1 para.11.
33	1975P s.32(2B)(a); 1986 Sch.1 para.12.
34(1)	1975P s.31(2); 1986 s.2(1)(b).
(2)	1975P s.31(6).
(3)	1975P s.32(3); 1986 s.2(4).
(4)	1975P s.32(4).
(5)	1986 s.2(3).
(6)	1980 s.3(10)(pt.).
(7)	1975P s.41(2), (5).
(8)	1975P s.31(7); 1986 s.2(5).
35(1)	1975P s.51A(1); 1982 s.40.
(2)	1975P s.51A(3); 1982 s.40.
(3)	1975P s.51A(4); 1982 s.40.
(4)	1975P s.51A(9); 1982 s.40.
(5)	1975P s.51A(11)(pt.); 1982 s.40.
(6)	1975P s.51A(12); 1982 s.40.
36(1)	1975P s.51A(2); 1982 s.40.
(2)	1975P s.51A(3); 1982 s.40.
(3)	1975P s.51A(5); 1982 s.40.
(4)	1975P s.51A(6); 1982 s.40.
(5)	1975P s.51A(9); 1982 s.40.
(6)	1975P s.51A(10); 1982 s.40; 1992 Sch.2 para.32.
(7)	1975P s.51A(11)(pt.); 1982 s.40.
37(1)	1975P s.50(1)(pt.); 1980 s.3(10)(pt.).
(2)	1975P s.50(1A); 1986 Sch.10 para.25.
(3)	1975P s.50(1)(pt.); 1986 Sch.10 para.25.
(4)	1975P s.50(2).
(5)	1975P s.50(3); 1986 Sch.2 para.10.
(6)	1986 s.9(6)(c).

Provision	Derivation
38(1)	1975P s.50(1); S.I. 1987/1116 reg.3(4).
(2)	1975P s.50(1A); S.I. 1987/1116 reg.3(5).
(3)	1975P s.50(1); S.I. 1987/1116 reg.3(4).
(4)	1975P s.50(2); S.I. 1987/1116 reg.3(3).
(5)	S.I. 1987/1116 reg.3(6).
(6)	1975P s.50(1); S.I. 1987/1116 reg.3(4); Personal Pension Schemes (Appropriate Schemes) Regulations 1988 (S.I. 1988/137) reg.2(1); Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988 (S.I. 1988/474) reg.8(a).
(7)	S.I. 1987/1116 reg.3(7).
39	1975P s.52.
40	Drafting; 1975P s.26(1), (1A); 1986 Sch.2 para.2, Sch.10 para.12; 1992 Sch.2 para.20.
41(1)	1975P s.27(1) to (3); 1985 Sch.5 para.17; Social Security (Class 1 Contributions: Contracted-out Percentages) Order 1992 (S.I. 1992/795) art. 2.
(2)	1975P s.27(4); 1986 Sch.10 para.13.
(3)	1975P s.27(5); 1992 Sch.2 para.21.
42(1)	1975P s.28(1), (2); 1992 Sch.2 para.22.
(2) to (5)	1975P s.28(3) to (6).
(6)	1975P s.28(7); 1985 Sch.5 para.18.
43(1)	1986 s.1(1).
(2) to (6)	1986 s.1(3) to (7).
44	1986 s.1(9) to (11).
45(1)	1986 s.3(1)(a), (3), (4).
(2)	1986 s.3(1)(b); 1993 s.1(1).
(3)	1986 ss.1(2), 3(5); 1993 s.1(2).
46(1)	1975P s.29(1); 1986 s.18, Sch.10 para.14; 1992 Sch.2 para.23(1).
(2)	1975P s.29A(1); 1992 Sch.2 para.24.
(3)	1975P s.29A(2); 1992 Sch.2 para.24.
(4), (5)	1975P s.29B(1), (2); 1992 Sch.2 para.24.
(6), (7)	1975P s.29C(1), (2); 1992 Sch.2 para.24.
(8)	1975P ss.29(3), 29A(3), 29B(3), 29C(3); 1992 Sch.2 para.23(3), 24.
(9)	1975P s.29A(4); 1992 Sch.2 para.24.
47(1)	1986 s.9(5); 1992 Sch.2 para.79.
(2)	1975P s.29(2)(d), (c); 1986 Sch.10 para.14; 1989 Sch.1 para.11; 1992 Sch.2 para.23(2).
(3), (4)	1975P s.52D(1); 1985 Sch.1 para.2; 1986 s.9(4)(h), Sch.10 para.27(1)(a), (b), (2); 1992 Sch.2 para.33.
(5)	1975P s.29(2)(a), (b); 1986 Sch.10 para.14; 1989 Sch.1 para.11; 1992 Sch.2 para.23(2).
48(1), (2)	1975P s.29(2A); 1986 s.4(1), Sch.2 para.3; 1992 Sch.2 paras.23(2), 77.
(3)	1975P s.29(2B); 1986 Sch.2 para.3.
(4)	1975P s.29(2C); 1986 s.4(2), Sch.2 para.3.

Provision	Derivation
49	1975 s.130(1); 1975P s.66(2); 1992 Sch.2 para.40, Sch.3 para.10.
50(1)	1975P ss.44(1), 44ZA(1); 1986 s.5(1), Sch.2 para.6(1)(f), 7, Sch.10 para.23.
(2), (3)	1975P ss.44(1C), (1D), 44ZA(2), (3); 1986 s.5(2), (3), Sch.2 para.7, Sch.10 para.23.
(4), (5)	1975P s.44(1A), (1B); 1984 s.19(2).
(6)	1980 s.3(7)(a).
(7)	1975P s.44(4); 1977 s.21(1) pt.; drafting.
51(1) to (3)	1977 s.21(1); 1980 s.3(4); 1985 Sch.3 para.6, 7(1); 1986 Sch.8 para.11; 1989 Sch.6 para.15(b); 1992 Sch.2 para.44.
(4)	1977 s.21(2); 1980 s.3(4); 1985 Sch.3 para.6, 7(1); 1986 Sch.8 para.11; 1989 Sch.6 para.15(b).
(5)	Drafting.
52(1)	Drafting.
(2)	1975P s.49(1); 1986 Sch.2 para.9(a).
(3)	1975P s.49(1); S.I. 1987/1116 reg.3(2), Sch.2 para.1.
(4)	1975P ss.49(1), 52D(4); 1985 Sch.1 para.2; 1986 s.9(4)(h), Sch.2 para.9(a).
(5)	1975P s.49(1); S.I. 1987/1116 reg.5(2).
(6)	1975P s.49(1); S.I. 1987/1116 reg.3(2), Sch.2 para.1(d).
53(1), (2)	1975P s.49(2); 1986 Sch.2 para.9(b).
(3)	1975P s.49(2A); 1986 Sch.10 para.24.
(4), (5)	1975P s.49(5); 1986 Sch.2 para.9(c).
54(1)	1975P s.49(2); S.I. 1987/1116 reg.3(2), Sch.2 para.2.
(2)	1975P s.49(2A); S.I. 1987/1116 reg.3(2), Sch.2 para.3.
(3)	1975P s.49(5); S.I. 1987/1116 reg.3(2), Sch.2 para.4.
55(1)	1975P ss.44(2), 44ZA(4); 1985 Sch.5 para.27; 1986 s.5(4), (6), Sch.10 para.23; S.I. 1987/1116 reg.3(10).
(2)	1975P s.42(1), (2), (3); 1985 Sch.5 para.25; 1986 Sch.2 para.6(1)(f), Sch.10 para.21.
(3)	1975P s.44A(1); 1985 Sch.1 para.1; 1986 Sch.2 para.6(1)(g); 1989 Sch.6 para.11.
(4), (5)	1975P s.45(1), (6); 1977 s.22(7); 1985 Sch.5 para.25; 1986 Sch.2 para.6(1)(h).
(6)	1975P ss.42(1), 44(3), 44ZA(5), 44A(2), 45(1); 1986 s.5(5).
56(1)	1975P s.44ZA(4); 1986 s.5(4), Sch.2 para.7.
(2)	1975P ss.43(6), 44(3), 44(2)(pt.), 44ZA(6), 44A(1), 45(1), (2); 1986 s.5(7).
(3)	1980 s.3(7)(b).
(4)	1975P s.43(2).
(5)	1975P s.43(3).
(6)	1975P ss.43(8), 45(6).
57(1)	1975P s.43(6).
(2)	1975P s.43(4).
(3)	1975P s.43(5).
(4)	1975P s.43(4).
58(1), (2)	1975P s.44(5).

Provision	Derivation
(3)	1975P s.44ZA(7); 1986 s.5(8).
(4)	1975P s.43(1).
(5)	1975P s.44A(3).
(6)	1975P s.45(2) (pt.).
(7)	1975P s.43(2).
59(1), (2)	1975P ss.44(6), 44A(3)(a); 1980 s.3(8); 1985 Sch.3 para.4, 7; 1992 Sch. 2 para.31.
(3)	1977 s.22(13); 1980 Sch.4 para.12.
(4)	1975P s.45(3); 1985 Sch.3 para.5, 7; 1986 Sch.8 para.10; 1992 Sch. 2 para.31.
(5)	1975P s.45(3); 1989 Sch.6 para.12(b).
(6)	1975P s.44(6); 1980 s.3(8).
60(1), (2)	1975P s.44(9); 1986 s.9(4)(g).
(3)	1975P s.44ZA(8); 1986 s.5(9).
(4), (5)	1975P s.43(7).
(6)	1975P s.44A(4); 1985 Sch.1 para.1.
(7) to (10)	1975P s.44ZA(9) to (12); 1986 s.5(10) to (13).
61(1), (2)	1975P s.47(1), (2), (12); 1977 s.22(14).
(3) to (7)	1975P s.47(3) to (7).
(8)	1975P s.47(8); 1977 s.22(14).
(9), (10)	1975P s.47(10).
(11)	1975P s.47(11).
62(1)	1975P s.47(9).
(2)	1975P s.47(9A); 1985 Sch.5 para.30.
63(1)	1975P ss.43(1), 44(5), 44ZA(14), 45(2), 47(2); 1986 s.5(15), Sch.10 para.23.
(2)	1975P s.44ZA(7), (9)(a)(i); 1986 s.5(8), (10)(a)(i).
(3)	1975P ss.43(1B), 44(5A); 1989 Sch.6 para.9(1).
(4)	1975P s.44(5B); 1989 Sch.6 para.9(1).
(5)	1975P ss.43(1), 44(8), 44ZA(14)(b), 45(5), 47(2); 1986 s.5(15)(b).
64(1), (2)	1975P ss.44(7), 44A(3)(b), 44ZA(14)(a), 45(4); 1986 ss.5(15)(a), 16.
(3)	1986 s.16(3).
(4)	1975P s.45(4).
(5)	1986 ss.16(1), 83(3)(a), 84(2); Social Security Act 1975 (c.14) s.165; 1975P s.66(2); 1992 Sch. 3 para. 10.
(6)	1986 s.16(4), (5) 84(2); Social Security Act 1975 (c.14) s.165; 1975P s.66(2); 1992 Sch.2 para.80, Sch. 3 para. 10.
(7) to (9)	1986 s.16(6) to (8).
65	1975P s.44(10).
66	1986 s.9(6).
67(1)	1975P s.60ZB; 1992 Sch.2 para.36.
(2)	1975P s.60ZD; 1992 Sch.2 para.36.
(3), (4)	1975P s.60ZE(1), (2); 1992 Sch.2 para.36.
68	1975P s.60ZF; 1992 Sch.2 para.36; Law Com Rec No.2.
69(1), (2)	1973 s.63(1)(pt.); drafting.
(3)	1973 s.63(4)(a) (pt.); 1975P Sch.4 para.24.

Provision	Derivation
70(1)	1973 Sch.16 para.2; 1989 Sch.6 para.4(a); 1990 Sch.4 para.5(4)(a).
(2), (3)	1973 Sch.16 para.3.
71(1), (2)	1973 Sch.16 para.6(1); 1986 s.10; S.I. 1987/1116 reg. 4(3); 1990 Sch.4 para.5(1).
(3) to (6)	1973 Sch.16 para.6(2) to (5).
(7), (8)	1973 Sch.16 para.7(1); 1975P Sch.4 para.32; 1986 s.10.
(9)	1973 Sch.16 para.7(2); 1986 s.10.
72	1973 Sch.16 para.8.
73(1)	1973 Sch.16 para.9(1).
(2)	1973 s.58(1), Sch.16 para.9(2); S.I. 1987/1116 reg.4(4); Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg.7(3).
(3)	1973 Sch.16 para.9(2A); 1985 Sch.5 para.3.
(4), (5)	1973 Sch.16 para.9(3), (4); Social Security Act 1973 (Commencement No.2) Order 1973 (S.I. 1973/1433) Sch.2.
74(1), (2)	1973 Sch.16 para.10(1), (2).
(3), (4), (5)	1973 Sch.16 para.10(3).
(6)	1973 Sch.16 para.11.
(7), (8)	1973 Sch.16 para.12(1), (2).
75(1)	1973 Sch.16 para.5.
(2)	1973 Sch.16 para.13(1).
(3), (4)	1973 Sch.16 para.13(2).
(5)	1973 Sch.16 para.13(3).
(6), (7)	1973 Sch.16 para.13(4), (5).
76	1973 Sch.16 para.14.
77(1)	1973 Sch.16 para.15(1).
(2)	1973 Sch.16 para.15(1A); 1985 Sch.5 para.4.
(3)	1973 Sch.16 para.15(2); 1989 Sch.6 para.4(b)
(4)	1973 Sch.16 para.15(3); 1989 Sch.6 para.4(b); S.I. 1987/1116 reg.4(5), (6); Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg.7(4).
(5)	1973 Sch.16 para.15(4)(pt.).
(6)	1973 Sch.16 para.15(4)(pt.); 1989 Sch.6 para.4(c); 1990 Sch.4 para.5(3).
(7)	1973 Sch.16 para.15(6).
78(1), (2)	1973 Sch.16 para.16(1), (2).
(3), (4)	1973 Sch.16 para.16(3); Law Com Rec No.3.
(5)	1973 Sch.16 para.16(4); Official Secrets Act 1989 (c. 6) Sch.1 para.1(d).
(6)	1973 Sch.16 para.17(1); 1989 Sch.6 para.4(d); 1990 Sch.4 para.5(4)(b).
(7)	1973 Sch.16 para.17(2).
79(1), (2)	1973 Sch.16 para.18(1).
(3), (4)	1973 Sch.16 para.18(2).

Provision	Derivation
80	1973 s.58(1), Sch.16 paras.15(5), 19.
81	1975P s.52C(1); 1986 Sch.10 para.26(1).
82(1)	1973 Sch.16 para.20.
(2)	1973 Sch.16 para.22.
83(1)	Drafting; 1975P Sch.1A para.1(1), (2), (4); 1985 Sch.1 para.3; 1990 Sch.4 para.5(4); S.I. 1987/1116 reg.3(10), Sch.4 para.1(a).
(2)	1975P Sch.1A para.1(3); 1985 Sch.1 para.3.
(3)	S.I. 1987/1116 reg.3(10), Sch.4 para.1(a).
84(1)	1975P Sch.1A para.2(1); 1985 Sch.1 para.3.
(2)	1975P Sch.1A paras.3(3), (4), 4(3), (4); 1985 Sch.1 para.3.
(3)	1975P Sch.1A para.5(3); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 paras.2, 3.
(4)	Drafting; 1975P s.66(1), Sch.1A para.3, 4, 5; 1986 s.84(1), Sch.2 para.11
(5)	1975P Sch.1A para.8; 1985 Sch.1 para.3; 1986 s.9(4)(i); 1992 Sch.2 para.41.
85	1975P Sch.1A para.6; 1985 Sch.1 para.3.
86(1)	1975P Sch.1A para.9, 19; 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 paras.6, 14.
(2)	1975P Sch.1A para.10; 1985 Sch.1 para.3.
87(1)	1975P s.41A(1)(pt.); 1984 Sch.6.
(2)	1975P s.41B(1)(pt.); 1986 s.9(4)(f); 1984 Sch.6.
(3)	1975P ss.41A(1)(pt.), 41B(1)(pt.); 1984 Sch.6; 1985 s.6(1), (3); 1986 s.9(4)(f); 1990 Sch.4 para.8(8).
(4)	1975P ss.41A(1C), 41B(1A); 1984 Sch.6; 1985 s.6(2), (4); 1986 s.9(4)(f); 1990 Sch.4 para.8(2), (5); Law Com Rec No.1.
(5)	1975P ss.41A(6), 41B(5); 1984 Sch.6; 1985 Sch.5 paras.23, 24; 1986 s.9(4)(f).
(6)	1975P ss.41A(10); 1984 Sch.6.
(7)	1975P s.41C(6); 1984 Sch.6.
88(1), (2)	1975P ss.41A(3), 41B(3); 1984 Sch.6; 1985 s.6(5); 1986 s.9(4)(f).
(3)	1975P s.41A(4); 1984 Sch.6; 1986 Sch.10 para.20.
(4)	1975P s.41A(5); 1984 Sch.6; 1986 Sch.10 para.20.
(5)	1975P s.41A(7); 1984 Sch.6.
89	1975P ss.41A(2), 41B(2); 1984 Sch.6; 1985 Sch.5 para.23, 24; 1986 s.9(4)(f).
90	1975P ss.41A(2A), (2B), 41B(3A), (3B); 1984 Sch.6; 1986 s.9(4); 1990 Sch.4 para.8(3), (6).
91(1)	1975P s.41A(8); 1984 Sch.6.
(2)	1975P s.41A(9); 1984 Sch.6.
92(1)	1975P s.41C(4); 1984 Sch.6.
(2), (3), (4)	1975P s.41C(4A), (4B), (4C); 1984 Sch.6; 1985 Sch.5 para.24; 1992 Sch.2 para.30.
(5)	1975P s.41C(5); 1984 Sch.6.

Provision	Derivation
93(1)	1975P Sch.1A para.11(1); 1985 Sch.1 para.3; 1990 Sch.4 para.5(4)(c); S.I. 1987/1116 reg.3(10), Sch.4 para.7.
(2)	1975P Sch.1A para.11(3); 1985 Sch.1 para.3; 1990 Sch.4 para.5(4)(c); S.I. 1987/1116 reg.3(10), Sch.4 para.7.
94(1)	1975P Sch.1A para.12(1); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.8.
(2)	1975P Sch.1A para.12(2), (3); 1985 Sch.1 para.3; Social Security Act 1988 (c. 7) Sch.2 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.8.
95(1)	1975P Sch.1A paras.13(1), (2)(pt.), 16(1); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.9.
(2)	1975P Sch.1A para.13(2)(pt.), 16(1); 1985 Sch.1 para.3; 1986 Sch.10 para.30(c); S.I. 1987/1116 reg.5(3) Sch.6 para.1.
(3)	1975P Sch.1A paras.13(2)(pt.), 16(1); 1985 Sch.1 para.3; 1986 s.9(4)(i); S.I. 1987/1116 reg.3(10), Sch.4 para.9(a), (b).
(4)	1975P Sch.1A para.13(2)(b); 1985 Sch.1 para.3; S.I. 1987/1116 reg.5(3) Sch.6 para.2.
(5)	1975P Sch.1A para.13(3); 1985 Sch.1 para.3.
(6)	1975P Sch.1A para.13(2A); 1985 Sch.1 para.3; 1986 s.9(4)(i), Sch.10 para.30(c).
(7), (8)	1975P Sch.1A para.15(1)(2); 1985 Sch.1 para.3.
(9)	1975P Sch.1A para.16(8); 1985 Sch.1 para.3.
96(1)	1975P Sch.1A para.13(4)(pt.)
(2)	1975P Sch.1A para.13(5); 1985 Sch.1 para.3; S.I. 1987/1116 regs.3(10), 5(3), Sch.4 para.9(c), Sch.6 para.3; Personal and Occupational Pension Schemes (Transfer to Self-employed Pension Arrangements) Regulations (S.I. 1988/1016) Reg.4(2).
(3)	1975P Sch.1A para.13(4)(pt.), (5), (6); 1985 Sch.1 para.3; 1986 s.9(4)(i); S.I. 1987/1116 regs.3(10), 5(3), Sch.4 para.9(d), Sch.6 para.4.
97(1)	1975P Sch.1A para.14(1); 1985 Sch.1 para.3; 1986 Sch.10 para.30(d).
(2)	1975P Sch.1A para.14(3); 1985 Sch.1 para.3; 1986 Sch.10 para.30(d); S.I. 1987/1116 regs.3(10), 5(3), Sch.4 para.10, Sch.6 para.5.
(3), (4)	1975P Sch.1A para.14(4); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.10(b).
98(1)	1975P Sch.1A para.12(2A); 1985 Sch.1 para.3; 1986 Sch.10 para.30(a).
(2)	1975P Sch.1A para.12(2B); 1985 Sch.1 para.3; 1986 Sch.10 para.30(a).
(3)	1975P Sch.1A para.12(2C)(a); 1985 Sch.1 para.3; Social Security Act 1988 (c. 7) Sch.2 para.3(b).
(4)	1975P Sch.1A para.12(2C)(b); 1985 Sch.1 para.3; Social Security Act 1988 (c. 7) Sch.2 para.3(b).
(5)	1975P Sch.1A para.15(1); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.11.
(6)	1975P Sch.1A para.15(2) (as it applies to personal pension schemes); 1975P Sch.1A para.15(3)(c) (as it applies to occupational pension schemes); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.11.

Provision	Derivation
(7)	1975P Sch.1A para.15(3)(a), (b); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.11.
(8)	Drafting.
99(1)	1975P Sch.1A para.16(2); 1985 Sch.1 para.3; S.I. 1987/1116 regs.3(10), 5(3), Sch.4 para.12(a), Sch.6 para.6.
(2)	1975P Sch.1A para.16(3); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.12(b).
(3)	1975P Sch.1A para.16(4); 1985 Sch.1 para.3; 1986 s.9(4); S.I. 1987/1116 reg.3(10), Sch.4 para.12(c).
(4)	1975P Sch.1A para.16(5); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.12(d)(e).
(5), (6)	1975P Sch.1A para.16(6), (7); 1985 Sch.1 para.3.
100	1975P Sch.1A para.17; 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.13.
101	1975P Sch.1A para.19; 1985 Sch.1 para.3.
102(1)	1975P s.58A(2); 1990 s.11(1).
(2)	1975P s.58A(1); 1990 s.11(1).
(3)	1975P s.58A(3), Sch.3A para.1; 1990 s.11(1), Sch.2.
103(1)	1975P Sch.3A para.2(1); 1990 s.11(1), Sch.2.
(2)	1975P Sch.3A para.1; 1990 s.11(1), Sch.2.
(3)	1975P Sch.3A para.2(2); 1990 s.11(1), Sch.2.
(4)	1975P Sch.3A para.2(3); 1990 s.11(1), Sch.2.
104(1)	1975P Sch.3A para.3(1)(pt.); 1990 s.11(1), Sch.2.
(2)	1975P Sch.3A para.1; 1990 s.11(1), Sch.2.
(3), (4), (5)	1975P Sch.3A para.3(2), (3), (4); 1990 s.11(1), Sch.2.
(6)	1975P Sch.3A para.3(5)(pt.); 1990 s.11(1), Sch.2.
(7)	1975P Sch.3A para.3(6); 1990 s.11(1), Sch.2.
(8)	1975P Sch.3A para.3(1)(pt.), (5)(pt.); 1990 s.11(1), Sch.2.
(9)	1975P Sch.3A para.3(8); 1990 s.11(1), Sch.2.
105	1975P Sch.3A para.4; 1990 s.11(1), Sch.2.
106(1)	1975P Sch.3A para.5(1)(pt.); 1990 s.11(1), Sch.2.
(2)	1975P Sch.3A para.5(1)(pt.); 1990 s.11(1), Sch.2.
(3), (4)	1975P Sch.3A para.5(2), (3); 1990 s.11(1), Sch.2.
107	1975P Sch.3A para.6; 1990 s.11(1), Sch.2.
108(1)	1990 s.11(3).
(2)	1990 s.11(4).
109(1)	1975P s.37A(2); 1986 s.9(7).
(2) to (6)	1975P s.37A(3) to (7); 1986 s.9(7); 1992 Sch.2 para.29.
110(1)	1975P s.37A(8); 1986 s.9(7).
(2)	1975P s.37A(14); 1986 s.9(7).
(3)	1975P s.37A(15); 1986 s.9(7).
(4)	1975P s.37A(16), (17); 1986 s.9(7).
111(1),(2)	1986 s.12(1).
(3)	1986 s.12(10A); Courts and Legal Services Act 1990 (c.41) s.82(2); Judicial Pensions and Retirement Act 1993 (c.8) Sch. 8 para. 18(1).

Provision	Derivation
112	1975P s.57A; 1990 Sch.4 para.3.
113	1975P s.56A(1) to (4); 1985 Sch.2; S.I. 1987/1116 reg.3(8) Sch.3 para.1.
114(1) to (4)	1975P s.56E(1) to (4); 1985 Sch.2.
115	1975P s.56L(1) to (8); 1985 Sch.2; S.I. 1987/1116 reg.3(8) Sch.3 para.2.
116	1975P s.56P; 1986 s.11.
117	1986 s.13.
118(1)	1975P s.53(2).
(2)	1975P s.53(4).
(3)	1975P s.53(5).
(4)	1975P s.53(6).
(5)	1975P s.53(7).
119(1) to (5)	1975P s.57C(1) to (5); 1990 Sch.4 para.1.
(6)	1975P s.57C(7)(pt.); 1990 Sch.4 para.1.
(7)	1975P s.57C(7)(pt.); 1990 Sch.4 para.1.
(8)	1975P s.57C(8)(pt.); 1990 Sch.4 para.1.
(9)	1975P s.57C(9); 1990 Sch.4 para.1.
120(1)	1975P s.57C(6); 1990 Sch.4 para.1.
(2), (3)	1975P s.57C(8)(pt.); 1990 Sch.4 para.1.
121(1)	1975P s.57D(4); 1990 Sch.4 para.1.
(2)	1975P s.57D(5); 1990 Sch.4 para.1.
(3)	1975P s.57D(1); 1990 Sch.4 para.1.
(4)	1975P s.57D(2)(pt.); 1990 Sch.4 para.1.
(5)	1975P s.57D(2)(b)(pt.); 1990 Sch.4 para.1.
(6)	1975P s.57D(3); 1990 Sch.4 para.1.
122(1)	1975P s.57D(6); 1990 Sch.4 para.1.
(2), (3)	1975P s.57D(7); 1990 Sch.4 para.1.
123	1978 ss.127, 141(2A), 153; Insolvency Act 1985 (c.65) Sch.8 para.31(5); Bankruptcy (Scotland) Act 1985 (c.66) Sch.7 para.14(4); Insolvency Act 1986 (c.45) Sch.14; 1986 Sch.10 para.31(3); Employment Act 1989 (c.38) Sch.6 para.23.
124	1978 s.123(1)(pt.), (2) to (5); Insolvency Act 1985 (c.65) Sch.8 para.31; 1986 Sch.10 paras.31(1), (2), 76; 1992 Sch.2 para.49.
125(1)	1978 s.123(6)(pt.).
(2)	1978 s.123(6)(pt.); Insolvency Act 1985 (c.65) Sch.8 para.31(3)(b); Insolvency Act 1986 (c.45) Sch.14.
(3), (4)	1978 s.123(7), (8).
(5)	1978 s.123(9); Employment Act 1989 (c.38) s.18(3).
126(1), (2)	1978 s.124(2); 1986 Sch.10 para.31(1).
(3)	1978 s.124(3)(pt.).

Provision	Derivation
127(1) (2), (3)	1978 s.125(3); 1986 Sch.10 para.31(1). 1978 s.125(3A), (3B); Employment Act 1989 (c.38) s.19(2).
128	1975P s.58; Bankruptcy (Scotland) Act 1985 (c.66) Sch.7 para.13.
129(1)	1975P ss.37A(9), 41C(1), 56A(5), 56E(5), 57D(8), Sch.1A paras.7(1), 18(1), Sch.3A para.8 (pt.); 1990 Sch.2.; 1986 s.9(7); 1990 s.11(6), Sch.4 para.1.
(2)	1975P s.41C(2), Sch.1A para.7(2), 18(2), Sch.3A para.8 (pt.); 1990 Sch.2; S.I. 1987/1116 reg.3(10), Sch.4 para.5.
(3)	1975P s.41C(3), Sch.1A para.7(3); 1990 Sch.4 para.9(1), (2).
(4)	1975P Sch.1A para.7(4); 1990 Sch.4 para.9(3).
130	1975P ss.32(6), 35(7), Sch.1A para.23.
131	1973 s.63(3); 1975P Sch.1A para.23.
132	1973 s.63(4)(a); 1975P s.54(1); 1986 s.12(2).
133(1), (2) (3), (4)	1973 s.63(4)(b); 1975P s.54(2); 1986 s.12(3). 1975P ss.37A(10), 41D (pt.), 56A(6), 56E(6), Sch.1A para.21 (pt.); 1984 Sch.6.
134(1)	1973 s.63(4)(pt.), (5); 1975P ss.37A(11), 41E(1), 55(1), 56A(7), 56E(7), Sch.1A para.22(1); 1986 s.12(4).
(2)	1975P s.41E(1); 1986 Sch.2 para.6(3)(c).
(3)	1973 s.63(6)(pt.); 1975P s.55(3); 1986 s.12(6).
(4)	1973 s.63(11)(pt.); 1975P s.55(5)(pt.).
(5)	1973 s.63(12)(pt.).
135(1)	1973 s.63(5); 1975P ss.37A(12), 41E(2), 55(2), 56A(8), 56E(8), Sch.1A para.22(2); 1986 s.12(5); S.I. 1987/1116 reg.3(8), (10), Sch.3 para.1(e), Sch.4 para.16(b); Personal and Occupational Pension Schemes (Tax Approval and Miscellaneous Provisions) Regulations 1988 (S.I. 1988/474) reg.8(c).
(2)	Drafting.
136(1)	1973 s.64(1)(a), (b), (1A); 1986 Sch.10 para.3; S.I. 1987/1116 reg.2, Sch.1 para.1.
(2)	1973 ss.58(1), 64(3); 1975P s.56(5), Sch.4 para.25; 1978 c. 30 s.17(2); 1986 s.12(11), Sch.10 para.3; S.I. 1987/1116 regs.2, 4(2), Sch.1 para.2.
(3)	1973 s.64(9)(pt.); S.I. 1987/1116 reg.2.
137	1973 s.64(5); S.I. 1987/1116 reg.2.
138(1) to (3) (4), (5) (6) (7)	1973 s.64(6); S.I. 1987/1116 reg.2. 1973 s.64(7); S.I. 1987/1116 reg.2, Sch.1 para.3. 1973 s.64(8); 1975P s.56(5), Sch.4 para.25; 1978 c. 30 s.17(2). 1973 s.64(10A); 1989 Sch.6 para.3.
139(1)	1975P s.49(4).
(2)	1973 s.63(7); 1975P s.56(1); 1986 s.12(7).
(3)	1973 s.63(8); 1975P s.56(2); 1986 s.12(8).

Provision	Derivation
140(1)	1973 s.64(10)(a), (b).
(2)	1973 s.63(10); 1975P s.56(4); 1986 s.12(10).
(3), (4)	1973 ss.63(10), 64(10)(pt.); Social Security Act 1973 (Commencement No. 2) Order 1973 (S.I. 1973/1433); 1975P s.56(4); S.I. 1975/1689; 1986 s.12(10); Social Security Act 1986 (Commencement No. 6) Order 1987 (S.I. 1987/543); Pension Schemes (Voluntary Contributions Requirements) Regulations 1987 (S.I. 1987/1108) reg.2(2); S.I. 1987/1933.
(5), (6)	1973 ss.63(9), 64(10); 1975P s.56(3); 1986 s.12(9).
141(1)	1973 ss.63(4), 64(2), 65(1)(pt.); 1975P s.55(1); 1986 s.12(4).
(2)	1973 s.65(1)(pt.); Northern Ireland Constitution Act 1973 (c.36) Sch.5 para.8(1).
(3), (4)	1973 s.65(2)(pt.).
142(1)	1973 s.64(1)(c); S.I. 1987/1116 reg.2.
(2)	1973 s.64(4); 1975P Sch.4 para.25.
(3)	1973 s.64(9)(b).
(4)	1973 s.64(5) to (8), (10)(pt.), (10A).
(5), (6)	1975P s.49(6).
143(1)	1973 c.38 ss.64(2), 65(1)(pt.).
(2)	1973 c.38 s.65(2)(c).
(3)	1973 c.38 s.65(1)(pt.), (2)(pt.).
144(1)	1975P s.58B(1)(a); 1990 Sch.4 para.2.
(2)	1975P s.58B(1)(b), (2) (definition of "default time"); 1990 Sch.4 para.2.
(3)	1975P s.58B(2)(pt.); 1990 Sch.4 para.2.
(4)	1975P s.58B(2)(pt.); 1990 Sch.4 para.2.
(5)	1975P s.58B(1)(pt.), (3)(a); 1990 Sch.4 para.2.
(6), (7)	1975P s.58B(4), (5); 1990 Sch.4 para.2.
(8)	1975P s.58B(7); 1990 Sch.4 para.2.
145(1) to (5)	1975P s.59B(1) to (5); 1990 Sch.3.
(6)	1975P s.59B(6)(pt.); 1990 Sch.3.
(7)	1975P s.59B(7); 1990 Sch.3.
146(1),(2)	1975P s.59C(1),(2); 1990 Sch.3.
(3)	1975P s.59C(2A); 1990 Sch.3; Judicial Pensions and Retirement Act 1993 (c.8) Sch. 8 para. 12.
(4)	1975P s.59C(3)
(5)	1975P s.59C(4); 1990 Sch.3; Social Security Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1446).
(6) to (8)	1975P s.59C(5) to (7); 1990 Sch.3; Social Security Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1446).
147	1975P s.59D; 1990 Sch.3.
148	1975P s.59E; 1990 Sch.3.
149(1)	1975P s.59F(1); 1990 Sch.3.
(2)	1975P s.59F(2)(pt.); 1990 Sch.3.
(3), (4)	1975P s.59F(3), (4); 1990 Sch.3.
150	1975P s.59G; 1990 Sch.3.
151	1975P s.59H; 1990 Sch.3.

Provision	Derivation
152(1) (2)	1975P s.59J(1)(pt.); 1990 Sch.3. 1975P s.59J(2); 1990 Sch.3.
153(1) (2) (3) (4) (5) (6) (7) (8)	1975P s.41C(7), (8), Sch.1A para.20, Sch.3A para.7; 1990 Sch.2 para.7(1). 1973 Sch.16 para.23, 24, 26; 1975 c. 60 Sch.4 para.32. 1975P s.53(3)(a). 1975P s.53(7). 1975P ss.57D(9), 58B(6); 1990 Sch.4 para.1, 2. 1975P s.57D(10); 1990 Sch.4 para.1. 1990 c. 27 s.14(2). 1978 s.149(1)(a), (b).
154	1986 s.17(1).
155	1986 s.14.
156	1975P s.51; 1986 Sch.2 para.6(1)(j).
157(1) (2) (3), (4) (5)	1978 c. 44 s.126(1); 1986 Sch.10 para.31. 1978 c. 44 s.126(2). 1978 c. 44 s.126(3), (4); Criminal Justice Act 1982 (c.48) ss.37,38,46. Drafting
158(1) (2) (3) (4) (5), (6) (7) (8)	1973 s.89(1), 99(1); Social Security (Consequential Provisions) Act 1975 (c.18) Sch.2 para.58; 1975P Sch.4 para.30; 1986 s.59(1); 1989 s.20(a). 1973 s.89(2). 1973 s.89(2A); 1985 Sch.5 para.2(a). 1986 s.59(2); 1989 c. 24 s.20(b). 1973 s.89(3); 1975P Sch.4 para.30; 1985 Sch.5 para.2(b); 1986 s.59(3); 1992 Sch.2 para.83. 1975P s.59K(6); 1990 s.13(1). 1975P s.57; S.I. 1987/1116 reg.3(9).
159(1) (2) (3) (4) (5) (6)	1975P s.48(1); 1986 Sch.2 para.8. 1975P s.48(1A); 1985 Sch.5 para.31. 1975P s.48(2). 1986 s.2(7). 1975P s.48(3); 1986 s.2(8), Sch.2 para.8. 1975P s.48(4); Solicitors (Scotland) Act 1980 (c. 46) Sch.6 para.2; 1986 s.2(9).
160	1986 s.15.
161	1978 c. 44 s.140(1).
162(1) (2), (3) (4)	1973 s.71(1)(pt.); 1986 Sch.10 para.7; Law Com Rec No.4. 1973 s.71(2), (3). 1973 s.71(4)(a); Interpretation Act 1978 (c.30) s.17(2); Law Com Rec No.4.
163(1) (2) (3) (4), (5)	1973 s.69(1)(pt.); 1986 Sch.10 para.6. 1973 s.69(1)(pt.), (2); 1975P Sch.4 para.28; 1986 Sch.10 para.6. 1973 ss.69(1), (6)(a). 1973 s.69(3).

Provision	Derivation
(6)	1973 s.69(5); 1986 Sch.10 para.6.
(7), (8)	1973 s.69(6)(b).
(9)	1973 s.69(7)(pt.).
164(1)	1973 s.63(13); 1975 s.127(1); 1975P s.66(2); 1992 Sch.3 para.10.
(2)	1986 s.79(1).
(3)	1975 s.128(1); 1975P s.66(2); 1986 s.79(2); 1992 Sch.3 para.10.
(4)	1975 s.127(2)(pt.); 1975P s.66(2); 1992 Sch.3 para.10.
(5)	1975 s.128(2)(pt.); 1975P s.66(2); 1992 Sch.2 para.40(2).
(6)	1978 s.138(5).
(7)	1975 s.128(3); 1975P s.66(2); 1986 s.79(6).
165(1), (2)	1975 ss.129(1), 131, 132(1); 1975P s.66(2); 1986 s.80(1).
(3), (4)	1975 s.129(2); 1975P s.66(2); 1986 s.80(2); Law Com Rec No.5.
(5)	1975 s.132(3).
(6)	1973 Sch.16 para.21.
(7)	1978 ss.137, 141(2A), 144(2), (4); Insolvency of Employer (Excluded Classes) Regulations 1983 (S.I. 1983/624) regs.2 to 4.
(8)	1975 s.132(2); 1975P s.66(2); 1978 s.144(5); 1986 s.80(3).
166	1986 ss.17A, 65(2)(a); 1989 Sch.6 para.17; 1992 Sch.2 para.81.
167	1975P s.66(2); 1992 Sch.2 para.40, Sch.3 para.10.
168	1986 s.54(1).
169	1986 s.57.
170(1)	1975P ss.52D(5), 60(1); 1985 Sch.1 para.2, Sch.5 para.34; 1986 ss.9(4)(h), 52(2), Sch.5 Pt. II(a); 1992 Sch.2 paras.35(a), 82.
(2)	1975P s.52D(6); 1985 Sch.1 para.2.
(3), (4)	1975P s.60(2), (3); Health and Social Services and Social Security Adjudications Act 1983 (c.41) Sch.8 para.1(3)(a); 1992 Sch.2 para.35(b).
(5), (6)	1975P s.55(4), (5).
171	1975 c. 60 s.60ZC; 1992 Sch.2 para.36.
172(1)	1973 s.67(1); 1975P Sch.4 para.27; 1986 Sch.10 para.5.
(2)	1973 s.67(2); 1986 Sch.5 para.1.
(3)	1973 s.67(3).
(4), (5)	1973 s.67(4); 1986 Sch.4 para.27.
173(1)	1973 s.86(1); 1975P s.60(4), Sch.4 para.29.
(2)	1973 s.86(3); 1975P Sch.4 para.29.
(3), (4)	1973 s.86(4), (5).
(5)	1973 s.86(6).
(6), (7)	1973 s.86(8).
(8)	1973 s.86(2).
174	1975P s.57B; 1990 Sch.4 para.11.
175	1975P s.60ZA; 1990 Sch.4 para.12.

Provision	Derivation
176	1973 s.72; 1986 Sch.10 para.7.
177(1)	1973 s.98(1)(a); 1975 s.135(3); 1975P s.66(2); 1986 s.85(1); 1990 s.18(1).
(2)	1986 s.85(3)(a), (b); 1978 s.123(1)(pt.); Employment Act 1990 (c.38) Sch.2 para.1(4); 1993 s.1(3).
(3)	1975 s.135(5)(pt.); 1975P s.66(2); 1978 s.156(2)(b); Employment Act 1990 (c.38) Sch.2 para.1(5); 1993 s.1(3).
(4)	1975 s.135(5)(pt.); 1975P s.66(2); 1993 s.1(3).
(5), (6)	1985 s.28(2); 1986 s.85(5), (6).
(7)	1975P Sch.2 para.6(3); 1978 s.125(4); 1980 s.3(12)(b); 1986 s.85(8)(pt.); Employment Act 1990 (c.38) Sch.2 para.1(4); 1993 s.1(3).
178	1973 s.52(8); 1985 s.5; 1990 Sch.6 para.31(d); Statutory Sick Pay Act 1991 (c.3) s.3(1); 1992 Sch.2 para.67.
179(1), (2)	1973 ss.58(1), (2), 99(1); 1975P ss.43(2A), 66(1); 1986 Sch.10 para.2; 1989 Sch.6 para.2(1).
(3)	1973 s.58(2A); 1975P s.43(2B); 1989 Sch.6 paras.2(1), 9.
(4)	1973 s.58(2B); 1989 Sch.6 para.2(1).
180(1)	1973 c.60 Sch.16 para.4(1) to (3); 1975P s.66(1), Sch.1A para.1(4), 11(2); 1986 Sch.10 para.9; Law Com Rec No.6.
(2)	1973 c.60 Sch.16 para.4(4); 1975P s.66(1).
181(1)	Northern Ireland Constitution Act 1973 (c.36) Sch.5 para.8(1); 1973 ss.58(1), 59(1), 99(1), (3); 1975P ss.30(1B), 31(8), 41A(11), 41B(6), 52C(7), 56A(9), 66(1), (2), Sch.1A paras.1(4), 11(2), Sch.4 para.31; 1985 Sch.2; 1986 ss.3(4), 84(1), Sch.2 para.11, Sch.10 paras.8, 28; 1992 Sch.2 paras.25, 76; Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) Sch.2 para.5; S.I. 1987/1116 reg.4(6); Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1990 (S.I. 1990/1141) reg.7(4).
(2)	1973 s.51(5); 1975P ss.59K(8), 66(3); 1990 s.13(1).
(3), (4)	1973 s.51(10); 1975P s.66(4).
(5)	1986 s.84(4).
(6)	1973 s.99(17); 1975 s.168(4).
(7)	1973 s.99(5).
182(1)	1973 s.96(1); 1975P ss.59F(2)(pt.), 59J(1)(pt.), 61B(1); 1978 c.44 s.154(1); 1986 s.83(1); 1990 Sch.3; 1992 Sch.2 paras.37, 67, 84.
(2)	1973 s.96(2); 1975P s.61B(2); 1986 s.83(1); 1992 Sch.2 paras.37, 67, 84; Social Security Administration Act 1992 (c.5) s.189(4).
(3)	1973 s.96(3); 1975P s.61B(3); 1978 c.44 s.154(3); 1986 s.83(1); 1989 Sch.8 para.10; 1992 Sch.2 para.37, 67, 84; Social Security Administration Act 1992 (c.5) s.189(5).
(4)	1973 s.96(4).
(5)	1973 s.96(6); 1975P s.61B(5); 1986 s.83(6); 1992 Sch.2 para.37, 67.
183(1)	1975P s.61B(4); 1986 s.83(1); Social Security Administration Act 1992 (c.5) s.189(6); 1992 Sch.2 para.67, 84.

Provision	Derivation
(2) (3)	National Insurance Act 1974 (c.14) s.6(4); 1975P s.62(4). 1975P ss.44ZA(13), 58B(3)(b), Sch.1A para.14(2), Sch.3A para.3(7); 1985 Sch.1 para.3; 1986 s.5(14), Sch.1 para.7(5), Sch.10 para.30(d); 1990 s.11(1), Sch.2, Sch.4 para.2.
184	1975P s.61A(1) to (3); 1992 Sch.2 para.37.
185(1), (2)	1973 s.68(1); 1975P s.61(2); Social Security Act 1979 (c.18) Sch.3 para.3; 1982 s.40, Sch.4 para.21; 1986 Sch.10 paras.82, 94; 1989 Sch.8 para.12; Law Com Rec No.7.
(3), (4)	1973 s.68(2); 1975P s.61(3);
(5)	1973 s.68(3); 1975P s.61(4).
(6)	1986 s.61.
(7)	1973 s.71(1)(pt.); Law Com Rec No.4.
(8)	1973 s.67(5).
(9)	1975P Sch.2 para.8(2).
186(1)	1973 s.97(3); Social Security (Consequential Provisions) Act 1975 (c.18) Sch.2 para.61; 1975 s.167(3); 1975P s.62(2); 1977 s.24(5); 1978 s.154(2); 1980 s.3(3)(b); 1986 s.83(4); 1992 Sch.2 para.38.
(2)	1973 s.62(3); 1975P s.62(2); 1992 Sch.2 para.38.
(3)	1975 s.167(1); 1975P s.66(2); 1978 s.149(4).
(4)	1975 s.167(2); 1975P ss.61A(4), 66(2); 1992 Sch.2 para.37.
(5)	1973 s.97(4); Social Security (Consequential Provisions) Act 1975 (c.18) Sch.2 para.61; 1975P ss.61(5), 61A(4); 1992 Sch.2 para.37..
187	1990 c. 27 s.22(2), (3).
188, 189, 190, 191	Drafting.
192	1973 s.95; 1975P s.68(4); 1986 s.87(1)(a); 1990 c. 27 Sch.4 para.13.
193	Drafting.
Sch. 1	
para.1.	Drafting.
para.2	1973 Sch.17 para.2.
para.3	1973 Sch.17 para.3.
para.4	1973 Sch.17 para.4.
para.5	1973 Sch.17 para.5.
para.6	1973 Sch.17 para.6.
para.7	1973 Sch.17 para.7.
para.8	1973 Sch.17 para.8.
para.9	1973 Sch.17 para.9.
para.10(1), (2)	1973 s.66(7); 1975P Sch.4 para.26; 1986 Sch.10 para.4.
(3)	1973 s.66(10)(b); 1986 Sch.10 para.4.
(4)	1973 s.66(8).
para.11	1973 Sch.17 para.10(2).
para.12	1973 Sch.17 para.10(1).
para.13	1973 Sch.17 para.11.
para.14	1973 Sch.17 para.12.
para.15	1973 Sch.17 para.13.
para.16	1973 Sch.17 para.14; 1975P Sch.4 para.33.
para.17	1973 Sch.17 para.15.
para.18	1973 Sch.17 para.16.

Provision	Derivation
Sch. 2	
para.1(1)	1975P Sch.2 para.1(1)(d).
(2) to (5)	1975P Sch.2 para.1(pt.).
para.2	1975P Sch.2 para.2.
para.3	1975P Sch.2 para.3.
para.4	1975P Sch.2 para.5.
para.5	1975P Sch.2 para.6; 1980 s.3(12); 1992 Sch.2 para.42.
para.6	1975P Sch.2 para.7.
para.7	1975P Sch.2 para.8(1), (3) to (5); Police Pensions Act 1976 (c.35) Sch.2 para.11.
para.8	1975P Sch.2 para.9.
para.9	S.I. 1987/1116 reg.3(11) Sch.5; 1975P Sch.2 para.6; 1980 s.3(12); 1992 Sch.2 para.42.
Sch. 3	
para.1(1)	1975P Sch.1A para.2(1), (2), (3)(pt.); 1985 Sch.1 para.3; 1986 s.9(4)(i); 1990 Sch.4 para.4(1).
(2), (3), (4)	1975P Sch.1A para.2(3)(pt.), (4), (5); 1985 Sch.1 para.3; 1990 Sch.4 para.4.
para.2(1)	1975P s.52A(1), (2)(pt.); 1985 Sch.1 para.2; S.I. 1985/1364.
(2)	1975P s.52A(2)(pt.); 1985 Sch.1 para.2.
(3)	1975P s.52A(3)(pt.), (8); 1985 Sch.1 para.2; 1989 Sch.6 para.13.
(4)	1975P s.52A(3)(pt.); 1985 Sch.1 para.2.
(5)	1975P s.52A(5) to (7); 1985 Sch.1 para.2.
(6)	1975P s.52A(9); 1985 Sch.1 para.2; 1989 Sch.6 para.13(2).
(7)	1975P Sch.1A para.2(2)(pt.); 1985 Sch.1 para.3.
para.3(1)	1975P Sch.1A para.3(3), (5); 1985 Sch.1 para.3.
(2), (3)	1975P Sch.1A para.3(5); 1985 Sch.1 para.3; 1990 Sch.4 para.4(2).
(4)	1975P Sch.1A para.3(5A); 1985 Sch.1 para.3; 1990 Sch.4 para.4(3).
(5)	1975P Sch.1A para.3(6); 1985 Sch.1 para.3.
para.4	1975P Sch.1A para.4(3)(a); 1985 Sch.1 para.3.
para.5(1)	1975P Sch.1A para.5(3); 1985 Sch.1 para.3.
(2)	1975P Sch.1A para.5(4); 1985 Sch.1 para.3.
(3)	1975P Sch.1A para.5(4); 1985 Sch.1 para.3; S.I. 1987/1116 reg.3(10), Sch.4 para.3.
Sch. 4	
para.1	1975P Sch.3 para.1; Insolvency Act 1985 (c.65) Sch.8 para.26(2), (3).
para.2	1975P Sch.3 para.2(1), (1A), (2)(pt.), (3), (4); 1985 s.29(1), Sch.5 para.36; Insolvency Act 1985 (c.65) Sch.8 para.26(2), (3), (4); 1986 Sch.2 para.12; Social Security (Class 1 Contributions- Contracted-out Percentages) Order 1992 (S.I. 1992/795) art. 3.
para.3	1975P Sch.3 para.3; Insolvency Act 1985 (c.65) Sch.8 para.26(2), (3), (4); Bankruptcy (Scotland) Act 1985 (c.66) Sch.7 para.13(i); Insolvency Act 1986 (c.45) Sch.14.
para.4	1975P Sch.3 para.4; Insolvency Act 1985 (c.65) Sch.8 para.26(5); Bankruptcy (Scotland) Act 1985 (c.66) Sch.7 para.13(ii); Insolvency Act 1986 (c.45) Sch.14.
Sch. 5	Drafting.
Sch. 6	
paras.1 to 6	Drafting.

Provision	Derivation
para.7	1975P s.32(7), 35(8A); 1982 Sch.4 para.20.
para.8	Insolvency Act 1985 (c.65) Sch.3 para.2(2).
para.9	1986 s.8.
para.10(1)	1975P s.37A(13).
(2)	1975P s.37A(8), (16), (17).
para.11	1990 Sch.4 para.7(3).
para.12	1990 Sch.4 para.15; 1989 Sch.6 paras.19(3) and 20(4).
para.13	1975P s.52C(1)(c); 1986 Sch.10 para.26(3).
para.14	1975P ss.43(1A), (1B), (1C), 47(2A).
para.15	1990 Sch.4 para.5(2).
para.16	1985 s.6(6); 1986 s.9(4)(f); Social Security Act 1986 (Commencement No. 6) Order 1987 (S.I. 1987/543); 1990 Sch.4 para.8(10).
para.17	1986 s.17(1)(b), (2), (3); Social Security Act 1988 (c. 7) Sch.4 para.22; Judicial Pensions and Retirement Act 1993 (c.8) Sch. 8 para. 18(2).
paras.18 to 22	Drafting.
Sch. 7	
para.1	1989 Sch.5 para.13.
para.2	Drafting.
para.3	1989 Sch.5 para.11.
Sch. 8	Drafting.
Sch. 9	
para.1(1) to (3)	Drafting.
(4)	1973 s.101(2), (3); 1990 s.23(2); Courts and Legal Services Act 1990 (c.41) s.120(3); Friendly Societies Act 1992 (c.40) s. 126(2),(3); Judicial Pensions and Retirement Act 1993 (c.8) s.29(3).
(5)	1990 s.21(3).
(6)	Friendly Societies Act 1992 (c.40) s.123.
paras.2 to 7	Drafting.

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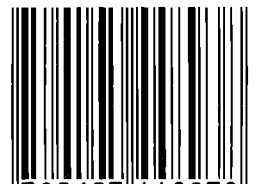
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