



Superannuation Act 1965

1965 CHAPTER 74

PART V

MISCELLANEOUS AND GENERAL

Supplemental provisions as to Parts I and II.

78 Person ineligible for certain benefits unless salary paid out of Consolidated Fund, etc.

A person shall not be eligible for the grant of a superannuation allowance or additional allowance, and a gratuity shall not be granted under section 4 of this Act to the personal representatives of any person, unless the salary or remuneration of that person during his service as a civil servant was paid out of the Consolidated Fund or out of moneys provided by Parliament or out of the Post Office Fund.

79 No absolute right to any allowance, etc.

Nothing in this Act shall extend or be construed to extend to give any person an absolute right to any allowance or gratuity under Part I or Part II of this Act or to deprive the Treasury or the head or principal officer of any department of their or his power and authority to dismiss any person from the public service without compensation.

80 Treasury to determine certain questions.

Subject to section 48(1) of this Act, the decision of the Treasury on any question which arises—

- (a) as to the claim of any person or class of persons for a superannuation allowance or additional allowance or a gratuity under section 4 of this Act, or
- (b) as to the application of any provision of this Act to any person, or
- (c) as to the amount of any allowance or gratuity under this Act, or
- (d) as to the reckoning of any service for any such allowance or gratuity,

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shall be final.

The references in paragraphs (b) and (c) of this section to this Act do not include references to section 12, 32, 35 or 36 thereof, or to paragraph 2(2), 3, 7 or 10 of Schedule 1 thereto.

81 Temporary abatement from salaries to be disregarded.

- (1) Any reference in this Act to the salary and emoluments of an office is, as regards any period in respect of which any temporary abatement from the salary and emoluments of that office has been made pursuant to a general direction issued by the Treasury for the purpose of effecting economy in national expenditure, a reference to the salary and emoluments which would have been payable to the holder of the office but for that abatement.
- (2) For the purpose of calculating the amount of any gratuity payable under section 15 or 16 of this Act to or in respect of a person who has been employed in the civil service in an unestablished capacity or in part-time service, no account shall be taken of any temporary abatement of his pay made pursuant to any general direction issued by the Treasury for the purpose of effecting economy in national expenditure.

82 Provision against double pension.

A person shall not be entitled to reckon the same period of time both for the purpose of a superannuation allowance, additional allowance or retiring allowance or of a gratuity under section 4 of this Act and for the purpose of naval, military or air force non-effective pay.

Supplemental provisions as to Parts III and IV.

83 Duty of civil servants to give information.

It is hereby declared that it is the duty of every person who is or has been a civil servant to give to the Treasury or other proper authority all such information as is necessary for the proper operation of Parts III and IV of this Act in relation to him, whether he is asked to give the information or not.

84 Meaning of " period of childhood and full-time education " for the purposes of Parts III and IV.

- (1) Subject to the provisions of subsection (4) of this section, a person shall be deemed for the purposes of Parts III and IV of this Act to be in his period of childhood and full-time education while either—
 - (a) he is under the age of sixteen ; or
 - (b) he is receiving full-time instruction at any university, college, school or other educational establishment; or
 - (c) he is undergoing training by any person (hereinafter referred to as " the employer ") for any trade, profession or vocation in such circumstances that—
 - (i) he is required to devote the whole of his time to the training for a period of not less than two years; and

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- (ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him, do not exceed £13 a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training:

Provided that a person shall not be deemed for the purposes of this section to satisfy the condition specified in paragraph (b) or the condition specified in paragraph (c) of this subsection unless there has up till then been no time since he attained the age of sixteen when he did not satisfy one or other of those conditions.

- (2) In subsection (1) of this section, " emoluments " means any salary, fees, wages, perquisites, or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of paragraph (c)(ii) of the said subsection (1), where a premium has been paid in respect of the training of a person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.
- (3) The Treasury may by order increase the sum of £13 in subsection (1)(c)(ii) of this section, but such an order—
 - (a) shall not authorise the payment, or increase, of any instalment of a pension in respect of a period falling before the date when the order takes effect,
 - (b) shall, for the purposes of the proviso to the said subsection (1), apply to periods before the date when the order takes effect, as well as to later periods, and
 - (c) shall not make invalid any nomination under section 64(1) of this Act made before the order takes effect.

An order under this subsection may be varied or revoked by a subsequent order, but paragraph (b) of this subsection shall not apply to an order other than an order increasing, or further increasing, the said sum of £13.

- (4) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) of this section is satisfied in relation to a person, the Treasury may, if they think fit and are satisfied that that person's full-time education ought not to be regarded as completed, direct either—
 - (a) that that period shall be ignored for the purposes of the proviso to subsection (1) of this section ; or
 - (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of Parts III and IV of this Act, except such purposes, if any, as may be specified in the direction.
- (5) Notwithstanding anything in the foregoing provisions of this section, the period of childhood and full-time education shall not, in the case of a person who is permanently incapacitated, be deemed for any of the purposes of Parts III and IV of this Act to continue after he attains the age of sixteen or his permanent incapacity becomes known, whichever is the later.

85 Marriages of civil servants whose early death is to be foreseen.

Where a civil servant marries and—

- (a) he dies within the year beginning with the date of the marriage; and

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- (b) there are no children born of the marriage ; and
- (c) the Treasury are of the opinion that his death within the year beginning with the date of the marriage was, at that date, to be foreseen by him,

the same results shall follow under Parts III and IV of this Act as would have followed if the marriage had not taken place, and all necessary adjustments (including, if need be, repayments of sums paid in respect of pensions already granted under the said Part III, repayments of contributions made under the said Part III and grants of additional pensions and payments of additional contributions under the said Part IV) shall be made accordingly.

86 Application of Forfeiture Act 1870.

Section 2 of the Forfeiture Act 1870 (which provides for forfeiture of pensions in certain cases of conviction for treason or felony) shall apply in relation to a pension or part of a pension under Part III or Part IV of this Act which is applied for the benefit of any person as if that pension or part of a pension, as the case may be, were a pension paid to that person:

Provided that where part only of a pension under the said Part III or the said Part IV is applied for the benefit of the person in question, the said section 2 shall have effect as if, instead of providing that the pension should determine and cease to be payable, it had provided that that pension could not enure for his benefit.

87 Mode of making elections, etc.

Any election or nomination required or authorised to be made under Part III or Part IV of this Act, and any notice required or authorised to be given under Part III or Part IV of this Act, shall be in writing, shall be made or given to the Treasury or such other authority as the Treasury may appoint, shall be made or given in the lifetime of the person who makes or gives it and shall, except so far as is otherwise expressly provided, be made or given before that person ceases to be a civil servant.

88 Effect under Parts III and IV of certain nullity decrees.

Where a marriage which is voidable but not void from the beginning is declared to be null by any court of competent jurisdiction, the same results shall follow under Parts III and IV of this Act as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

Miscellaneous.

89 Application to civil service of certain superannuation schemes.

- (1) Where, whether before or after the commencement of this Act,—
 - (a) a person employed in the civil service has, with the approval of the Treasury, become subject to a superannuation scheme to which this section applies, or
 - (b) a person subject to such a scheme is employed in the civil service and, with the approval of the Treasury, remains subject to the scheme,

the Minister or other person in charge of the department in which that person is employed shall have power, and be deemed always to have had power, but (except where that department is the Treasury) subject to the approval of the Treasury,—

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- (i) to pay the contributions authorised or required by the scheme to be paid by that person's employer,
 - (ii) to refund the amount of any payments made, whether by that person or by a former employer of his, in respect of any period during which that person was employed in the civil service, being payments falling to be borne by the employer in respect of premiums payable under any policy of insurance issued in pursuance of the scheme or in respect of sums to be invested in pursuance thereof.
- (2) Any period, whether before or after the commencement of this Act, in respect of which payments authorised by subsection (1) of this section have been made in the case of any person employed in the civil service, whether before or after he became so employed, shall notwithstanding anything in this Act be disregarded in the application to him of any provisions of this Act except section 18 thereof.
- (3) The Treasury may make regulations for conferring on persons employed in the civil service who are subject to any scheme to which this section applies, or any class of such persons, benefits appearing to the Treasury to correspond as nearly as may be with the benefits conferred, on persons whose superannuation benefits are regulated under this Act, by sections 20, 21, 30 and 31 thereof.
- (4) The schemes to which this section applies are the superannuation schemes operated under the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, and any other scheme approved by the Treasury for the purposes of this section.

90 Regulations authorising service disregarded by s. 89(2) to be taken into account for certain purpose.

- (1) The Treasury may make regulations under which service which would have been taken into account for the purposes of any provisions of this Act but for subsection (2) of the last foregoing section may be taken into account for the purpose of the provisions of this Act with respect to the minimum periods of service which qualify persons for the benefit of this Act.
- (2) Regulations under this section may make different provision in relation to different pension schemes and may include such supplemental and incidental provisions as appear to the Treasury expedient, including provisions for modifying the said subsection (2) or any other of the provisions of this Act.
- (3) Regulations under this section may apply to service before the making of the regulations, as well as to service for later periods.

91 Application of certain provisions of Act to retiring and compensation allowances.

Sections 5, 25 and 26 of this Act and Parts III and IV thereof shall, so far as capable of such application, apply in relation to retiring allowances and compensation allowances as if references therein to superannuation allowances included references to any annual retiring or compensation allowance and references therein to additional allowances included references to any retiring or compensation allowance taking the form of a lump sum.

92 Application of Act to persons who served on the establishment of the Secretary of State in Council of India.

- (1) The application of the provisions of this Act specified in subsection (2) of this section in relation to civil servants who have served on the permanent establishment of the Secretary of State in Council of India shall not be affected by anything in section 282(1) of the Government of India Act 1935 (which provides that part of any superannuation and other allowances or gratuities awarded to such persons shall be paid out of the revenues of the Federation of India), and the said subsection (1) shall operate in relation to them as if those provisions had not been made and the allowances and gratuities payable to or in respect of them had been computed and granted accordingly.
- (2) The provisions of this Act referred to in subsection (1) of this section are sections 5, 6, 7, 10, 13 (except subsection (4)), 15(1) to (5), 16,17,18, 20(1), 21(2), 22, 23,25,26,29,44 and 45(1), Parts III and IV, sections 83 to 88, 91, 94, 98(2) and (3) and 99 and paragraph 3 of Schedule 3.

General.

93 Distribution of money without representation.

- (1) Where on the death of any person any sum not exceeding £500 is due from a government department in respect of any civil pay, superannuation, or other allowance, annuity or gratuity, then, if the government department prescribed by order of the Treasury for the purpose of this section so direct, but subject to regulations (if any) made by the Treasury, proof of the title of the personal representatives of that person may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the department to be beneficially entitled to the personal or moveable estate of that person, or to or among any one or more of those persons or, in case of the illegitimacy of that person or his children, to or among such persons as the department think fit, and the department shall be discharged from all liability in respect of any such payment or distribution.
- (2) Subsection (1) of this section shall apply to any sum not exceeding £500 payable to the personal representatives of a deceased person under this Act as it applies to such a sum due from a government department to a person who has died, and accordingly the sum may either be paid to the personal representatives (without proof of title) or be paid or distributed among the persons appearing to the Treasury to be beneficially entitled to the estate of the deceased, or among such other persons as are described in that subsection.
- (3) Nothing in this section shall affect section 8(1) of the Finance Act 1894 (application to estate duty of probate duty law and practice as regards payment of sums under £100 without requiring representation).

94 Power to ignore breaks in dependence.

The Treasury may treat a person for all or any of the purposes of this Act, except section 43 thereof, as wholly or mainly dependent on another person notwithstanding that for the time being he is not in fact so dependent on him, if they are satisfied that it is reasonable to expect that the first-mentioned person will again become dependent

on the second-mentioned person and are further satisfied that the break in dependence ought in all the circumstances to be regarded as a temporary one.

95 Provisions as to rules, regulations, etc.

- (1) Any power conferred by this Act to make rules, regulations or orders or to issue any warrant shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing rules or regulations or an order or warrant made or issued under this Act, other than rules made under section 43 thereof, an order made under section 48 or section 93 thereof or regulations made under the said section 93, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing rules made under the said section 43 shall be laid before Parliament after being made.

96 Power of Treasury to delegate power to grant allowances, etc.

The Treasury may, to such extent and subject to such conditions as they think fit, delegate to any Minister or officer of the Crown—

- (a) any power conferred on them by this Act to grant any allowance or gratuity, and
 - (b) any functions exercisable by them under any provision of this Act relating to pensions or contributions under Parts III and IV thereof,
- and references in this Act to the Treasury shall be construed accordingly.

97 Financial provisions.

- (1) There shall be paid out of the Consolidated Fund—
 - (a) any payments to be so made under provisions of this Act relating to public offices; and
 - (b) any increase attributable to this Act in the sums to be so issued under any other Act.
- (2) There shall be paid out of moneys provided by Parliament—
 - (a) any pension, allowance, gratuity or return of contributions, with or without interest, which is payable under or by virtue of any of the provisions of this Act and does not fall to be paid from some other fund,
 - (b) any expenses incurred under section 89 of this Act, and
 - (c) any administrative expenses incurred by any government department under this Act.
- (3) Contributions under Parts III and IV of this Act, except so far as they take the form of a reduction of an allowance or gratuity or fall to be paid into some other fund, shall be paid into the Exchequer, and there shall be paid into the Exchequer any other sums falling to be so paid in consequence of the provisions of this Act.

98 Meaning of " civil service " and " civil servant " and supplementary provisions.

- (1) In this Act " civil service " means the civil service of the State.

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- (2) In this Act " civil servant " means a person serving in an established capacity in the permanent civil service, and references in this Act to persons ceasing to be civil servants, to persons retiring from being civil servants and to retired civil servants shall be construed accordingly.

Except where the context otherwise requires, any reference in this Act to a person ceasing to be a civil servant includes a reference to the death of a person who dies while he is a civil servant.

- (3) For the purposes of this Act no person shall be deemed to have served in the permanent civil service unless he holds his appointment directly from the Crown or has been admitted into the civil service with a certificate from the Civil Service Commissioners.
- (4) For the purposes of pensions and other superannuation benefits—
- (a) service in an established capacity—
 - (i) in employment of any of the kinds listed in Schedule 8 to this Act, or
 - (ii) in the office of Falkland Macer,
 shall, where the person in question has been admitted into that employment, or as the case may be has been appointed to the said office, with a certificate from the Civil Service Commissioners, be treated as service in the permanent civil service within the meaning of subsection (3) of this section, and
 - (b) service in the employment of any of the said kinds, or in the said office, in any other case shall be treated as service in the civil service, not falling within the said subsection (3).
- (5) The Treasury may by order add any employment to those listed in the said Schedule, being employment by a body or in an institution specified in the order.
- (6) The references in section 12 of this Act to a public department, the references in section 33 of this Act to a government service, and the references in section 93 of this Act to a government department, shall include references to any of the bodies or institutions listed in the said Schedule or, as the case may be, to the service provided by any of those bodies or institutions.
- (7) Section 46(1)(b) of this Act shall, notwithstanding subsection (3)(d) of that section, include employment of any of the kinds listed in the said Schedule.
- (8) References in this section to employment of the kinds listed in the said Schedule are references, in the case of any institution specified in that Schedule, to employment by the trustees or other authority responsible for the institution, and, in other cases, references to employment by the body specified in the Schedule.
- (9) Subsections (4) to (8) of this section shall be deemed always to have had effect, and any order of the Treasury under this section may be expressed to have effect retrospectively.

99 Further provisions as to interpretation.

- (1) In this Act, except so far as is otherwise expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
- " additional allowance " means an allowance granted under section 3 of this Act;

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" brother " includes, in relation to a person, every male child of his father or his mother ;

" child ", in relation to a person, includes an illegitimate child, a stepchild and an adopted child;

" compensation allowance " means an allowance under section 8 of this Act;

" father " includes, in relation to a person, his stepfather and a male person by whom he has been adopted;

" gratuity " means a gratuity granted under any provision of this Act;

" medical certificate ", in relation to the retirement of any person, means a medical certificate to the satisfaction of the Treasury that that person is incapable from infirmity of mind or body to discharge the duties of his situation and that that infirmity is likely to be permanent;

" mother " includes, in relation to a person, his stepmother and a female person by whom he has been adopted;

" presumptively eligible for a life pension ", in relation to a person, means nominated under Part IV of this Act after his period of childhood and full-time education or under a nomination which states that he is permanently incapacitated;

" reckonable service " means service as computed in accordance with the enactments relating to the computation of service for the purpose of determining the amount of a superannuation allowance or additional allowance ;

" retiring age " means, in relation to a civil servant, the age which a civil servant in accordance with the provisions of this Act must, apart from sections 7 and 10 of this Act, attain in order that a superannuation allowance may be granted to him on retirement without a medical certificate ;

" retiring allowance " means an allowance under section 9 of this Act;

" sister " includes, in relation to a person, every female child of his father or his mother;

" superannuation allowance " means an allowance under section 1 of this Act

" unestablished capacity " means employment in the civil service otherwise than in the capacity of a civil servant, being employment to which a person serving therein is required to devote his whole time and the remuneration for which is paid entirely out of moneys provided by Parliament or the Post Office Fund.

- (2) Any reference in this Act to an adopted child of a person shall be construed as a reference to a child adopted by him (whether alone or jointly with any other person) in pursuance of an adoption order made under the Adoption of Children Act 1926, the Adoption Act 1950, the Adoption Act 1958, or the Adoption of Children (Scotland) Act 1930, or any corresponding enactment of the Parliament of Northern Ireland, or adopted by him (whether alone or jointly with any other person) in accordance with the law of the place where he was domiciled at the time of the adoption, and references to a person by whom another person has been adopted shall be construed accordingly.
- (3) In this Act " incapacitated " means, in relation to a person, incapable by reason of old age or some specific bodily or mental disability of earning his own living, and a person who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this Act if it appears that, by reason of any specific bodily or mental

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disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so.

- (4) Any reference in this Act to any enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment.

100 Act not to apply to naval, etc., service pensions.

Nothing in this Act with respect to superannuation, compensation or other allowances shall extend or be construed to extend to any naval, military or air force service retired pay, service pension or service gratuity.

101 Act not to apply to existing Irish officers.

- (1) This Act shall not apply to any existing Irish officers.
- (2) In this section " existing Irish officers " has the same meaning as in the Government of Ireland Act 1920.

102 Application of Superannuation Acts by Superannuation Act (Northern Ireland) 1921.

It is hereby declared that nothing in the Superannuation Acts 1834 to 1965 passed since the Superannuation Act (Northern Ireland) 1921, and nothing in the repeals in this Act or in any other provision of this Act (except the power in section 38 to amend enactments forming part of the law of any part of the United Kingdom) affects the Superannuation Acts 1834 to 1914 as applied by the said Superannuation Act (Northern Ireland) 1921.

103 Consequential amendment of Acts.

The enactments specified in Schedule 9 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

104 Savings, transitional provisions and repeals.

- (1) The savings and transitional provisions contained in Schedule 10 to this Act shall have effect.
- (2) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

105 Saving for s, 38 of Interpretation Act 1889.

The inclusion in this Act of any express saving, transitional provision or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

106 Short title and commencement.

This Act may be cited as the Superannuation Act 1965 and shall come into force at the expiration of a period of one month beginning with the date on which it is passed.