



Superannuation Act 1972

1972 CHAPTER 11

Provisions ancillary to sections 7 to 10

11 Statement of case by Secretary of State.

- (1) Where under any regulations made under section 7, 9 or 10 of this Act, in its application to England and Wales, any question falls to be determined by the Secretary of State, then, at any time before the question is determined, the Secretary of State may (and if so directed by the High Court shall) state in the form of a special case for determination by the High Court any question of law arising out of the question which falls to be determined by him; and where such a case is so stated, an appeal to the Court of Appeal from the determination by the High Court shall lie only with the leave of the High Court or of the Court of Appeal.
- (2) Where under any regulations made under section 7, 9 or 10 of this Act, in its application to Scotland, any question falls to be determined by the Secretary of State, then, at any time before the question is determined, the Secretary of State may (and if so directed by the Court of Session shall) state a case for the opinion of that Court on any question of law arising out of the question which falls to be determined by him; and subject to any rules of court, the Secretary of State shall be entitled to appear and be heard when the case is being considered by the Court.

Modifications etc. (not altering text)

- C1** Ss. 7-10, 11(2), 12, 15(5), 16, 24: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, Sch. 1 (with art. 7); S.I. 1998/3178, art. 3

12 Further provisions as to regulations.

- (1) Any regulations made under section 7, 8(2), 9 or 10 of this Act may be framed so as to have effect as from a date earlier than the making of the regulations.
- (2) Subject to subsection (4) below, any regulations made under section 7, 9 or 10 of this Act may be framed—

Changes to legislation: There are currently no known outstanding effects for the Superannuation Act 1972, Cross Heading: Provisions ancillary to sections 7 to 10. (See end of Document for details)

- (a) so as to apply in relation to the pensions which are being paid or may become payable under the regulations to or in respect of persons who, having served in an employment or office service in which qualifies persons to participate in the benefits for which the regulations provide, have ceased to serve therein [^{F1}(whether or not they have subsequently recommenced any such service)] or died before the regulations come into operation; or
- (b) so as to require or authorise the payment of pensions to or in respect of such persons.
- (3) Subsection (2) above shall apply in relation to regulations under the said section 7, being regulations made by virtue of section 8(3) of this Act, as if for the first two references to those regulations in paragraph (a) there were substituted references to the local Act scheme affected by the regulations.
- (4) No provision shall be made by any regulations by virtue of subsection (2) above unless any person who is placed in a worse position than he would have been in if the provision had not applied in relation to any pension which is being paid or may become payable to him is by the regulations given an opportunity to elect that the provision shall not so apply [^{F2}in relation to that pension except as provided by subsection (4A) below.]
- [^{F3}(4A) If, at the coming into force of the provision mentioned in subsection (4) above, a person who makes such an election as is mentioned in that subsection is serving in an employment or office to which the regulations governing the pension apply, or if he subsequently recommences service in such an employment or office, then—
- (a) the election shall have effect in relation to the pension only to the extent that it accrues or has accrued—
- (i) by virtue of periods of service rendered before the cessation referred to in subsection (2) above (or, if there has been more than one such cessation, the last of them before the coming into force of the provision in question); or
- (ii) by virtue of contributions paid in respect of any such periods of service; and
- (b) in determining entitlement to, or the amount of, the pension to that extent, he shall (without prejudice to the application of this subsection) be treated as if he had never recommended service in such an employment or office at any time after the cessation referred to in paragraph (a) above;
- and the provision in question shall apply accordingly.]
- (5) In the foregoing provisions of this section “pension” includes allowance and gratuity.
- (6) Regulations made under section 7, 8, 9 or 10 of this Act shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** Words inserted by [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7, SIF 101A:3\), s. 10\(1\)](#)
- F2** Words added by [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7, SIF 101A:3\), s. 10\(2\)](#)
- F3** [S. 12\(4A\)](#) inserted by [Pensions \(Miscellaneous Provisions\) Act 1990 \(c. 7, SIF 101A:3\), s. 10\(3\)](#)

Changes to legislation: *There are currently no known outstanding effects for the Superannuation Act 1972, Cross Heading: Provisions ancillary to sections 7 to 10. (See end of Document for details)*

Modifications etc. (not altering text)

- C2** Ss. 7-10, 11(2), 12, 15(5), 16, 24: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**
- C3** S. 12: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** Table H1

Changes to legislation:

There are currently no known outstanding effects for the Superannuation Act 1972, Cross
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