



# Social Security Pensions Act 1975

## 1975 CHAPTER 60

### PART V

#### GENERAL

#### **60 Determination of questions**

- (1) The questions to which section 93(1) of the principal Act applies (questions for determination by the Secretary of State) shall include—
  - (a) any question as to which surpluses are to be taken into account under section 6(2) above ;
  - (b) any question as to the amount of a person's guaranteed minimum for the purposes of section 33 or 36 above;
  - (c) any question whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium.
- (2) Any question arising under this Act 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 Occupational Pensions Board and determined by that Board.
- (3) Neither the said section 93(1) nor section 98(1) of the principal Act (questions for determination by insurance officers) shall apply to any such question as is mentioned in subsection (2) above.
- (4) Section 86(1) of the Social Security Act 1973 (references and appeals from Occupational Pensions Board) shall apply to—
  - (a) any matter which under subsection (2) above falls to be determined by that Board ; and
  - (b) any matter arising under Part III or IV of this Act for determination by the Board.

## **61 Consultation about regulations**

- (1) Section 139(1) of the principal Act (duty to consult National Insurance Advisory Committee about proposed regulations) shall not apply to—
  - (a) regulations under section 1 above or contained in a statutory instrument which states that it contains only regulations to make provision consequential on regulations under that section;
  - (b) regulations prescribing the maximum mentioned in section 9(3) above;
  - (c) regulations contained in a statutory instrument which states that it contains only regulations to make provision consequential on the making of an order under section 21 above;
  - (d) regulations made for the purposes of Part III or IV of this Act;
  - (e) regulations made before the beginning of the first tax year for which lower and upper earnings limits are specified under section 1 above where the statutory instrument containing the regulations states that they only make provision consequential on the passing of this Act;
  - (f) regulations made before the end of the year mentioned in paragraph (e) above under section 3 above or 63 below.
- (2) Where the Secretary of State proposes to make any regulations for the purposes of Part III or IV of this Act (other than regulations prescribing actuarial tables or regulations to be made before the expiration of six months after the passing of this Act) he shall refer the proposals, in the form of draft regulations or otherwise, to the Occupational Pensions Board.
- (3) The Board shall consider any proposals referred to them under subsection (2) above 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; and if after receiving the Board's report 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.
- (4) In relation to regulations required or authorised to be made by the Secretary of State in conjunction with the Treasury, any reference in this section to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.
- (5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of subsection (3) above shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement referred to in that subsection are laid before that House not later than the second day on which the House sits after the laying of the regulations.

## **62 Other provisions about regulations and orders**

- (1) Section 167 of the principal Act shall have effect as if subsection (1) (regulations and orders subject to affirmative procedure) included regulations made wholly or partly by virtue of—

- (a) paragraph 5(6) or (7) of Schedule 3 to that Act (contribution conditions for Category A and B retirement pensions, widowed mother's allowance and widow's pension); or
  - (b) section 3 or 9(3) above.
- (2) Subsection (3) of the said section 167 (regulations and orders subject to annulment) shall not apply to any order which under any provision of this Act is required to be approved in draft or to be laid before Parliament after being made.
- (3) Section 166(1) of the principal Act (power to make orders to be exercisable by statutory instrument) shall not apply to any power of the Occupational Pensions Board to make orders under this Act.
- (4) Where any provision of Part III or IV of this Act allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Secretary of State, any regulations made by virtue of that provision may provide for those matters to be dealt with by the Occupational Pensions 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 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.

## **63 Transitional provisions**

- (1) Regulations may make provision for any transitional matter connected with the coming into force of this Act.
- (2) Without prejudice to the generality of subsection (1) above, regulations may in particular—
- (a) make provision whereby a contribution paid or credited before (or in respect of a period before) commencement is treated, for the purposes of entitlement to or the calculation of any benefit, as having been paid or credited at a specified time or in respect of earnings of a specified amount;
  - (b) make provision whereby a person who has satisfied any contribution condition before commencement is treated as having satisfied any contribution condition having effect by virtue of this Act;
  - (c) modify any contribution condition in cases where the period in relation to which it is to be satisfied begins before and ends after commencement;
  - (d) modify any provision of this Act in relation to persons who have attained the age of 16 before commencement;
  - (e) make provision with respect to the operation of Schedule 1 to this Act in relation to persons who have attained pensionable age before commencement but have not then retired from regular employment;
  - (f) make provision for effecting orderly transition between Part III of the National Insurance Act 1965 and Part III of this Act, including provision modifying for that purpose any provision of those Parts ;
  - (g) make provision for enabling the Occupational Pensions Board to issue contracting-out certificates on the basis of such undertakings and information as may be prescribed;
  - (h) make provision for the preservation of rights under any provision repealed or modified by this Act or otherwise for securing continuity between any such provision and any provision of this Act.

- (3) In subsection (2) above " commencement" means the time of the coming into force of any provision of this Act specified in the regulations in question.

#### **64 Expenses and receipts**

- (1) There shall be paid out of moneys provided by Parliament—
- (a) any expenses of the Secretary of State or any other government department under this Act;
  - (b) any increase attributable to this Act in the sums falling to be paid out of moneys so provided under any other Act.
- (2) Subsection (5) of section 135 of the principal Act (reimbursement of expenses out of the National Insurance Fund) shall have effect in relation to the expenses mentioned in paragraph (a) of subsection (1) above as it has effect in relation to the expenses mentioned in subsection (3)(a) of that section; and as respects any increase attributable to this Act in the expenses mentioned in the said subsection (3)(a), subsection (1)(b) above shall have effect subject to the said subsection (5).
- (3) Any state scheme premium received by the Secretary of State under this Act shall be paid by him into the National Insurance Fund.

#### **65 Amendments of enactments; repeals**

- (1) The enactments mentioned in Part I of Schedule 4 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act and otherwise required in connection with those provisions.
- (2) The enactments mentioned in Part II of Schedule 4 to this Act shall have effect, and be deemed always to have had effect, with the amendments there specified, being amendments required for the correction in certain minor respects of the social security consolidation Acts passed in March 1975 ; and paragraph 1 of Schedule 5 to the Social Security Benefits Act 1975 (commencement orders) shall be deemed not to have been repealed.
- (3) The enactments mentioned in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Without prejudice to any provision made by Schedule 4 to this Act, references in any enactment to benefit under the principal Act shall, except where the context otherwise requires, be construed as including references to benefit under Part II of this Act.
- (5) The Secretary of State may, with the consent of the Minister for the Civil Service, make payments to the chairman and members of the Reserve Pension Board in consequence of its abolition by this Act.

#### **66 Interpretation**

- (1) In this Act—
- " accrued rights " has the meaning given in section 38 above;
  - " guaranteed minimum pension " has the meaning given in section 26 above;
  - " linked qualifying service " shall be construed in accordance with section 38(4) above ;

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*Status: This is the original version (as it was originally enacted).*

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" long-term benefit " means a Category A or Category B retirement pension, a widowed mother's allowance, a widow's pension or an invalidity pension ;

" normal pension age ", in relation to a member of an occupational pension scheme, means the earliest age at which that member can become entitled to receive a pension under the scheme apart from any special provision as to early retirement on grounds of ill-health or otherwise;

" 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;

" the principal Act " means the Social Security Act 1975 ;

" 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—

- (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 prescribed by regulations made by the Secretary of State and the Minister for the Civil Service 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;

" qualifying earnings factor " has the meaning given in section 5(3) above;

" requisite benefits " has the meaning given in section 26 above;

" resources ", in relation to an occupational pension scheme, means the funds out of which the benefits provided by the scheme (whether requisite benefits or other benefits) 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;

" transfer credits " has the meaning given in section 38 above.

- (2) Except as respects commencement and extent, and subject to sections 61 and 62 above, this Act and the principal Act shall have effect as if the provisions of this Act other than section 59 were contained in that Act; and for that purpose—
  - (a) Part I and sections 27 and 28 of this Act shall be treated as included in Part I of that Act (contributions); and
  - (b) Part II (except section 22) and section 29 of this Act shall be treated as included in Chapter I of Part II of that Act (contributory benefits).
- (3) References in Parts III and IV of this Act to employers are to be treated, in relation to persons within the application of an occupational pension scheme and qualifying or prospectively qualifying 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 Parts of this Act; and, subject to any such regulations, references in those Parts to an employer 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

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- (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 Parts III and IV of this Act, 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) Regulations may for any purpose of Parts III and IV of this Act prescribe persons who, in the case of any scheme of any prescribed category, are to be regarded as the trustees or managers of a scheme of that category.
- (6) Except where the context otherwise requires, references in this Act to any Part of it include references to any Schedule having effect by virtue of any provision in that Part.
- (7) Any reference in this Act to another 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, including an enactment contained in this Act.

## **67 Commencement**

- (1) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (2) Without prejudice to subsection (1) above there may by an order under this section be appointed different days for the coming into force of section 22 of this Act, and of other provisions of this Act relevant to the operation of that section, in relation to persons of different age groups.
- (3) An order under this section may make such transitional provision or savings as appear to the Secretary of State to be necessary or expedient in connection with provisions of this Act which are thereby brought (wholly or partly) into force, and may make such adaptations of those provisions or of any provisions of this Act then in force as appear to the Secretary of State to be necessary or expedient in consequence of the partly postponed or postponed operation of any provision of this Act.
- (4) The power to make an order under this section includes power to vary or revoke a previous order; and any statutory instrument containing such an order shall be laid before Parliament after being made.

## **68 Short title, citation and extent**

- (1) This Act may be cited as the Social Security Pensions Act 1975.
- (2) The Social Security Act 1975 and this Act may be cited together as the Social Security Acts 1975.
- (3) The following provisions of this Act have the same extent as the Pensions (Increase) Act 1971—
  - (a) section 59 ;
  - (b) paragraph 18 of Schedule 4 ;
  - (c) Schedule 5, so far as it repeals provisions of that Act.

(4) Section 57 of this Act extends to Northern Ireland; and this Act extends to Northern Ireland so far as it—

- (a) amends sections 66, 67(4) and 89 of, and Schedule 17 to, the Social Security Act 1973 ;
- (b) amends section 99(1) of that Act by inserting definitions of " the Pensions Act " and " state scheme premium " ;
- (c) repeals Part III and section 89(3)(c) and (4) of that Act, and Schedules 18 to 20 to that Act;
- (d) by section 65(2) and Part II of Schedule 4 amends the Social Security (Northern Ireland) Act 1975 and the Social Security (Consequential Provisions) Act 1975 and reinstates paragraph 1 of Schedule 5 to the Social Security Benefits Act 1975 ;
- (e) repeals paragraphs 47 and (in part) 58 of Schedule 2 to the Social Security (Consequential Provisions) Act 1975;
- (f) amends or repeals provisions of the Income and Corporation Taxes Act 1970 ;
- (g) amends provisions of the Finance Act 1971 ;
- (h) repeals provisions of the Public Records Act 1958, the Superannuation Act 1972, the Parliamentary and other Pensions Act 1972, the Pensions (Increase) Act 1974 and the House of Commons Disqualification Act 1975 ;

but subject to the foregoing provisions of this subsection and to subsection (3) above, this Act does not extend to Northern Ireland.