



# Superannuation Act 1965

## 1965 CHAPTER 74

### PART I

#### SUPERANNUATION BENEFITS

*Service in civil service preceded or followed by  
service in other public office or approved employment.*

#### **38 Employment in more than one public office.**

- (1) The Treasury may make rules with respect to the superannuation benefits payable to or in respect of persons who have been employed in more than one public office.
- (2) Rules under this section may in particular in relation to such persons—
  - (a) modify this Act and any other enactments forming part of the law of the United Kingdom or any part thereof or of the Isle of Man which are for the time being in force and under which pensions are payable in respect of employment in a public office,
  - (b) apply the provisions of this Act, with or without modifications, in substitution for any other enactments forming part of the law of the United Kingdom or any part thereof or of the Isle of Man, notwithstanding that this Act is not otherwise applicable in relation to any of those public offices,
  - (c) make provisions as to the manner in which any pensions are to be defrayed, and in particular make provision for the payment of a transfer value by one pension authority to another, including the payment of a transfer value out of the Exchequer,
  - (d) define the kinds of public offices which are to be treated for the purposes of the rules as different public offices,

and rules under this section may include such supplemental and incidental provisions as appear to the Treasury to be expedient.

- (3) Rules under this section may provide either for separate pensions under the respective enactments relating to the different employments or for a single pension under the

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enactments relating to the later or latest employment (or by virtue of subsection (2)(b) of this section under this Act) or employ partly the one method and partly the other:

Provided that if the rules provide for separate pensions in relation to different public offices the rules shall not modify this Act or any other enactments so as to include as reckonable service in computing one of the separate pensions service in a public office in respect of which another of those separate pensions is payable.

- (4) Rules under this section may be so framed as to apply to persons ceasing to be employed in one public office and becoming employed in another notwithstanding that the cessation of the first employment or the commencement of the second employment was before the date of the making of the rules:

Provided that no rules shall be framed so as to apply when the cessation of the first employment took place before the making of the rules unless the rules are only to apply with the consent of the person ceasing to be employed, or that person is by the rules given an opportunity to elect that they shall not apply to him.

- (5) If the application of the rules in force under this section would put a particular individual in a position less advantageous than that in which he would have been if the rules did not apply in relation to him, they shall not be so applied.
- (6) In this section " pension ", in relation to any person, means a pension of any kind whatsoever payable to or in respect of him, and includes a lump sum or gratuity so payable.

### **39 Meaning of " public office " and supplementary provisions.**

- (1) In the last foregoing section references to employment in a public office shall be construed as references to employment of the following kinds, and " public office " shall be construed accordingly,—

1. Employment in the civil service (whether or not in an established capacity).
2. Employment in any other capacity remunerated out of moneys provided by Parliament or the Consolidated Fund or the Post Office Fund or the revenue of the Isle of Man, but not including employment in the armed forces of the Crown.
3. Subject to subsection (5) of this section, employment in the civil service of the Government of Northern Ireland (whether or not in an established capacity).
4. Subject to subsection (5) of this section, employment in any other capacity remunerated out of moneys provided by the Parliament of Northern Ireland or the Consolidated Fund of Northern Ireland.
5. Employment in the civil service of the government of any colony, or of any country or place outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction, or of any territory consisting partly of one or more colonies and partly of one or more such countries or places.
6. Employment as an officer to whom the Overseas Service Act 1958 applies (if not employment within any of the other paragraphs in this subsection).
7. Employment which is remunerated out of any of the following funds, or out of the revenues of any of the following bodies—
  - The Agricultural Research Council.
  - The Church Commissioners. The Crown Agents for Oversea Governments and Administrations.
  - The Development Fund. The Forestry Fund.

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The funds of the Branches of the Royal Mint at Melbourne and Perth.  
The General Lighthouse Fund.  
The Greenwich Hospital Fund.  
The land revenues managed by the Crown Estate Commissioners.  
The Metropolitan Police Fund.  
The Nature Conservancy.  
The Overseas Audit Department.

- (2) The Treasury may by order—
- (a) designate any employment as employment in a public office for the purposes of this section, and
  - (b) add to, amend or repeal any of the provisions of subsection (1) of this section, and an order under this subsection—
    - (i) may include transitional and other supplemental provisions, and
    - (ii) may vary or revoke a previous order made under this subsection.
- (3) The last foregoing section and this section shall have effect subject to the transitional provisions in paragraphs 10 and 11 of Schedule 10 to this Act.
- (4) For the purposes of section 6 of the Government of Ireland Act 1920 (conflict of laws) the last foregoing section and this section shall be deemed to be contained in an Act passed before the day appointed for the purposes of the said section 6.
- (5) Rules in force under the last foregoing section shall not apply in relation to any person if the only public offices in which he has been employed have been employments in a capacity remunerated out of moneys provided by the Parliament of Northern Ireland or the Consolidated Fund of Northern Ireland.
- (6) Nothing in this or the last foregoing section shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of those sections until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament.

#### **40 Power to grant allowances to civil servants transferred to approved employment.**

- (1) Where any person who, on ceasing to be a civil servant, was transferred to approved employment with the consent of the head officer of his department, retires from that employment under conditions which would have entitled him to any superannuation allowance, additional allowance or gratuity had he continued to be employed as a civil servant, and to be so employed in service in the United Kingdom, then, if the head officer of the department in which he was serving at the date of the transfer makes a recommendation to that effect, the Treasury may grant to him such superannuation allowance, additional allowance or gratuity as might have been granted to him if, at the date of the transfer, he had retired from the civil service on the ground of ill-health.

In this section " approved employment " means employment, whether within or without Her Majesty's dominions (not being employment in a public office within the meaning of section 38 of this Act service in which qualifies for the grant of a superannuation allowance), which is recognised by the head officer of the department in which the civil servant was serving at the date of the transfer, and by the Treasury, as being employment to which it is expedient that the provisions of this subsection should apply.

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- (2) Where any person who, on ceasing to be a civil servant, was transferred to approved employment with the consent of the head officer of his department, retires from that employment on the ground of age before attaining the age of sixty years and is, on such retirement, qualified for, or entitled to, the benefits of any system of superannuation applicable to the approved employment, the Treasury may either—
- (a) grant to him on his attaining the age of sixty years, such superannuation allowance, additional allowance or gratuity as might be granted to him under subsection (1) of this section, or
  - (b) grant to him, within six months after the date of his retirement from the approved employment (if requested by him to do so) such superannuation allowance, additional allowance or gratuity as the Treasury consider to be actuarially equivalent, at the said date, to the superannuation allowance, additional allowance or gratuity, as the case may be, which might be granted to him under the said subsection (1).
- (3) The foregoing provisions of this section shall apply to a person who, after being transferred from the civil service to approved employment, is with the consent of the Treasury transferred to one or more subsequent employments recognised by the Treasury as being employments to which it is expedient that the provisions of subsection (1) of this section should apply, subject to the following adaptations, that is to say—
- (a) references to retirement from the approved employment, and to a system of superannuation applicable to the approved employment, shall be construed respectively as references to retirement from the latest employment recognised as aforesaid and to a system of superannuation applicable to that employment, and
  - (b) any reference in subsection (1) of this section to the transfer shall be construed as a reference to the transfer from employment as a civil servant.

#### **41 Power to grant death gratuity in respect of civil servants transferred to approved employment.**

- (1) Where any person who, on ceasing to be a civil servant, was transferred to approved employment with the consent of the head officer of his department dies while in that employment, the Treasury may grant to his personal representatives such gratuity, if any, as might have been granted to them if he had died on the day before the day of the transfer, after deducting therefrom the total amount of any sums paid or payable, under any system of superannuation applicable to the approved employment, in respect of his death.
- (2) Where any person who, after having served as a civil servant for not less than five years, was transferred to approved employment with the consent of the head officer of his department, dies after retiring from that employment in circumstances which qualified him for the grant of a superannuation allowance and an additional allowance under the last foregoing section, then if—
- (a) no provision is made, under any system of superannuation applicable to the approved employment, for the grant of pensions to widows or dependants of persons who die after retiring from that employment, and
  - (b) the sums paid or payable to him at the time of his death on account of the said superannuation allowance and additional allowance, together with any sums paid or payable to him, his personal representatives and his widow or dependants under such a system of superannuation, are less than the

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annual amount of salary and emoluments upon which the said superannuation allowance and additional allowance have been computed,  
the Treasury may grant to his personal representatives a gratuity equal to the difference.

- (3) The foregoing provisions of this section shall apply to any person who, after being transferred from the civil service to approved employment, is with the consent of the Treasury transferred to one or more subsequent employments recognised by the Treasury as being employments to which it is expedient that section 40(1) of this Act should apply, subject to the following adaptations, that is to say,—
- (a) references to dying while in the approved employment, and to a system of superannuation applicable to the approved employment, shall be construed respectively as references to dying while in the latest employment recognised as aforesaid and to a system of superannuation applicable to that employment, and
  - (b) the reference in subsection (1) of this section to the transfer shall be construed as a reference to the transfer from employment as a civil servant.
- (4) The foregoing provisions of this section shall not apply in relation to any person who was transferred to approved employment before 27th June 1935.
- (5) In this section " approved employment " has the same meaning as in the last foregoing section.

**42 Application of certain provisions of Act to persons employed in public office, etc. or approved employment.**

- (1) The provisions of this Act specified in subsection (3) of this section shall, in relation to persons who, whether before or after they are civil servants, serve in a public office (not in the civil service) within the meaning of section 38 of this Act, or as members of a police force within the meaning of the Police Pensions Act 1948, or in service by virtue of which they are deemed for the purposes of that Act to be members of such a force, or who, having been civil servants, become Governors within the meaning of the Governors' Pensions Act 1957, have effect subject to such adaptations and modifications as may be prescribed by rules made by the Treasury; and where rules are made under this subsection, they may contain provisions modifying, in relation to the persons affected by the rules, any other enactment relating to the pensions and other benefits payable to or in respect of them.
- (2) The provisions of this Act specified in subsection (3) of this section shall, in relation to persons who, having ceased to be civil servants, are employed in approved employment within the meaning of section 40 of this Act, have effect subject to such adaptations and modifications as may be prescribed by rules made by the Treasury, and rules made under this subsection may contain such provisions for modifying sections 40 and 41 of this Act as appear to the Treasury to be equitable having regard to the provisions of this Act specified in the said subsection (3), as modified by rules made under this subsection.
- (3) The provisions of this Act referred to in subsections (1) and (2) 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, 43, 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.