



Social Security Pensions Act 1975

1975 CHAPTER 60

PART IV

OCCUPATIONAL PENSIONS

Equal access to occupational pension schemes

53 Equal access requirements

- (1) The provisions of sections 54 to 56 below shall have effect with a view to securing that the rules of occupational pension schemes conform with the equal access requirements.
- (2) Subject to subsection (3) below, the equal access requirements in relation to a scheme are that membership of the scheme is open to both men and women on terms which are the same as to the age and length of service needed for becoming a member and as to whether membership is voluntary or obligatory.
- (3) Regulations may—
 - (a) 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;
 - (b) modify those requirements in any manner which he thinks appropriate with a view to securing the orderly implementation of the provisions of sections 54 to 56 below and to obtaining general compliance with those provisions.
- (4) 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 the rule does not provide for the discretion to be exercised in any discriminatory manner as between men and women,
- (5) This section and sections 54 to 56 below shall have effect in relation to any occupational pension scheme which is in force on, or comes into force after, the day on

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which this section comes into operation, being a scheme whose resources are derived as mentioned in section 40(1) above.

- (6) Regulations may make provision—
- (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.
- (7) A reference in this section to terms of employment includes (where the context permits)—
- (a) any collective agreement or pay structure ;
 - (b) a wages regulation order within section 4 of the Equal Pay Act 1970 ; and
 - (c) an agricultural wages order within section 5 of that Act.

54 Duty to bring schemes into conformity with equal access requirements

- (1) Where the rules of an occupational pension scheme do not comply with the equal access requirements it shall be the responsibility of—
- (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.
- (2) The Occupational Pensions Board may at any time, and shall if requested by any such persons as are mentioned in subsection (1) above, advise whether the rules of a scheme do or do not in the Board's opinion conform with the equal access requirements and, 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.

55 Determination of questions whether scheme conforms with equal access requirements

- (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination as to whether or not the rules of the scheme conform with the equal access requirements.
- (2) The persons competent to make an application under this section 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;
 - (c) any person who is an employer of persons in service in an employment to which the scheme applies ;
 - (d) any member or prospective member of the scheme ;

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- (e) 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.
- (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 an application to them under subsection (1) above; and this subsection applies in particular to a scheme which the Board are considering with a view to contracting-out and one in respect of which an application has been made to them under section 64 of the Social Security Act 1973 for an order authorising the modification of the scheme or modifying it.
- (4) 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 the Occupational Pensions Board and determined by that Board.
- (5) At any time when the Occupational Pensions Board are concerned with a scheme for the purpose of issuing a determination under this section, they may include a determination (whether or not applied for) as to any of the particular matters specified in subsection (2) of section 53 above or in that subsection as modified by regulations under subsection (3) of that section.

56 Modification of schemes to secure conformity

- (1) If the Occupational Pensions Board determine under section 55 above that the rules of a scheme do not conform with the equal access requirements they shall, either at the time of issuing their determination or as soon thereafter as they think expedient—
 - (a) by order direct the trustees or managers of the scheme, or any such persons as are referred to in subsection (2)(b) of that section, to exercise such powers as they possess for modifying the scheme with a view to bringing it into conformity with those requirements (for which purpose the Board shall include 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 (who may in particular include such an employer as is specified in subsection (2)(c) of that section) to make that modification; or
 - (c) themselves by order modify the scheme with a view to achieving the purposes above-mentioned.
- (2) The Board may exercise their powers under subsection (1) above from time to time in relation to any scheme in respect of which they have issued a determination under section 55 above, and may exercise the powers together or separately.
- (3) Any modification of a scheme made in pursuance of an order of the Board under subsection (1)(b) or (c) above shall be as effective in law as if it had been made under powers conferred by or under the scheme; and such an order 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 ;

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- (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.
- (4) An order of the Board under subsection (1)(a) above may require persons to exercise a power retrospectively (whether or not the power could otherwise be so exercised), and an order under subsection (1)(b) or (c) may operate retrospectively; and in this subsection "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, not being in either case a date earlier than the coming into operation of this section.
- (5) In section 64(3) of the Social Security Act 1973 (which confers power to modify schemes for various purposes) after paragraph (d) there shall be inserted—
 - “(dd) to comply with the equal access requirements specified in section 53 of the Pensions Act but without prejudice to anything in section 56 of that Act.”.