



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.”.

Other provisions

57 Disclosure of information by Occupational Pensions Board

The Occupational Pensions Board may inform any person claiming to be entitled to a pension under an occupational pension scheme of the name and address of any person appearing to the Board to be responsible for paying that pension notwithstanding that information with respect to that matter has come into the Board's possession by virtue of section 89 of the Social Security Act 1973 (disclosure to Board of information obtained by Commissioners of Inland Revenue).

58 Priority in bankruptcy etc.

Schedule 3 to this Act shall have effect for affording priority in cases of insolvency to liabilities in respect of contributions to occupational pension schemes and in respect of state scheme premiums.

59 Increase of official pensions

- (1) Where by virtue of section 23 above a direction is given that the sums mentioned in subsection (1)(b) of that section are to be increased by a specified percentage the Minister for the Civil Service shall by order provide that the annual rate of an official pension may, if a qualifying condition is satisfied or the pension is a widow's pension, be increased in respect of any period beginning on or after the date on which the direction takes effect—
- (a) if the pension began before the beginning of the base period for that direction, by the same percentage as that specified in the direction:
- (b) if the pension began during the base period, by that percentage multiplied by

$$\frac{A}{B}$$

where A is the number of complete months in the period between the beginning of the pension and the end of the base period and B is the number of complete months in the base period.

- (2) Where an order is made under this section in consequence of any such direction as aforesaid the order shall, in addition to the provision required by subsection (1) above, authorise the payment of an increase in respect of any lump sum that becomes payable during the base period for that direction, being an increase equal to the percentage specified in the direction multiplied by

$$\frac{A}{B}$$

where—

- (a) A is the number of complete months in the period between the beginning date for the lump sum (or, if later, the date from which it was last authorised to be increased by an order Under this section) and the date on which it becomes payable ; and
- (b) B is the number of complete months in that base period.
- (3) In the case of the first order made under this section in consequence of any such direction as aforesaid, subsection (1) above shall have effect as if the increase required to be authorised in the case of any pension (whether beginning before or during the base period) were an increase equal to the percentage specified in the direction multiplied by

$$\frac{A}{B}$$

where—

- (a) A is the number of complete months in the« period between the beginning of the pension (or, if later, the date from which it was last authorised to be increased by an order under section 2 of the Pensions (Increase) Act 1971) and the end of the base period for that direction; and
- (b) B is the number of complete months in that base period.
- (4) In the case of the first order so made under this section, subsection (2) above shall have effect as if—
- (a) for the reference to any lump sum that becomes pay able during the base period there were substituted a reference to any lump sum that becomes or has become payable before the end of the base period but after the date from which official pensions were last increased by an order under section 2 of the Pensions (Increase) Act 1971 ; and
- (b) the reference in paragraph (a) of the subsection to the date from which the lump sum was last authorised to be increased were a reference to the date specified in paragraph (a) above.

- (5) The increases in the rate of a pension that may be provided for by an order under this section are to be calculated by reference to the basic rate of the pension as authorised to be increased by section 1 of the said Act of 1971 or by any order under section 2 of that Act or this section; but where a person is entitled to a guaranteed minimum pension when an order under this section comes into force, the amount by reference to which any increase authorised by that or any subsequent order is to be calculated shall be reduced by an amount equal to the rate of the guaranteed minimum pension.

- (6) Any order under this section shall be made by statutory instrument and shall be laid before Parliament after being made.

- (7) In this section—

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" base period ", in relation to any such direction as is mentioned in subsection (1) above, means the period ending with the coming into force of that direction and beginning with the coming into force of the last previous such direction or, if there was none, with the first day of the second tax year for which lower and upper earnings limits are specified under section 1 above;

" beginning date ", in relation to a lump sum, shall be construed in accordance with sections 8(2) and 9(2)(a) of the said Act of 1971;

" lump sum " includes an instalment of a lump sum;

and this section and the said Act of 1971 shall have effect as if this section were contained in Part I of that Act.