



Superannuation (Miscellaneous Provisions) Act 1948

1948 CHAPTER 33 11 and 12 Geo 6

2 Pensions of persons transferring to different employment.

- (1) Where persons who have been employed in one employment become employed in another employment and either—
- (a) one of the employments is, and the other employment is not, an employment of one of the classes specified in subsection (2) of this section; or
 - (b) one of those employments is of one of those classes and the other employment is of another of those classes,

rules may be made with respect to the pensions payable to and in respect of those persons by the appropriate Minister, or, as the case may be, the appropriate Ministers acting jointly:

Provided that this subsection shall not apply unless either—

- (i) both employments are pensionable employments; or
 - (ii) the first employment is of one of the classes specified in paragraphs (c), (cc), (d) and [F1(ee)] of subsection (2) of this section and the second employment is of such a nature as may be specified in rules to be made by the Minister of Health, or, in relation to Scotland, by the Secretary of State, and is undertaken with the approval of the local authority by which the superannuation fund concerned is maintained.
- (2) The classes of employment referred to in subsection (1) of this section are the following, that is to say—
- [F2(a) employment by virtue of which the person employed is a person to whom section 1 of the ^{M1}Superannuation Act 1972 applies;]
 - (b) . . . ^{F3}
 - [F4(c) employment by virtue of which the person employed is or is deemed to be, or, but for any rules made under this section, would be or be deemed to be, a contributory employee or local Act contributor within the meaning of regulations made under section 7 of the said Act of 1972 in its application to England and Wales;

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- (cc) employment by virtue of which the person employed is, or is deemed to be, or, but for any rules made under this section, would be or be deemed to be a contributory employee or local Act contributor within the meaning of regulations made under the said section 7 in its application to Scotland;]
 - (d) employment (not being such employment as is specified in paragraph (c) of this subsection) by virtue of which the person employed is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme in England or Wales; and
 - [^{F5}(e) employment by virtue of which the person employed is entitled to participate in superannuation benefits provided under regulations made under section 9 of the said Act of 1972 in its application to England and Wales;]
 - [^{F6}(ee) employment by virtue of which the person employed is entitled to participate in superannuation benefits provided under regulations made under the said section 9 in its application to Scotland;]
 - [^{F7}(f) employment as an officer to whom the ^{M2}Overseas Service Act 1958 applies.]
- (3) Where either of the employments in question falls within one of the classes specified in subsection (2) of this section, the appropriate Minister, or, as the case may be, one of the appropriate Ministers, for the purposes of subsection (1) of this section shall be—
- (i) In relation to the class specified in paragraph (a) of the said subsection (2), the Treasury;
 - (ii) . . . ^{F8}
 - (iii) in relation to the class specified in paragraph (c) of the said subsection (2), the Minister of Health [^{F9}and in relation to the class specified in paragraph (cc) thereof] the Secretary of State;
 - (iv) in relation to the class specified in paragraph (d) of the said subsection (2), the Minister of Health;
 - [^{F10}(v) in relation to a class specified in paragraph (e), (ee) or (f) of the said subsection (2), the Secretary of State acting with the consent of the Treasury;]
- and the said subsection (1) shall be construed accordingly.
- (4) Rules made under this section may require the making of the following payments, that is to say—
- (a) where the person who changes his employment has received any payment in respect of his pension rights upon ceasing to be employed in his former employment, payments by that person equal to all or any of the amounts so received [^{F11}with or without interest on those amounts for the whole or any part of the period since he received them];
 - [^{F12}(b) where either of the employments is such an employment as is mentioned in paragraph (a), (e), (ee), or (f) of subsection (2) of this section, payments out of moneys provided by Parliament];
 - (c) . . . ^{F13}
 - (d) . . . ^{F14}
 - (e) where either of the said employments is such an employment as is mentioned in paragraph (c) [^{F15}paragraph (cc)] or paragraph (d) of the said subsection (2), payments by a local authority or out of a superannuation fund maintained by a local authority,

and may provide for any of the said payments, or any payments made in connection with the change of employment otherwise than by virtue of the rules, being made into the Exchequer, . . . ^{F16} to a local authority or into a superannuation fund maintained

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by a local authority; and the payments mentioned in paragraphs (b), . . . ^{F17} (d) and (e) of this subsection may include repayments of contributions, payments of transfer values, payments towards the burden of a pension payable by another person or out of another pension fund, and payments of premiums or other payments directed to the creation or preservation of pension rights of the person in question.

- (5) Any rules under this section may be so framed as to apply to persons ceasing to be employed in one employment 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 or before the date of the passing of this Act, and may vary or provide for the variation of pensions notwithstanding that the pensions have been granted before either of the said dates:

Provided that, subject to the provisions of subsection (7) of this section, 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—

- (a) 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; and
- (b) where the rules provide for payment by a local authority or out of a superannuation fund maintained by a local authority, that authority has consented to the making of the rules or the rules are only to apply with the consent of that authority or that authority is by the rules given an opportunity to elect that they shall not apply.

- (6) Section nine of the ^{M3}Superannuation Act 1935, shall cease to have effect, but any rules made thereunder shall be treated as if they were rules duly made by the appropriate Minister or Ministers under the preceding provisions of this section.

- (7) Paragraph (b) of the proviso to subsection (5) of this section shall not apply to any rules in so far as they vary any rules made under the said section nine or under section fifty-one of the ^{M4}Unemployment Act 1934.

- (8) ^{F18}

[^{F19}(9) For the purposes of this section any person who for the purposes of the ^{M5}Overseas Services Act 1958, is for the time being serving as an officer to whom that Act applies (as defined in subsection (7) of section one of that Act) shall be deemed (whatever his employment) to be employed as an officer to whom that Act applies.]

Textual Amendments

- F1** Words inserted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25 (a)**
- F2** S. 2(2)(a) substituted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25(b)**
- F3** S. 2(2)(b) repealed by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 15(8)(f)**
- F4** S. 2(2)(c)(cc) substituted for s. 2(2)(c) by Superannuation Act 1972 (c. 11), **Sch. 6, para. 25(c)**
- F5** S. 2(2)(e) substituted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25(d)**
- F6** S. 2(2)(ee) substituted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25(e)**
- F7** S. 2(2)(f) added by Overseas Service Act 1958 (c. 14), **Sch. 1**
- F8** S. 2(3)(ii) repealed by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 15(8)(f)**
- F9** Words substituted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25(f)**
- F10** S. 2(3)(v) substituted by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 11(3)**
- F11** Words added by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 11(6)**
- F12** S. 2(4)(b) substituted by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 11(4)**
- F13** S. 2(4)(c) repealed by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 15(8)(f)**

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- F14** S. 2(4)(d) repealed by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 11(4)**
- F15** Words inserted by Superannuation Act 1972 (c. 11), **Sch. 6 para. 25(g)**
- F16** Words repealed by Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (c. 64), **Sch. 6 Pt. II**
- F17** Word repealed by Superannuation (Miscellaneous Provisions) Act 1967 (c. 28), **s. 15(8)(f)**
- F18** S. 2(8) repealed by Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (c. 64), **Sch. 6 Pt. II**
- F19** S. 2(9) added by Overseas Service Act 1958 (c. 14), **Sch. 1**

Modifications etc. (not altering text)

- C1** S. 2 extended by Fire Services Act 1959 (c. 44), **s. 9(1)(2)**
- C2** Functions of Minister of Health now exercisable by Secretary of State: S.I. 1951/753 (1951 I, p. 1354), art. 2(1), 1951/1900 (1951 I, p. 1347) and 1970/1681, art. 2
- C3** S. 2 amended by Parliamentary and other Pensions Act 1987 (c. 45, SIF 89), s. 6, **Sch. 3 para. 1**

Marginal Citations

- M1** 1972 c. 11.
- M2** 1958 c. 14.
- M3** 1935 c. 23.
- M4** 1934 c. 29.
- M5** 1958 c. 14.

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