



# Social Security Act 1973

## 1973 CHAPTER 38

### PART II

#### OCCUPATIONAL PENSION SCHEMES

##### *Recognition*

#### **51 Recognised pensionable employment.**

- (1) Subject to the provisions of this Act, the employment of an earner in employed earner's employment shall be recognised pensionable employment in relation to him during any period in which he is of requisite age and—
  - (a) his service in the employment is for the time being service which qualifies him (on the assumption that it continues for the appropriate period) for the minimum benefits of an occupational pension scheme ; and
  - (b) the scheme is a recognised scheme in relation to that employment; and
  - (c) there is in force a certificate, issued by the Occupational Pensions Board and known as a " recognition certificate ", that the employment is recognised pensionable employment by reference to the scheme.
- (2) For the purposes of this section, an earner is of requisite age at any time after the end of the income tax year in which he attained the age of 21 and before the beginning of the income tax year in which he will attain pensionable age.
- (3) In this Act—
  - (a) " 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; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) " 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—
- (i) all the particulars of which are set out in, or in a legislative instrument made under, an enactment, Royal warrant or charter, or
  - (ii) 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 Part of this Act.
- (4) An occupational pension scheme can be a recognised scheme in relation to an earner's employment only if—
- (a) the resources of the scheme are derived (in whole or in part) either—
    - (i) from payments made or to be made (either under actual or contingent legal obligation or in the exercise of a power conferred, or duty imposed, on a Minister of the Crown, government department or any other person, being a power or duty which extends to the disbursement or allocation of public money) by one or more employers of earners to whom the scheme applies, or
    - (ii) from such other payments by the earner or his employer, or both, as may be prescribed for different categories of schemes ; and
  - (b) it complies in all respects with sections 53 to 60 of this Act in respect of minimum personal and death benefits, and of the other matters mentioned in those sections, or, in such cases or classes of cases as may be prescribed, with those sections as modified by regulations; and
  - (c) it neither contains any provision (operating in relation to minimum benefits, their allowance or computation, or to any rights available in connection with minimum benefits) which by any of those sections is stated to be inadmissible in relation to the minimum benefits of a recognised scheme, nor is subject to the terms of any instrument or agreement containing or implying such a provision; and
  - (d) the rules of the scheme applying to minimum benefits are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of recognised schemes, and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Board as a condition of recognition, either generally or in relation to a particular scheme ; and
  - (e) either it is a public service pension scheme or the Board are satisfied that it complies with regulations prescribing—
    - (i) the means by which the minimum benefits of occupational pension schemes are to be secured (whether irrevocable trust, policy of insurance, annuity contract or other means), and
    - (ii) the conditions which are required by the regulations to be satisfied in relation to any means adopted.
- (5) References in subsection (4)(a) above and in the following provisions of this Part 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

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its benefits, as including references to persons who in relation to them and their employments are treated by regulations as being employers for the purposes of this Part of this Act.

- (6) It is hereby declared that nothing in this section is to be taken—
- (a) to preclude an occupational pension scheme from being so framed as to provide benefits on any ampler scale, or payable at any earlier time, or otherwise more favourable to beneficiaries, than is required for recognition "purposes ;
  - (b) to require a scheme, or any rule contained in a scheme, to comply for recognition purposes with any provision in sections 53 to 60 of this Act by adopting the particular words of that provision, subject to any requirements of regulations, or of the Board, under subsection (4)(d) above, so long as the Board are satisfied that the provision is complied with in spirit and intent.
- (7) The Secretary of State may make such regulations as he thinks appropriate for securing that earners, notwithstanding their terms of employment, are freed from any liability to be or become members of, or to contribute to, an occupational pension scheme—
- (a) which is not for the time being recognised in relation to any employment; and
  - (b) in whose case the Board are satisfied that the benefits of the scheme are not adequately secured, or that it is otherwise unsound in respect of its management or financing.
- (8) In this Act any reference to the minimum benefits of an occupational pension scheme includes both minimum personal pension and minimum death benefit (except where the context otherwise requires) and is to be taken as referring only to benefit provided by the scheme in respect of employed earner's employment in accordance with such minimum requirements as must be complied with for recognition purposes.
- (9) Where by any provision in this Part of this Act recognition of a scheme in relation to an employment depends on the satisfaction of a particular condition, continued recognition of the scheme shall be dependent on continued satisfaction of the condition ; and if the condition ceases to be satisfied, that shall be a ground (without prejudice to any other) for cancellation of the recognition certificate.
- (10) Regulations may, for any purpose of this Part 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.