Pensions (Miscellaneous Provisions) Act 1990

1990 CHAPTER 7

An Act to amend the law relating to certain public service pension schemes. [24th May 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Pensions increase

1 Qualifying conditions.

(1) In section 3 of the [M1]Pensions (Increase) Act 1971 (in this Act referred to as "the Increase Act") in subsection (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow's pension) for the words "a widow's pension" there shall be substituted the words " a derivative or substituted pension or a relevant injury pension."

(2) In subsection (2) of that section (no increase for pension in respect of pensioner's own services unless a qualifying condition is satisfied)—

(a) after the words "own services" there shall be inserted the words " , other than a relevant injury pension,"; and

(b) at the beginning of paragraph (c) (which provides for certain women with dependants to receive increases and which accordingly discriminates against men) there shall be inserted the words " subject to subsections (9) to (11) below,".

(3) In consequence of subsection (1) above—

(a) subsection (3) of that section (conditions for increase of certain derivative and substituted pensions) is hereby repealed;

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Pensions (Miscellaneous Provisions) Act 1990. (See end of Document for details)*

(b) in subsection (6) of that section for the words "as mentioned in subsection (3) (d) above" there shall be substituted the words " for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years"; and

(c) in subsection (8) of that section, for the words "or (3)(a) above, or in both," there shall be substituted the word " above".

(4) There shall be added at the end of that section—

"(9) On and after 1st January 1993 paragraph (c) of subsection (2) above shall have effect only to the extent provided by subsections (10) and (11) below.

(10) Where, immediately before 1st January 1993, a woman is in receipt of a pension which has been increased under this Part of this Act by virtue of paragraph (c) of subsection (2) above, that paragraph shall continue to have effect in relation to that woman and that pension until such time as the pension falls to be increased under this Part of this Act in consequence of any other provision of that subsection.

(11) In any case where—

(a) a woman's pension commences on or after 1st January 1993, and

(b) on the day on which the pension commences she has not attained the age of 55,

paragraph (c) of subsection (2) above shall have effect in relation to that woman and so much of the pension as is referable to service rendered before 1st January 1993 until such time as the pension falls to be increased under this Part of this Act in consequence of any other provision of that subsection."

(5) In section 8(2) of that Act (date on which a pension "begins") the word "and" immediately preceding paragraph (b) is hereby repealed and after that paragraph there shall be added the words "and

(c) a relevant injury pension payable by virtue of the acceptance of less favourable terms and conditions of employment is to be deemed to begin on the day on which the employment on less favourable terms and conditions begins."

(6) In section 17(1) of that Act (definitions) there shall be inserted at the appropriate place—

""relevant injury pension" means—

(a) a pension paid to a person in respect of his absence from work by reason only of an injury sustained, or disease contracted, by him in the course of the employment by virtue of which his entitlement to the pension arises; or

(b) a pension paid to a person in respect of his having accepted less favourable terms and conditions of employment by reason of ill-health suffered by him in consequence of an injury so sustained or a disease so contracted;

but does not include any pension the rate of which is periodically recalculated by reference to the rate of the salary which the pensioner could reasonably be expected to have received had he not sustained the injury or contracted the disease in question;".

(7) In section 59 of the [M2]Social Security Pensions Act 1975 (in this Act referred to as "the Pensions Act") in subsection (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow's pension) for the words "a widow's pension" there shall be substituted the words " a derivative or substituted pension or a relevant injury pension".

(8) Subsections (2)(b) and (4) above shall come into force on 1st January 1993.

Marginal Citations

M1 1971 c. 56.

M2 1975 c. 60.

2 Periods of further service.

(1) Section 4 of the Increase Act (effect of periods of further service on rate of pension) shall have effect, and be taken always to have had effect, with the amendments made by subsections (2) to (4) below.

(2) In subsection (2) (termination of earlier service by person who is or may become eligible for pension) after the word "may" there shall be inserted the words " (without rendering further reckonable service)".

(3) After that subsection there shall be inserted—

"(2A) In subsection (2) above "reckonable service", in relation to a person and his official pension, means service which falls to be taken into account in calculating the basic rate of the pension."

(4) In subsection (3) (derivative pensions which fall to be calculated by reference to the rate of the principal pension) after the words "falls to be calculated" there shall be inserted " (a)" and after the word "retirement)" there shall be inserted the words "or

(b) by reference to a rate of emoluments (whether actual emoluments or not and whether final or average emoluments) and a period of service of the person who was or, had he survived, would have been the pensioner in relation to such a principal pension,".

(5) Section 2 of the [M3]Pensions (Increase) Act 1965 (which first made provision corresponding to section 4(2) of the Increase Act and which was repealed by that Act) shall be taken to have had effect as originally enacted—

(a) with the insertion after the word "may" in paragraph (b) of subsection (1) of the words " (without rendering further reckonable service)", and

(b) with the addition after that paragraph of the words—

"and in paragraph (b) above "reckonable service", in relation to a person and his pension, means service which falls to be taken into account in calculating the basic rate of the pension."

Marginal Citations

M3 1965 c. 78.

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Pensions (Miscellaneous Provisions) Act 1990. (See end of Document for details)*

3 No increase for additional lump sums arising from recalculation.

The following subsection shall be added at the end of section 9 of the Increase Act (gratuities and lump sums)—

"(9) In any case where—

(a) a lump sum beginning after the coming into force of this subsection, or an instalment of such a lump sum, is paid, but

(b) the amount of that lump sum or instalment is subsequently recalculated, and

(c) in consequence of the recalculation, an additional amount becomes payable by way of lump sum,

the additional amount shall not be increased under this Part of this Act in respect of the whole or any part of the period beginning with the day on which the lump sum or instalment became payable and ending with the day on which the additional amount is paid."

4 Employers' contributions towards cost of pensions increase for teachers and persons engaged in the health services etc.

(1) In section 9 of the [M4]Superannuation Act 1972 (in this Act referred to as "the 1972 Act") after subsection (3) there shall be inserted—

"(3A) Notwithstanding anything in the Pensions (Increase) Act 1971, regulations under this section may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of teachers or from such other persons or classes of person (apart from teachers) as the Secretary of State may consider appropriate and may specify in the regulations; or

(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this subsection and for the time being in force."

(2) In section 10 of that Act (persons engaged in health services etc) in subsection (1), after the words "as may be so prescribed" there shall be inserted the words " (in this section referred to as "health staff")" and after subsection (3) there shall be inserted—

"(3A) Notwithstanding anything in the Pensions (Increase) Act 1971, regulations under this section may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of health staff or from such other persons or classes of person (apart from health staff) as the Secretary of State may consider appropriate and may specify in the regulations; or

(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this subsection and for the time being in force."

Marginal Citations

M4 1972 c. 11.

5 Guaranteed minimum pensions: abolition of double indexation for surviving spouses.

(1) In section 59 of the Pensions Act (increase of official pensions) after subsection (5) (deduction of guaranteed minimum pension for purpose of calculating increase) there shall be inserted—

"(5ZA) In the application of subsection (5) above in relation to a widow's or widower's pension in a case where the pensioner becomes entitled on the death of the deceased spouse to such a guaranteed minimum pension as is there mentioned—

(a) the pensioner shall be treated as having been entitled to that guaranteed minimum pension at all times during the period beginning with the date on which the deceased spouse became entitled to a guaranteed minimum pension and ending with the date of the death;

(b) the rate of the guaranteed minimum pension to which the pensioner is treated as so entitled at any time during that period shall be taken to be one half of the rate of the deceased spouse's guaranteed minimum pension at that time; and

(c) the amount by reference to which any increase in the widow's or widower's pension is to be calculated shall, subject to any directions under section 59A below (whether made before or after the coming into force of this subsection), be accordingly reduced under that subsection by an amount equal to the rate, as determined under paragraph (b) above, of the guaranteed minimum pension to which the pensioner is treated as entitled;

but this subsection does not apply to a widow's or widower's pension in respect of any service of the deceased spouse if the deceased spouse's pension in respect of that service became payable before the coming into force of this subsection."

(2) In subsection (7) of that section (interpretation) after the definition of "lump sum" there shall be inserted—

""widower's pension" means a pension payable in respect of the services of the pensioner's deceased wife."

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Pensions (Miscellaneous Provisions) Act 1990. (See end of Document for details)*

6 Correction of section 1 of the Increase Act as reproduced under section 2.

The Schedule to the [M5]Pensions Increase (Annual Review) Order 1978 (which reproduces section 1 of the Increase Act with the effect of increase orders under section 2 incorporated in it) shall have effect, and be taken always to have had effect, with the insertion of the words " beginning on" after the words "any period" in subsection (1) of section 1 as so reproduced.

Marginal Citations

M5 S.I. 1978/1211.

Additional voluntary contributions

7 No increase for benefits deriving from additional voluntary contributions.

(1) In section 8 of the Increase Act (meaning of "pension" etc.) after paragraph (c) of subsection (1) there shall be added the words—

"but does not include any money purchase benefits."

(2) In section 9 of that Act (application of pensions provisions to lump sum payments etc, other than the return of contributions with or without interest) in subsection (1) after the word "interest" there shall be inserted the words " (or any money purchase benefits)".

(3) In section 17(1) of that Act (definitions) there shall be inserted at the appropriate place—

""money purchase benefits" has the meaning given by section 84(1) of the Social Security Act 1986".

8 Member's right to elect for the purchase of benefits from any authorised provider he may specify.

(1) In section 1 of the 1972 Act, after subsection (2) (power to delegate functions relating to pension schemes for civil servants etc) there shall be inserted—

"(2A) Where a money purchase scheme under this section includes provision enabling a member to elect for the benefits which are to be provided to or in respect of him to be purchased from any authorised provider whom he may specify, then—

(a) notwithstanding subsection (1)(a) above, the scheme may make provision for the making of such an election to have the effect, in such cases as the scheme may specify, of discharging any liability of the Treasury to pay those benefits to or in respect of that member; but

(b) the scheme shall not be so framed as to have the effect that benefits under it may only be provided in a manner which discharges that liability of the Treasury."

(2) At the end of that section there shall be added—

"(9) In this section—

"authorised provider", in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

"money purchase scheme" means a scheme under which all the benefits that may be provided are money purchase benefits, as defined in section 84(1) of the Social Security Act 1986."

(3) In section 9 of that Act (superannuation of teachers) after subsection (2) there shall be inserted—

"(2A) Where regulations under this section make provision with respect to money purchase benefits, they may also—

(a) include provision enabling a person to elect for such money purchase benefits as are to be provided to or in respect of him under the regulations to be purchased from any authorised provider whom he may specify; and

(b) notwithstanding subsection (1) above, provide that the making of such an election shall have the effect, in such cases as may be specified in the regulations, of discharging any liability of the Secretary of State to pay those benefits to or in respect of that person;

but no regulations under this section shall be so framed as to have the effect that any money purchase benefits to be provided under them may only be provided in a manner which discharges that liability of the Secretary of State."

(4) In subsection (6) of that section (definition of "teachers") after the words "In this section" there shall be inserted the following definitions—

""authorised provider", in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

"money purchase benefits" has the meaning given by section 84(1) of the Social Security Act 1986;".

(5) In section 10 of that Act (superannuation of persons engaged in the health services etc) after subsection (2) there shall be inserted—

"(2A) Where regulations under this section make provision with respect to money purchase benefits, they may also—

(a) include provision enabling a person to elect for such money purchase benefits as are to be provided to or in respect of him under the regulations to be purchased from any authorised provider whom he may specify; and

(b) notwithstanding subsection (1) above, provide that the making of such an election shall have the effect, in such cases as may be specified in the regulations, of discharging any liability of the Secretary of State to pay those benefits to or in respect of that person;

but no regulations under this section shall be so framed as to have the effect that any money purchase benefits to be provided under them may only be provided in a manner which discharges that liability of the Secretary of State."

(6) At the end of that section there shall be added—

"(6) In this section—

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Pensions (Miscellaneous Provisions) Act 1990. (See end of Document for details)*

"authorised provider", in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

"money purchase benefits" has the meaning given by section 84(1) of the Social Security Act 1986."

Changes in the protection against adverse alterations

9 No scheme to make provision reducing accrued rights without the consent of representatives of those affected.

In section 2 of the 1972 Act, for subsection (3) (consent of representatives to the inclusion in schemes of provisions which reduce the amount of any benefit calculated by reference to service rendered before they take effect) there shall be substituted—

"(3) No scheme under the said section 1 shall make any provision which would have the effect of reducing the amount of any pension, allowance or gratuity, in so far as that amount is directly or indirectly referable to rights which have accrued (whether by virtue of service rendered, contributions paid or any other thing done) before the coming into operation of the scheme, unless the persons consulted in accordance with section 1(3) of this Act have agreed to the inclusion of that provision."

10 Restriction on election that regulations shall not apply to persons whose service has terminated.

(1) In section 12 of the 1972 Act, in subsection (2)(a) (application of regulations to persons who have previously ceased to serve or died) after the words "have ceased to serve therein" there shall be inserted the words " (whether or not they have subsequently recommenced any such service)".

(2) At the end of subsection (4) of that section (right of person with accrued or contingent pension rights to elect that regulations which would adversely affect him shall not so apply) there shall be added the words " in relation to that pension except as provided by subsection (4A) below."

(3) After that subsection there shall be inserted—

"(4A) If, at the coming into force of the provision mentioned in subsection (4) above, a person who makes such an election as is mentioned in that subsection is serving in an employment or office to which the regulations governing the pension apply, or if he subsequently recommences service in such an employment or office, then—

(a) the election shall have effect in relation to the pension only to the extent that it accrues or has accrued—

(i) by virtue of periods of service rendered before the cessation referred to in subsection (2) above (or, if there has been more than one such cessation, the last of them before the coming into force of the provision in question); or

(ii) by virtue of contributions paid in respect of any such periods of service; and

(b) in determining entitlement to, or the amount of, the pension to that extent, he shall (without prejudice to the application of this subsection) be treated as if he had never recommenced service in such an employment or office at any time after the cessation referred to in paragraph (a) above;

and the provision in question shall apply accordingly."

Injury benefits for teachers

11 Payment of injury benefits to teachers by their employers etc.

(1) In section 9 of the 1972 Act, in subsection (1) (which requires benefits for teachers to be paid by the Secretary of State) for the words from "by the Secretary of State" onwards there shall be substituted the words " to or in respect of teachers by the Secretary of State or, in the case of injury benefit, by the Secretary of State, an employer of teachers or such other person as the Secretary of State may consider appropriate and may specify in the regulations."

(2) After subsection (5) of that section there shall be inserted—

"(5A) The powers exercisable by a local education authority or, in Scotland, an education authority, by virtue of—

(a) section 111 of the Local Government Act 1972 (subsidiary powers of local authorities), or

(b) section 69 of the Local Government (Scotland) Act 1973 (similar provision for Scotland),

shall be taken to include, and to have at all times included, power to pay, or arrange for the payment of, injury benefit to or in respect of teachers; but that section shall cease to confer any such power on an authority in either part of Great Britain as from the coming into force of the first regulations under this section which make provision for the payment of injury benefit by such an authority to or in respect of teachers in that part."

(3) In subsection (6) of that section (definitions) after the definition of "authorised provider" inserted by section 8(4) above there shall be inserted the following definition—

""injury benefit" means a pension, allowance or gratuity payable under the regulations to or in respect of a teacher in consequence of any injury sustained, or disease contracted, by him in the course of his employment in that capacity;".

Supplemental

12 Corresponding provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M6]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this Act—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M6 1974 c. 28.

13 Financial provisions.

(1) There shall be defrayed out of money provided by Parliament—

(a) any expenditure incurred by any Minister of the Crown in consequence of this Act; and

(b) any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided.

(2) There shall be paid into the Consolidated Fund all sums received by a Minister of the Crown by virtue of this Act.

14 Short title, interpretation, commencement and extent.

(1) This Act may be cited as the Pensions (Miscellaneous Provisions) Act 1990.

(2) In this Act—

"the 1972 Act" means the [M7]Superannuation Act 1972;

"the Increase Act" means the [M8]Pensions (Increase) Act 1971;

"the Pensions Act" means the [M9]Social Security Pensions Act 1975.

(3) Subject to section 1(8) above, this Act, other than section 12 and this section, shall not come into force until the expiration of the period of two months beginning with the day on which it is passed.

(4) Where this Act amends or repeals a provision contained in any other enactment or instrument, the amendment or repeal has the same extent as the provision amended or repealed.

(5) Section 12 and this section extend to Northern Ireland.

(6) Except as provided by this section, this Act does not extend to Northern Ireland.

Marginal Citations

M7 1972 c. 11.

M8 1971 c. 56.

M9 1975 c. 60.

Status:
Point in time view as at 01/02/1991.

Changes to legislation:
There are currently no known outstanding effects for the Pensions (Miscellaneous Provisions) Act 1990.