



# Pensions (Miscellaneous Provisions) Act 1990

## 1990 CHAPTER 7

### *Pensions increase*

#### **1 Qualifying conditions.**

- (1) In section 3 of the <sup>M1</sup>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- (a) subsection (3) of that section (conditions for increase of certain derivative and substituted pensions) is hereby repealed;
  - (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—

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- “(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 <sup>M2</sup>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.

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**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 <sup>M3</sup>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.”

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**Marginal Citations**

- M3** 1965 c. 78.

**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

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- (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 <sup>M4</sup>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.”

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**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.”

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

The Schedule to the <sup>M5</sup>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.

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**Marginal Citations**

**M5** [S.I. 1978/1211](#).

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