



Pension Schemes Act 1993

1993 CHAPTER 48

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Special classes of earner

164 Crown employment.

- (1) Subject to subsection (3), the following provisions shall apply to persons employed by or under the Crown in like manner as if such persons were employed by a private person—
- (a) Chapter I of Part IV and the other provisions of this Act, so far as they relate to the preservation requirements;
 - (b) the remaining provisions of this Act except for—
 - (i) sections ^{F1}...^{F2}... 153(2), 158(1) to (5), 162, 163, ^{F1}... and 176^{F1}...;
 - (ii) Chapter II of Part VII and sections 157 and 161;
 - (iii) section 166 and the provisions mentioned in subsection (2).

[^{F3}(2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of—

- ^{F4}(a)
- (b) sections 43 and 45;
- (c) section 48, so far as it relates to minimum contributions;
- (d) sections 117, 154 and 155; and
- (e) sections 160 and 166.]

- (3) So far as subsection (1) relates to the provisions within paragraph (b) of that subsection, it does not apply to a person who is serving as a member of Her Majesty's forces.
- (4) Subject to subsections (3) and (5), a person who is serving as a member of Her Majesty's forces shall, while he is so serving, be treated for the purposes of the

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provisions within subsection (1)(b) and those within subsection (2) (except for sections 154 and 166) as an employed earner in respect of his membership of those forces.

- (5) The Secretary of State may make regulations modifying sections 41, 42, 46(1), 47(2) and (5) and 48 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.

^{F5}(6)

- (7) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed, being establishments and organisations in which persons serve under the control of the Defence Council.

Textual Amendments

- F1** Words in s. 164(1)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 5 para. 67, [Sch. 7 Pt. III](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F2** Words in s. 164(1)(b)(i) repealed (6.4.1997) by [Pensions Act 1995 \(c. 26\)](#), s. 180(1), Sch. 6 para. 10, [Sch. 7 Pt. IV](#); S.I. 1997/664, art. 2(3), Sch. Pt. 2
- F3** S. 164(2) substituted (6.4.2012) by [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(b), **5(18)** (as amended by S.I. 2012/709, arts. 1(2), **2(5)**)
- F4** S. 164(2)(a) omitted (6.4.2015) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\)](#), arts. 1(2)(c), **9(6)**
- F5** S. 164(6) repealed (22.8.1996) by [Employment Rights Act 1996 \(c. 18\)](#), s. 243, [Sch. 3 Pt. I](#) (with ss. 191-201)

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86](#), art. 2

165 Application of certain provisions to cases with foreign element.

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Secretary of State thinks proper, in their application to any person who is, or has been, or is to be—
- (a) employed on board any ship, vessel, hovercraft or aircraft;
 - (b) outside Great Britain at any prescribed time or in any prescribed circumstances; or
 - (c) in prescribed employment in connection with continental shelf operations.
- (2) The provisions referred to in subsection (1) are—
- (a) [^{F6}Part III], section 111 (and Part VIII and section 153 so far as they have effect for the purposes of section 111), sections 117, 154 and 155 ^{F7}... and sections 160 and 166; and
 - (b) sections 41 and 42, subsections (1), (6) and (7) of section 46 (and subsection (8) of that section so far as it has effect for the purposes of those subsections), and sections 47(2) and (5) and 48.
- (3) Subject to subsection (4), regulations under subsection (1) may in particular provide—
- (a) for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;

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- (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - (c) for excepting any such person from the application of any such provision where he neither is domiciled nor has a place of residence in any part of Great Britain;
 - (d) for the taking of evidence, for the purposes of the determination of any question arising under any such provision, in a country or territory outside Great Britain, by a British consular official or such other person as may be determined in accordance with regulations.
- (4) Paragraph (b) of subsection (3) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of that subsection do not apply as respects the application of those provisions to such persons as are mentioned in paragraph (b) or (c) of subsection (1).
- (5) Without prejudice to the generality of subsection (1)(c), regulations made by virtue of that subsection as respects any provision mentioned in subsection (2)(b) may provide for that provision to apply to such a person as is mentioned in that subsection notwithstanding that he does not fall within the description of an employed or self-employed earner or does not fulfil conditions as to residence or presence in Great Britain.
- (6) Without prejudice to the generality of section 153(2)(c), regulations may modify Chapter I of Part IV in relation to schemes with any overseas element, that is to say, schemes established, or relating to employment, or with parties domiciled, resident or carrying on business, in any part of the world outside the United Kingdom, or otherwise not confined in their operation to the United Kingdom.
- [^{F8}(7) Chapter II of Part VII and section 157 do not apply to employment where under his worker’s contract the worker ordinarily works outside the territory of the member States, but section 201 of the Employment Rights Act 1996 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 157 as it does to the provisions of that Act.]
- (8) In this section—
“continental shelf operations” means any activities which, if paragraphs (a) and (d) of [^{F9}subsection (8) of section 11 of the Petroleum Act 1998] (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section; ^{F10}...

^{F10}
.....

Textual Amendments

- F6** Words in s. 165(2)(a) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 68; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)
- F7** Words in s. 165(2)(a) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\), arts. 1\(2\)\(b\), 5\(18A\)](#) (as inserted by [S.I. 2012/709, arts. 1\(2\), 2\(6\)](#))
- F8** [S. 165\(7\)](#) substituted (6.2.2018 with effect in relation to employers who become insolvent on or after that date) by [The Seafarers \(Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/26\), regs. 1\(1\), 4\(2\)](#) (with reg. 4(4))

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- F9** Words in s. 165(8) substituted (15.2.1999) by Petroleum Act 1998 (c. 17), s. 52(4), **Sch. 4 para. 37** (with Sch. 3 para. 5(1)); S.I. 1999/161, art. 2(1)
- F10** Words in s. 165(8) omitted (6.2.2018 with effect in relation to employers who become insolvent on or after that date) by virtue of The Seafarers (Transnational Information and Consultation, Collective Redundancies and Insolvency Miscellaneous Amendments) Regulations 2018 (S.I. 2018/26), regs. 1(1), **4(3)** (with reg. 4(4))

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by S.I. 1994/86, art. 2

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 46(1A)(1B) inserted by [2008 c. 30 s. 103\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 103(2)(4)(5) repealed (1.10.2014) without ever being in force by [2014 c. 19, Sch. 12 para. 96\(a\)](#); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- s. 46(1A) words substituted by [2011 c. 19 Sch. 3 para. 10](#)
- s. 71(1)(aa) substituted by [2015 c. 8 s. 39\(2\)\(a\)](#)
- s. 71(1A) inserted by [2015 c. 8 s. 39\(2\)\(b\)](#)
- s. 71(7)-(10) substituted for s. 71(7)-(11) by [2015 c. 8 s. 39\(4\)](#)
- s. 82A inserted by [2015 c. 8 Sch. 1 para. 2](#)
- s. 83(1A)-(1AC) substituted for s. 83(1A) by [2015 c. 8 Sch. 1 para. 3](#)
- s. 84-84F substituted for s. 84 by [2015 c. 8 Sch. 1 para. 4](#)
- s. 85A inserted by [2015 c. 8 Sch. 1 para. 5](#)
- s. 86A86B inserted by [2015 c. 8 Sch. 1 para. 6](#)
- s. 94(2A)(a)(viii) inserted by [2014 c. 19 Sch. 17 para. 20\(2\)\(a\)](#)
- s. 94(2A)(b)(vi) inserted by [2014 c. 19 Sch. 17 para. 20\(2\)\(b\)](#)
- s. 101AI(8)(a)(viii) inserted by [2014 c. 19 Sch. 17 para. 20\(3\)\(a\)](#)
- s. 101AI(8)(b)(vi) inserted by [2014 c. 19 Sch. 17 para. 20\(3\)\(b\)](#)
- s. 113(4)(4A) substituted for s. 113(4) by [2015 c. 8 s. 38\(5\)](#)
- s. 113(5) words substituted by [2015 c. 8 s. 38\(6\)](#)
- s. 113(10) words substituted by [2015 c. 8 Sch. 2 para. 3](#)
- s. 145(1A)-(1C) inserted by [2004 c. 35 Sch. 12 para. 23](#)
- s. 146(6A) inserted by [2004 c. 35 Sch. 12 para. 24\(b\)](#)
- s. 175A inserted by [2008 c. 30 Sch. 10 para. 1](#)
- s. 185(2)(ca) inserted by [2018 c. 10 s. 19\(5\)](#)
- s. 186(3)(ba) inserted by [2015 c. 8 Sch. 1 para. 7](#)
- s. 186(3)(za) inserted by [2008 c. 30 s. 103\(5\)](#) (This amendment not applied to legislation.gov.uk. S. 103(2)(4)(5) repealed (1.10.2014) without ever being in force by [2014 c. 19, Sch. 12 para. 96\(a\)](#); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- Sch. 3 para. A1 and cross-heading inserted by [2015 c. 8 Sch. 1 para. 8](#)