



# Pension Schemes Act 1993

## 1993 CHAPTER 48

### PART XII

#### SUPPLEMENTARY PROVISIONS

*Subordinate legislation etc.*

#### **182 Orders and regulations (general provisions)**

- (1) Any power under this Act to make regulations or orders (except a power of the Board or the court to make orders) and the powers to make rules under sections 149(2) and 152(1) shall be exercisable by statutory instrument.
- (2) Except in so far as this Act otherwise provides, any power conferred by it to make an Order in Council, regulations or an order (except an order under section 153(8)) may be exercised—
  - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
  - (b) so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,
    - (iii) any such provision either unconditionally or subject to any specified condition,

and where such a power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes; and any power to make an Order in Council, regulations or an order for the purposes of any one provision of this Act shall be without prejudice to any power to make an Order in Council, regulations or an order for the purposes of any other provision.

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- (3) Any power conferred by it to make an Order in Council, regulations or an order shall include power to make such incidental, supplementary, consequential or transitional provision as appears to Her Majesty or the authority making the regulations or order to be expedient for the purposes of the Order in Council, regulations or order.
- (4) Any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.
- (5) Any power conferred on the Secretary of State by any provision of this Act to make any regulations or order (except an order under section 153(8)), where the power is not expressed to be exercisable with the consent of the Treasury, shall if the Treasury so direct be exercisable only in conjunction with them.

### **183 Sub-delegation**

- (1) Without prejudice to any specific provisions in this Act, a power conferred by this Act to make an Order in Council, regulations or an order (other than regulations and orders made under sections 2 to 5, Chapter I of Part IV, Part VIII so far as it applies for the purposes of Chapter I of Part IV, sections 136 to 138, 139(2) and (3), 140, 141, 142(1) to (4), 143, 153(2), 158(1) to (5), 162, 163, 172, 173 and 176 or Schedule 1) includes power to provide for a person to exercise a discretion in dealing with any matter.
- (2) Where any provision in Parts I to VI (except section 6), Chapter I or III of Part VII, Part VIII or IX or section 153 (except subsection (8)), 156, 162, 163, or 174 allows for specified matters to be dealt with by, or determined in accordance with, regulations made by the Secretary of State or by him and the Treasury acting jointly, any regulations made by virtue of that provision may provide—
  - (a) for those matters to be dealt with by the Board in their discretion or to be determined in accordance with the exercise by the Board of a discretion vested in them by the regulations, and
  - (b) for the Board’s discretion to be exercised either generally in regard to those matters or differently in regard to particular cases or classes of case.
- (3) Regulations under section 27(3), 63(2), 97(1), 104(8) and 144(5) may provide that the values there mentioned shall be calculated and verified or, in the case of regulations under section 104(8), that the percentage there mentioned shall be determined—
  - (a) in such manner as may, in the particular case, be approved—
    - (i) by a prescribed person;
    - (ii) by a person with prescribed professional qualifications or experience;
    - or
    - (iii) by a person approved by the Secretary of State; or
  - (b) in accordance with guidance prepared by a prescribed body;
 and regulations under section 104(8) may also provide that such calculation and verification or, as the case may be, determination shall be—
  - (i) in accordance with prescribed principles and requirements; or
  - (ii) in accordance with principles determined by the person who performs the duties of calculation and verification.

**184 Consultation with Social Security Advisory Committee about regulations under s. 36(6)**

- (1) Subject to section 173 of the Social Security Administration Act 1992 (cases where consultation not required), where the Secretary of State proposes to make regulations under section 36(6), he shall refer the proposals, in the form of draft regulations or otherwise, to the Social Security Advisory Committee (“the Committee”).
- (2) The Committee shall consider any proposals referred to it by the Secretary of State under subsection (1) and shall make to the Secretary of State a report containing such recommendations with respect to the subject-matter of the proposals as the Committee thinks appropriate.
- (3) If after receiving a report of the Committee the Secretary of State lays before Parliament regulations which comprise the whole or part of the subject-matter of the proposals referred to the Committee, he shall lay with the regulations a copy of the Committee’s report and a statement showing—
  - (a) the extent (if any) to which he has in framing the regulations given effect to the Committee’s recommendations; and
  - (b) in so far as effect has not been given to them, his reasons why not.

**185 Consultations about other regulations**

- (1) Subject to subsections (2) and (6), where the Secretary of State proposes to make any regulations for the purposes of Parts I to VI, Chapter I or III of Part VII, Part VIII, IX or X or section 153, 154, 155, 156, 160, 162, 163, 174 or 175 of this Act he shall refer the proposals, in the form of draft regulations or otherwise, to the Board.
- (2) Subsection (1) does not apply to—
  - (a) regulations prescribing actuarial tables; or
  - (b) regulations made for the purpose only of consolidating other regulations revoked by them; or
  - (c) regulations under section 36(6).
- (3) The Board shall consider any proposals referred to them under subsection (1) and make a report to the Secretary of State containing such recommendations as they think fit with regard to the subject matter of the proposals.
- (4) If after receiving the Board’s report under subsection (3) the Secretary of State lays before Parliament regulations or draft regulations which comprise the whole or any part of the subject matter of proposals referred to the Board, he shall lay with the regulations or draft a copy of the report and a statement showing—
  - (a) the extent (if any) to which the Secretary of State has, in framing the regulations, given effect to the recommendations contained in the Board’s report; and
  - (b) in so far as he has not given effect to any such recommendations, his reasons for not doing so.
- (5) In relation to any regulations required or authorised under this Act to be made by the Secretary of State in conjunction with the Treasury, any reference in subsections (1) to (4) to the Secretary of State shall be construed as a reference to him and the Treasury acting jointly.

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- (6) Section 173 of the Social Security Administration Act 1992 (cases in which consultation about regulations is not required) shall apply as if references in that section to the Social Security Advisory Committee included references to the Board.
- (7) The power of the Secretary of State to make regulations under section 162 of this Act shall be exercisable only after consultation with the Chief Registrar of Friendly Societies or the Friendly Societies Commission.
- (8) The power of the Secretary of State to make regulations under section 172(4) shall be exercisable only after consultation with the Council on Tribunals.
- (9) Before making any regulations under paragraph 7 of Schedule 2 the Secretary of State shall consult with such bodies concerned with employments of the class in question as appear to him fairly to represent the interests of the employers and earners in those employments.

## **186 Parliamentary control of orders and regulations**

- (1) Subject to subsections (2) and (3), a statutory instrument which contains (whether alone or with other provisions) any regulations or order made under this Act by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1) shall not apply to any order which under any provision of this Act is required to be laid before Parliament after being made or is subject to a requirement that a draft of the instrument shall be laid before and approved by a resolution of each House of Parliament or to any order made under section 193 or paragraph 1 of Schedule 9.
- (3) Subject to subsection (4), a statutory instrument which contains (whether alone or with other provisions)—
  - (a) regulations made by virtue of section 49, or
  - (b) an order under section 153(8), or
  - (c) regulations made by virtue of subsection (1)(a) of section 165 applying such provisions as mentioned in subsection (2)(b) of that section,
 shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Subsection (3) does not apply to such regulations as mentioned in paragraph (a) or (c) of that subsection if—
  - (a) they are made for the purpose only of consolidating regulations which they revoke, or
  - (b) so far as they are made under powers conferred by the provisions mentioned in that paragraph, they only replace provisions of previous regulations with new provisions to the same effect.
- (5) In the case of any regulations laid before Parliament at a time when Parliament is not sitting, the requirements of section 184(3) or section 185(4) shall be deemed to be satisfied as respects either House of Parliament if a copy of the report and the statement in question are laid before that House not later than the second day on which the House sits after the laying of the regulations.

**187 Northern Ireland Constitution Act 1973: “reserved matters”**

- (1) Subject to any Order made after 13th July 1990 by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the matters specified in subsection (2) shall not be transferred matters for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.
- (2) The matters referred to in subsection (1) are the matters dealt with by section 6(1) and (2) (except paragraph (a)(ii)), (3), (4) and (8) and by section 145 (except subsections (4) and (5)(b)).