



Pensions Act 2008

2008 CHAPTER 30

PART 6

GENERAL

143 Orders and regulations

- (1) Any power conferred on the Secretary of State to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing such an order or regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) does not apply to a statutory instrument containing an order under section 149 or to a statutory instrument to which subsection (4) applies.
- (4) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) applies to a statutory instrument containing (alone or with other provision)—
 - (a) regulations under section 16(3)(c), 17(1)(c), 28, 96, 98 or 142;
 - (b) the first regulations under section 3(2) or (6), 5(2) or (7), 7(4)(b) or (6) or 9(3)(b);
 - (c) an order under section 28(9), 67 or 70(4);
 - (d) an order under section 145 amending or repealing any provision of an Act;
 - (e) an order under paragraph 9(7) of Schedule 5.

144 Orders and regulations: supplementary

- (1) This section applies to an order or regulations made by the Secretary of State under this Act.
- (2) An order or regulations may include—

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- (a) such incidental, supplemental, consequential or transitional provision as appears to the Secretary of State to be expedient;
 - (b) provision conferring a discretion on any person.
- (3) An order under section 67 may include provision for anything that may be prescribed by the order to be determined under it, and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed.
- (4) The power to make an order or regulations 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, or
 - (iii) any such provision either unconditionally or subject to any specified condition.

145 Power to make further provision

- (1) The Secretary of State may by order make—
- (a) such supplemental, incidental or consequential provision, or
 - (b) such transitory, transitional or saving provision,
- as the Secretary of State thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.
- (2) An order under this section may, for purposes of or in consequence of or for giving full effect to any provision of or made under Chapter 5 of Part 1 or section 106, make provision for applying (with or without modifications) or amending, repealing or revoking any provision of or made under an Act passed before this Act or in the same Session.
- (3) Amendments made under this section are in addition, and without prejudice, to those made by or under any other provision of this Act.
- (4) No other provision of this Act restricts the powers conferred by this section.

146 Pre-consolidation amendments

- (1) The Secretary of State may by order make such modifications of enactments within subsection (2) as in the Secretary of State's opinion facilitate, or are otherwise desirable in connection with, the consolidation of any of those enactments.
- (2) The enactments are—
- (a) the Pension Schemes Act 1993 (c. 48);
 - (b) the Pensions Act 1995 (c. 26);

- (c) Parts 1 to 4 of the Welfare Reform and Pensions Act 1999 (c. 30);
 - (d) Chapter 2 of Part 2 of the Child Support, Pensions and Social Security Act 2000 (c. 19);
 - (e) the Pensions Act 2004 (c. 35);
 - (f) the Pensions Act 2007 (c. 22);
 - (g) this Act;
 - (h) enactments referring to any enactment within paragraphs (a) to (g).
- (3) No order may be made under this section unless a Bill for consolidating the enactments modified by the order (with or without other enactments) has been presented to either House of Parliament.
- (4) An order under this section, so far as it modifies any enactment, is not to come into force except in accordance with provision made for the purpose by the Act resulting from that Bill.
- (5) An order under this section must not make any provision which would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament.

147 General financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State or a government department in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

148 Repeals

Schedule 11 (repeals) has effect.

149 Commencement

- (1) Subject to the following provisions, this Act comes into force in accordance with provision made by order by the Secretary of State.
- (2) Subsection (1) does not apply to—
- (a) sections 67 to 73;
 - (b) sections 78 to 86;
 - (c) section 105;
 - (d) section 124(1), (3) and (7) to (10);
 - (e) section 125;
 - (f) section 131;
 - (g) sections 133 to 136;
 - (h) sections 140 to 142;
 - (i) this Part, except section 148 and Schedule 11 (subject to paragraph (j));
 - (j) the provisions mentioned in subsection (3);
 - (k) any other provision of this Act so far as it confers any power to make regulations, rules, an Order in Council or an order under this Act.

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- (3) The provisions mentioned in this subsection are—
- (a) in Schedule 9—
 - (i) paragraph 1 so far as relating to any of the following paragraphs;
 - (ii) paragraph 3 (and paragraph 2 so far as necessary for the purposes of that paragraph);
 - (iii) paragraphs 5 to 7;
 - (iv) paragraph 8 for purposes other than those of the material detriment test;
 - (v) paragraphs 9 to 14;
 - (vi) in paragraph 15, sub-paragraph (1) so far as relating to paragraphs 6 and 7, sub-paragraph (2) for purposes other than those of the material detriment test, and sub-paragraphs (3) and (4);
 - (vii) paragraph 16;
 - (b) section 126 so far as relating to any of the paragraphs of that Schedule mentioned in paragraph (a) of this subsection;
 - (c) the repeal in Schedule 11 relating to section 38(5)(a)(ii) of the Pensions Act 2004 (c. 35), the note in that Schedule relating to that repeal and section 148 so far as relating to that repeal and that note.
- (4) Sections 105, 135 and 136 come into force on 6 April 2009.
- (5) Section 131 comes into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (6) An order under subsection (1) may appoint different days for different purposes.

150 Extent

- (1) Subject to the following provisions, this Act extends to England and Wales and Scotland.
- (2) The following provisions extend also to Northern Ireland—
 - (a) Chapters 5 and 6 of Part 1 and section 99 so far as it relates to those Chapters;
 - (b) section 96(2) to (7);
 - (c) section 97;
 - (d) section 125(2);
 - (e) sections 140 and 141;
 - (f) sections 143 to 146;
 - (g) section 149, this section and section 151.
- (3) An amendment or repeal by this Act has the same extent as the enactment amended or repealed (subject to the provision made by section 63(3), section 64(2) and paragraph 9 of Schedule 10).

151 Short title

This Act may be cited as the Pensions Act 2008.