



Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Special classes of earner

160 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} . . . 149(2), 154(1) to (5), 158, 159 ^{F2} . . . and 171;
 - (ii) Chapter II of Part VII and sections 153 and 157;
 - (iii) section 162 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—

- (a) sections 27 and 29, so far as they relate to personal pension schemes;
- (b) sections 39 and 41;
- (c) section 44, so far as it relates to minimum contributions;
- (d) sections 113, 150 and 151, and
- (e) sections 156 and 162.]

- (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.

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- (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 provisions within subsection (1)(b) and those within subsection (2) (except for sections 150 and 162) as an employed earner in respect of his membership of those forces.
- (5) The Secretary of State may make regulations modifying sections 37, 38, 42(1), 43(2) and (5) and 44 in such manner as he thinks proper, in their application to persons who are or have been members of Her Majesty's forces.
- (6) For the purposes of this section Her Majesty's forces shall be taken to consist of such establishments and organisations as may be prescribed by regulations made by the Secretary of State, being establishments and organisations in which persons serve under the control of the Defence Council.

Textual Amendments

- F1** Words in s. 160(1)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 165, 168, Sch. 4 para. 10, Sch. 5 Pt. IV; S.R. 1997/192, art. 2(b)
- F2** Words in s. 160(1)(b)(i) repealed (6.4.1997) by S.I. 1995/3213 (N.I. 22), arts. 147, 168, Sch. 3 para. 57(a), Sch. 5 Pt. III; S.R. 1997/192, art. 2(b)
- F3** S. 160(2) substituted (6.4.2012) by The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012/124), arts. 1(b), 4(19)

161 Application of certain provisions to cases with foreign element.

- (1) Regulations may modify the provisions mentioned in subsection (2) in such manner as the Department [^{F4}or, as the case may be, 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 Northern Ireland 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) [^{F5}Part III], section 107 (and Part VIII and section 149 so far as they have effect for the purposes of section 107), sections 113, 150 and 151 ^{F6}... and sections 156 and 162; and
 - (b) sections 37 and 38, subsections (1), (6) and (7) of section 42 (and subsection (8) of that section so far as it has effect for the purposes of those subsections) and sections 43(2) and (5) and 44.
- (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;
 - (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 Northern Ireland;
 - (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

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Northern Ireland, by a British consular official or such other person as may be determined in accordance with regulations.

- (4) Subsection (3)(b) does not apply as respects the application of the provisions mentioned in subsection (2)(b) and paragraphs (a), (c) and (d) of subsection (3) do not apply as respects the application of those provisions to such persons as are mentioned in subsection (1) (b) or (c).
- (5) Without prejudice to the generality of section 149(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.
- (6) Chapter II of Part VII and section 153 do not apply—
- (a) to employment where under his contract of employment the employee ordinarily works outside the territory of the member States, or
 - (b) to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel;

and sections 120 and 121 do not apply to employment as a merchant seaman, but section 137 of the ^{M1}Employment Protection (Consolidation) Act 1978 (power to extend employment protection legislation) applies to Chapter II of Part VII and section 153 as it does to the legislation mentioned in section 137(1)(b) of that Act.

- (7) In this section—

“continental shelf operations” means any activities which, if paragraphs (a) and (d) of subsection (6) of section 23 of the ^{M2}Oil and Gas (Enterprise) Act 1982 (application of civil law to certain off-shore activities) were omitted, would nevertheless fall within subsection (2) of that section;

“employment as a merchant seaman” has the meaning given in [^{F7}Article 242(5) of the Employment Rights (Northern Ireland) Order 1996].

[^{F8}“regulations” means regulations made by the Department or, as the case may be, the Secretary of State and “prescribed” shall be construed accordingly.]

Textual Amendments

- F4** Words in s. 161(1) inserted (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 72(2)**; S.R. 1999/149, art. 2(c), **Sch. 2**
- F5** Words in s. 161(2)(a) substituted (6.4.1997) by S.I. 1995/3213 (N.I. 22), art. 147, **Sch. 3 para. 58**; S.R. 1997/192, **art. 2(b)**
- F6** Words in s. 161(2)(a) omitted (6.4.2012) by virtue of *The Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012* (S.R. 2012/124), arts. 1(b), **4(20)**
- F7** Words in the definition of “employment as a merchant seaman” in s. 161(7) substituted (24.9.1996) by S.I. 1996/1919 (N.I. 16), arts. 1(2), 255, **Sch. 1** (with 256, **Sch. 2**)
- F8** S. 161(7): Definition of “regulations” added (24.3.1999 for certain purposes and otherwise 1.4.1999) by S.I. 1999/671, arts. 1(2)(b), 3(1), **Sch. 1 para. 72(3)**; S.R. 1999/149, art. 2(c), **Sch. 2**

Marginal Citations

- M1** 1978 c. 44.
M2 1982 c. 23.

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