
STATUTORY INSTRUMENTS

1995 No. 238

The Overseas Service (Pensions Supplement) Regulations 1995

PART III

CALCULATION OF ADDITION

CHAPTER I

COMMON PROVISIONS

Amount of addition

7.—(1) Subject to the provisions of this regulation, the amount of the addition in respect of a pension shall be the aggregate of any increases which would be payable under Part I of the Act if—

- (a) the pension were an official pension specified in paragraph 4 of Schedule 2 to the Act(1);
- (b) the increasable rate were the basic rate of such an official pension; and
- (c) the pension had begun on the date provided by this Part.

(2) Paragraph (1) shall be subject to—

- (a) the provisions of chapter II of this Part, in the case of an earnings-related pension; and
- (b) the provisions of chapter III of this Part, in the case of a contributory derivative pension.

(3) In the application of Part I of the Act for the purposes of paragraph (1) in respect of any pension—

- (a) section 4(2) shall not be applied;
- (b) section 8(1)(3) shall have effect without the words “but does not include any money purchase benefits” and section 8(2) and (3)(4) shall not be applied;
- (c) section 9(1)(5) shall have effect without the words “(or any money purchase benefits)” and section 9(2)(a) shall not be applied; and
- (d) the definition of “pension” in section 17(1) of the Act shall have effect for the purpose of such application without the words “and the time when a pension “begins” is that stated in section 8(2)”.

Deemed date when pension begins for calculating addition

8.—(1) Subject to regulation 17 and Schedule 6, the date referred to in regulation 7(1)(c) shall be determined in accordance with this regulation.

(1) Paragraph 4 of Schedule 2 to the Act was amended by the Superannuation Act 1972 (c. 11), Schedule 6, paragraph 89(a).
(2) Section 4 was amended by the Superannuation Act 1972, Schedule 6, paragraph 84 and by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) (“the 1990 Act”), section 2.
(3) Section 8(1) was amended by the 1990 Act, section 7(1).
(4) Section 8(2) was amended by the 1990 Act, section 1(5).
(5) Section 9(1) was amended by the 1990 Act, section 7(2).

- (2) In the case of an earnings-related pension the date shall be—
- (a) where the pension is computed by reference to emoluments in service under the Government of the United Kingdom, the Crown Agents for Overseas Governments and Administrations or the Central Office of the Overseas Audit Department, the day following the end of that 12 month period (in the 3 years immediately preceding cessation of that service) which provided the emoluments used in the calculation of the pension;
 - (b) where the pension is computed by reference to emoluments in service under the Government of Egypt, a date before the beginning of the year 1944;
 - (c) where the pension is computed by reference to emoluments in service under the Government of Hong Kong and the day following the last day of that service was on or after 9th December 1974, the day following the last day of that service;
 - (d) where the pension is computed by reference to emoluments in service under the government of an overseas territory specified in Schedule 3, being a colony for whose external relations the United Kingdom is responsible or a territory outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Government in the United Kingdom, and where—
 - (i) the officer concerned was designated as an overseas officer under the Overseas Service Aid Scheme;
 - (ii) the day following the last day of that service was on or after 31st December 1974; and
 - (iii) the officer concerned had pensionable emoluments revised as a result of a general revision of emoluments payable to him under the Overseas Service Aid Scheme which had effect on or after 1st January 1974—

the day following the last day of that service; and

- (e) in any other case where the pension is computed by reference to emoluments in service under the government of an overseas territory specified in Schedule 3 or the Federation of Rhodesia and Nyasaland, the day immediately following the effective date of the latest general revision of pensionable emoluments which was taken into account in determining the amount of the pension.

(3) In the case of a contributory derivative pension, the date shall be the last relevant date before commencement of the period of contributory service, but subject where applicable to the provisions of regulation 17 and Schedule 6.

(4) For the purposes of paragraph (3) and regulation 17, the relevant dates, for a pension in respect of contributions in relation to service in a particular territory, shall be—

- (a) in relation to all overseas territories mentioned in Schedule 3 and Egypt, 16th August 1920;
- (b) in relation to each overseas territory mentioned in Schedule 3, any date specified in relation to that overseas territory in columns 2 to 7 of that Schedule, but in the cases of The Gambia, Ghana, Nigeria and Sierra Leone the column 3 date shall also be used in place of the column 2 date; and
- (c) in relation to any overseas territory mentioned in Schedule 3 the date of each general revision of pensionable emoluments in relation to that overseas territory which takes effect from a date later than 1st July 1967.

CHAPTER II
MODIFICATION OF APPLICATION OF PART I OF
THE ACT TO EARNINGS-RELATED PENSIONS

Application of Part I of the Act to earnings-related pensions

9. The application of Part I of the Act to earnings-related pensions for the purposes of regulation 7(1) shall be subject to the provisions of this Chapter.

Disapplication of section 1 to certain cases

10. Section 1 of the Act(6) shall not apply in the case of an earnings-related pension which is determined by reference to emoluments derived from a general revision of pensionable emoluments in relation to an overseas territory taking effect on or after 1 April 1970.

Modification of application of section 1 in certain cases

11. In the case of an earnings-related pension—

- (a) to which regulation 8(2)(e) applies; and
- (b) for which the date specified in regulation 8(2)(e) is prior to the date specified in the second column of Schedule 3 in relation to the relevant overseas territory—

in place of the multiplier referred to in section 1(1)(a) of the Act there shall be applied the multiplier 3.052.

Disapplication of section 6 to certain cases

12. Section 6 of the Act(7) shall not apply in the case of an earnings-related pension—

- (a) which became eligible for the first time to receive supplement by virtue of section 11(2)(c) of the Act; or
- (b) to which section 12 of the Act applies; or
- (c) which is determined by reference to emoluments derived from a general revision of pensionable emoluments in relation to an overseas territory taking effect on or after 1 April 1970.

Modification of application of section 6

13.—(1) In the case of any earnings-related pension to which section 6 of the Act applies, section 6(5) shall apply as if for the words—

“and any of the qualifying conditions other than those specified in section 3(3)(b), (c) and (d) above is satisfied, or the pension is a widow’s pension”

there were substituted the words—

“and any of the qualifying conditions is satisfied or the pension is a derivative or substituted pension or a relevant injury pension, and the pension is not one payable to a person only while he is under a certain age or undergoing education or training”.

(6) Section 1 of the Act was amended by the Pensions (Increase) Act 1974 (c. 9), section 3(3)(a).

(7) Section 6 of the Act was amended by the Pensions (Increase) Act 1974, section 3(3)(a).

(2) In the case of an earnings-related pension which began before 17 August 1920 and upon which if it had been a pension specified in section 1(2) of the Pensions (Increase) Act 1920⁽⁸⁾ an increase might have been granted but for the repeal of that Act—

- (a) the pension shall not be treated as falling within section 6(2) of the Act;
- (b) in the application of section 6 of the Act, any provision of an order under that section disapplying the order to a pension which qualified for an increase under the Pensions (Increase) Act 1920 shall be disregarded; and
- (c) the 1971 rate determined under section 6 shall in addition include the amount of the increase which might have been granted under the Pensions (Increase) Act 1920, disregarding for this purpose paragraph 3 of Part I of the Schedule to that Act.

(3) In the case of an earnings-related pension computed by reference to emoluments in the Sudan Civil Service, where the day following the last day of that service was during the year 1950, in the application of section 6 of the Act the amount prescribed by order under section 6(4) to correspond with the increase which might have been granted under the Pensions (Increase) Act 1944⁽⁹⁾ but for repeal of that Act shall be reduced to the proportion thereof specified in Schedule 4.

(4) In the case of an earnings-related pension—

- (a) computed by reference to emoluments in service under the government of an overseas territory specified in Schedule 3 payable prior to the date specified in the second column of that Schedule in relation to that overseas territory; or
- (b) in respect of service under the Government of Egypt—

the pension shall for the purposes of section 6 of the Act be deemed to have begun prior to 1 April 1947.

(5) In the case of an earnings-related pension in respect of which on 31 August 1971 supplement was being paid under the Overseas Service (Pensions Supplement) Regulations 1969⁽¹⁰⁾, section 6(3) of the Act shall apply as it applies to an official pension paid on that date at a rate which included any relevant increases, but excluding the words from “unless” to the end of section 6(3).

CHAPTER III

MODIFICATION OF APPLICATION OF PART I OF THE ACT TO CONTRIBUTORY DERIVATIVE PENSIONS

Application of Part I of the Act to contributory derivative pensions

14. The application of Part I of the Act to contributory derivative pensions for the purposes of regulation 7(1) shall be subject to the provisions of this Chapter.

Disapplication of section 6 to certain cases

15. Section 6 of the Act shall not apply in the case of a contributory derivative pension—

- (a) which became eligible for the first time to receive supplement by virtue of section 11(2) (c) of the Act; or
- (b) to which section 12 of the Act applies.

⁽⁸⁾ 1920 c. 36; repealed by the Act, Schedule 7.

⁽⁹⁾ 1944 c. 21; repealed by the Act, Schedule 7.

⁽¹⁰⁾ S.I. 1969/553.

Modification of application of section 6

16. In the case of any contributory derivative pension to which section 6 of the Act applies, section 6(2) to (5) shall not apply and the 1971 rate shall instead be ascertained in accordance with Schedule 5, subject where applicable to paragraph 5 of Schedule 6.

Calculation of increase where period of contributory service spans relevant dates

17. Where during the period of contributory service in respect of a contributory derivative pension there occurred one or more of the relevant dates the calculation of increase under Part I of the Act shall be subject to the provisions of Schedule 6.