



# 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 2 to 5, 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 and Schedule 1;
    - (ii) Chapter II of Part VII and sections 157 and 161;
    - (iii) section 166 and the provisions mentioned in subsection (2).
- (2) A person who is employed by or under the Crown shall be treated as an employed earner for the purposes of sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), 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 and section 159 (so far as it relates to protected rights payments) and 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.

*Status: Point in time view as at 07/02/1994.*

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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 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.
- (6) For the purposes of the application of Chapter II of Part VII and sections 157(1) and (2) and 161 in relation to employment by any such body as is referred to in Schedule 5 to the <sup>M1</sup>Employment Protection (Consolidation) Act 1978, that body shall not be regarded as performing functions on behalf of the Crown.
- (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.

**Commencement Information**

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

**Marginal Citations**

**M1** 1978 c. 44.

**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) sections 7, 9, 26 to 34, 38, 43 to 45 (so far as they relate to personal pension schemes), section 48 (so far as it relates to minimum contributions), section 50 (so far as it relates to personal pension schemes), section 54, sections 55 to 64 (so far as they relate to personal pension protected rights premiums), 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 and section 159 (so far as it relates to protected rights payments) 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;
  - (b) for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;

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- (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.
- (7) Chapter II of Part VII and section 157 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 124 and 125 do not apply to employment as a merchant seaman, but section 137 of the <sup>M2</sup>Employment Protection (Consolidation) Act 1978 (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 subsection (6) of section 23 of the <sup>M3</sup>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; and
  - “employment as a merchant seaman” has the meaning given in section 144(5) of the <sup>M4</sup>Employment Protection (Consolidation) Act 1978.

#### Commencement Information

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

#### Marginal Citations

**M2** 1978 c. 44.

**M3** 1982 c. 23.

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**M4** 1978 c. 44.

**Status:**

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