



Pension Schemes Act 1993

1993 CHAPTER 48

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

Special classes of earner

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—
- employed on board any ship, vessel, hovercraft or aircraft;
 - outside Great Britain at any prescribed time or in any prescribed circumstances; or
 - in prescribed employment in connection with continental shelf operations.
- (2) The provisions referred to in subsection (1) are—
- [^{F1}Part III], 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 ^{F2}... and sections 160 and 166; and
 - 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—
- for any of those provisions to apply to any such person, notwithstanding that it would not otherwise apply;
 - for any such provision not to apply to any such person, notwithstanding that it would otherwise apply;
 - 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;

Status: Point in time view as at 11/09/2014. This version of this provision has been superseded.

Changes to legislation: Pension Schemes Act 1993, Section 165 is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 [^{F3}worker's contract the worker] 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 [^{F4}worker] 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 [^{F5}section 201 of the Employment Rights Act 1996] (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 [^{F6}subsection (8) of section 11 of the Petroleum Act 1998] (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 [^{F7}section 199(5) of the Employment Rights Act 1996].

Textual Amendments

- F1** Words in s. 165(2)(a) substituted (6.4.1997) by [Pensions Act 1995 \(c. 26\), s. 180\(1\), Sch. 5 para. 68; S.I. 1997/664, art. 2\(3\), Sch. Pt. 2](#)
- F2** Words in s. 165(2)(a) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) \(No.2\) Order 2011 \(S.I. 2011/1730\), arts. 1\(2\)\(b\), 5\(18A\)](#) (as inserted by [S.I. 2012/709, arts. 1\(2\), 2\(6\)](#))
- F3** Words in s. 165(7)(a) substituted (11.9.2014) by [Pensions Act 2014 \(c. 19\), ss. 42\(5\)\(a\), 56\(1\); S.I. 2014/2377, art. 2\(1\)\(a\)\(i\)\(2\)\(e\)](#)
- F4** Word in s. 165(7)(b) substituted (11.9.2014) by [Pensions Act 2014 \(c. 19\), ss. 42\(5\)\(b\), 56\(1\); S.I. 2014/2377, art. 2\(1\)\(a\)\(i\)\(2\)\(e\)](#)

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- F5** Words in s. 165(7) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\), s. 243, Sch. 1 para. 61\(4\)\(a\)](#) (with ss. 191-201)
- F6** Words in s. 165(8) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\), s. 52\(4\), Sch. 4 para. 37](#) (with [Sch. 3 para. 5\(1\)](#)); [S.I. 1999/161, art. 2\(1\)](#)
- F7** Words in s. 165(8) substituted (22.8.1996) by [Employment Rights Act 1996 \(c. 18\), s. 243, Sch. 1 para. 61\(4\)\(b\)](#) (with ss. 191-201)

Commencement Information

- I1** Ss. 1-187 in force at 7.2.1994 by [S.I. 1994/86, art. 2](#)

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