



# Commonwealth Telegraphs Act 1949

## 1949 CHAPTER 39

### *Pension Rights of, and Compensation to, Employees of the Operating Company and certain other Persons*

#### **6 Provisions as to pensions of employees of the operating company and certain other persons.**

- (1) The Postmaster General shall by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament make, with the consent of the Treasury, such regulations with respect to the payment of pensions to or in respect of—
- (a) persons who have pension rights under any of the existing pension schemes; and
  - (b) persons other than as aforesaid who are or have been in the employment of the operating company;

as appear to him to be requisite or expedient in consequence of the giving of effect to clause 5 of the Commonwealth telegraphs agreement, whether by His Majesty's Government in the United Kingdom or by any other Government for the time being a party to that agreement.

- (2) Without prejudice to the generality of the foregoing subsection, regulations made thereunder may provide—
- (a) for the establishment and administration of pension schemes and pension funds in addition to, or in substitution (whether in whole or in part) for, all or any of the existing pension schemes and pension funds held for the purposes thereof, for the continuance, amendment, repeal or revocation of any of the existing pension schemes and of enactments relating thereto and of trust deeds, rules or other instruments made for the purposes thereof, for the transfer, in whole or in part, or for the extinguishment, of liabilities under any of the existing pension schemes, and for the transfer, in whole or in part, or winding up, of pension funds held for the purposes of any of those schemes;
  - (b) for the making by the trustees of, or other the persons administering, any of the existing pension schemes of payments (whether by way of transfer values, return of contributions or otherwise) in cases where persons cease to have

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pension rights under the scheme, and the making of payments by persons who, on ceasing to have pension rights under any of those schemes, acquire pension rights under another pension scheme;

- (c) for the payment by the Postmaster General, out of moneys provided by Parliament, of sums for making good, in whole or in part, a deficiency arising in a pension fund held for the purposes of a pension scheme established under or by virtue of the regulations or any of the existing pension schemes, or for or towards preventing a deficiency from so arising;
  - (d) in the case Of any such persons as are mentioned in subsection (1) of this section who enter the Civil Service of the State or any class of such persons,—
    - (i) for securing that they become entitled to benefits under the Superannuation Acts, 1834 to 1946, notwithstanding that, although their appointments are not held directly from the Crown, they are admitted without certificates of the Civil Service Commissioners;
    - (ii) for the reckoning of all or any part of service of theirs which may be reckoned for the purposes of any of the existing pension schemes or, as the case may be, all or any part of service of theirs in the employment of the operating company, as service for all or any of the purposes of those Acts and, in such cases as may be specified in the regulations, for treating, for all or any of the purposes of those Acts, the length of any service that is to be reckoned as service for all or any of the purposes thereof as being so much more or less than its actual length as may be so specified;
    - (iii) for the exclusion in whole or in part of the operation of those Acts in cases where they are entitled to pensions by virtue of a pension scheme established under or by virtue of the regulations or any of the existing pension schemes;
    - (iv) for the payment by the Postmaster General, out of moneys provided by Parliament, of the whole or specified proportions of any contributions payable in respect of them under any such pension scheme as aforesaid;
    - (v) for empowering the Postmaster General, in such cases as may be specified in the regulations, to make, out of moneys provided by Parliament, for the purpose of supplementing pensions payable to or in respect of them by virtue of any such pension scheme as aforesaid, grants of such amounts as may be determined by or under regulations; and
    - (vi) for empowering the Postmaster General, in cases where it appears to him appropriate so to do, to make, out of moneys provided by Parliament, payments to or in respect of any of them who, though not entitled as aforesaid, had expectations of the accruer of pensions to or in respect of them in accordance with customary practices of their previous employers;
  - (e) for the manner in which questions arising under the regulations are to be determined; and
  - (f) for any supplemental or consequential matters for which it appears to the Postmaster General to be requisite or expedient to provide.
- (3) Where provision is made by regulations under this section for the amendment, repeal or revocation of any of the existing pension schemes or of any enactment relating thereto or any trust deed, rules or other instrument made for the purposes thereof or for

the transfer or extinguishment of any liability under any of those schemes or for the transfer or winding up of a pension fund held for the purposes of any of those schemes, the regulations shall be so framed as to secure that persons having pension rights under the scheme are not placed in a worse position by reason of the amendment, repeal, revocation, transfer, extinguishment or winding up.

- (4) Regulations made under this section shall not be invalid by reason that in fact they do not secure that persons having pension rights are not placed in a worse position by reason of any such amendment, repeal, revocation, transfer, extinguishment or winding up as is mentioned in the last foregoing subsection, but if the Postmaster General is satisfied or it is determined as hereinafter mentioned that any such regulations have failed to secure that result, the Postmaster General shall as soon as possible make the necessary amending regulations.

Any dispute whether or not the said result has been secured by any regulations made under this section shall be referred to and determined by a referee or board of referees appointed by the Minister of Labour and National Service after consultation—

- (a) where the proceedings are to be held in England, with the Lord Chancellor;
- (b) where the proceedings are to be held in Scotland, with the Lord President of the Court of Session; and
- (c) where the proceedings are to be held in Northern Ireland, with the Secretary of State;

and the decision of that referee or board shall be final.

- (5) Nothing in paragraph (a) of subsection (2) of this section shall be construed as authorising the diversion of a pension fund held for the purposes of any of the existing pension schemes (apart from any surplus remaining upon a winding up thereof) to purposes other than the payment of pensions to or in respect of such persons as are mentioned in subsection (1) of this section, or the application of any such surplus otherwise than in accordance with the provisions of that scheme.
- (6) Nothing in this section, and in particular nothing in subsection (3) thereof, shall be taken to derogate from the power conferred by subsection (4) of section sixty-nine of the National Insurance Act, 1946, to make regulations providing for the modifying or winding up of pension schemes in connection with the passing of that Act.
- (7) Regulations made under this section may be made so as to have effect from a date earlier than that on which they are made, not being earlier than the first day of January, nineteen hundred and forty-seven, so however that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the making thereof shall not place any person in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.
- (8) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say,—
- " the existing pension schemes " means—
    - (a) the scheme for the payment of pensions out of the fund registered under the Superannuation and other Trust Funds (Validation) Act, 1927, by the name of the Eastern and Associated Telegraph Companies' Pension Fund ;
    - (b) the scheme for the payment of pensions out of the fund registered under that Act by the name of the Cable and Wireless Widows Fund;

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- (c) any scheme for the payment of pensions out of a fund to which section three of the Pacific Cable Board (Pension and Provident Funds) Act, 1929, applies;
- (d) the scheme for the payment of pensions commonly known as the Eastern and Associated Telegraph Companies' Superannuation Fund, being a scheme subsisting by virtue of deeds whereof the principal one is a deed dated the thirtieth day of June, eighteen hundred and ninety-three, whereto the parties were the Eastern Telegraph Company Limited, the Eastern Extension, Australasia and China Telegraph Company Limited, the Eastern and South African Telegraph Company Limited, the Brazilian Submarine Telegraph Company Limited, Sir John Pender, John Denison-Pender and Lord Sackville Arthur Cecil;
- (e) the scheme for the payment of pensions commonly known as the Post Office Transferees Pension Fund, being a scheme subsisting by virtue of a deed dated the first day of July, nineteen hundred and thirty-two, whereto the parties were the operating company (therein called by its then name of Imperial and International Communications Limited), Cable and Wireless (Holding) Limited (therein called by its then name of Cables and Wireless Limited), John Cuthbert Denison-Pender, Henry William Grant, C.B., Francis Alexander Johnston, Edward Wilshaw, Frederick William Atkins Frost, John Jocelyn Denison-Pender and Cables and Wireless Pension Fund Trustee;
- (f) the scheme commonly known as the Communications Superannuation Fund, being a scheme for the payment of pensions out of the fund maintained for the purposes of a deed dated the fourteenth day of December, nineteen hundred and thirty-two, whereto the parties were those mentioned in the last foregoing paragraph;
- (g) the scheme for the payment of pensions commonly known as the Indo-European Retirement Fund, being a scheme subsisting by virtue of a deed dated the tenth day of June, nineteen hundred and thirty-six, whereto the parties were the Indo-European Telegraph Company Limited, Sir Alan Rae Smith, the operating company, Harold Fitch Kemp, Thomas Oswald Stevens Perry, John Cuthbert Denison-Pender, Henry William Grant, C.B., Francis Alexander Johnston, Edward Wilshaw, John Jocelyn Denison-Pender, Frederick William Atkins Frost, John Emilius Payton, Richard Edmund Relfe Luff and Cables and Wireless Pension Fund Trustee; and
- (h) the two schemes together commonly known as the Marconi Companies' Staff Superannuation Fund, being schemes for the payment of pensions each of which subsists by virtue of a deed dated the first day of April, nineteen hundred and fourteen, to the one of which the parties were Marconi's Wireless Telegraph Company Limited and the North British and Mercantile Insurance Company and to the other of which the parties were the Marconi International Marine Communication Company Limited and the North British and Mercantile Insurance Company;

" pension ", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund with or without interest thereon or any other addition thereto;

" pension fund " means a fund established for the purpose of paying pensions;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension to or in respect of him, and any expectation of the accruer of a pension to or in respect of him under a customary practice, and includes a right of allocation in respect of a present or future payment of pension;

" pension scheme " includes any form of arrangements for the payment of pensions, whether subsisting by virtue of trust, contract or otherwise.

## 7 **Compensation to employees of the operating company.**

(1) The Postmaster General shall have power, exercisable by statutory instrument, to make, with the consent of the Treasury, regulations providing for the payment by him out of moneys provided by Parliament, in such cases and to such extent as may be specified in the regulations, of compensation to persons who, on such date before the passing of this Act as may be specified in the regulations, were employed whole-time as officers or servants of the operating company, being—

- (a) persons who suffer loss of employment in consequence of the giving of effect to clause 5 of the Commonwealth telegraphs agreement by His Majesty's Government in the United Kingdom; or
- (b) persons who suffer diminution of emoluments or pension rights in consequence of their entering the Civil Service of the State as a result of effect's being given as aforesaid to that clause;

and any such regulations may make different provision (including the specification of a different date) in relation to different classes of persons.

(2) Regulations made under this section—

- (a) shall prescribe the procedure to be followed in making claims for compensation and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and
- (b) shall in particular contain provisions enabling appeals from determinations of any such questions as aforesaid to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before a referee or board of referees appointed by the Minister of Labour and National Service after consultation—
  - (i) where the proceedings are to be held in England, with the Lord Chancellor;
  - (ii) where the proceedings are to be held in Scotland, with the Lord President of the Court of Session; and
  - (iii) where the proceedings are to be held in Northern Ireland, with the Secretary of State;

and, upon a reference under a provision of regulations having effect by virtue of paragraph (b) of this subsection, the decision of the referee or board of referees shall be final.

(3) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament.

(4) In this section,—

- (a) the expression " emoluments " includes any allowances, privileges or benefits, whether obtaining legally or by customary practice;
- (b) the expression " officers or servants" does not include directors; and
- (c) the expression " pension rights " has the same meaning as in the last foregoing section.

**8 Provisions as to referees appointed by the Minister of Labour and National Service.**

- (1) The Minister of Labour and National Service may, with the approval of the Treasury, pay out of moneys provided by Parliament—
  - (a) to any referee or to the members of any board of referees appointed by him under this Act, such fees and allowances as he may, with the consent of the Treasury, determine; and
  - (b) to persons giving evidence before any such referee or board, such allowances as he may, with the consent of the Treasury, determine.
- (2) Nothing in the Arbitration Acts, 1889 to 1934, or the Arbitration Act (Northern Ireland), 1937, shall be construed as applying to any proceedings before a referee or board of referees appointed under this Act by the Minister of Labour and National Service.