



Statutory Document No. 80/93

THE RETIREMENT PENSION (PREMIUM) SCHEME 1993

Approved by Tynwald 16 March 1993

Coming into operation 12th April 1993

PART I

Conditions of Entitlement

General Conditions of Entitlement

1. Subject to the provisions of this Scheme a person who on or after 12th April 1993 -
 - (a) is ordinarily resident in the Island;
 - (b) has attained age 75; and
 - (c) is, or is treated under paragraph 2 as being, entitled to a payment of a qualifying benefit from the Department

is a qualified person for the purposes of this Scheme and shall be entitled to a payment (hereinafter referred to as "a premium") at a rate determined in accordance with Part II.

2. Circumstances in which a person is to be treated as entitled to a qualifying benefit

For the purpose of paragraph 1(c) a person shall be treated as entitled to a payment of a qualifying benefit from the Department if he would be so entitled but for any provision of the Overlapping Benefit Regulations.

PART II

Amount of Premium

General

- 3.(1) Subject to the provisions of this Part, the amount of a premium shall be £8.95 per week.
- (2) The amount of a premium shall be reduced in accordance with the provisions of paragraph 5(1) and, in the case of a qualified person who is a partner, as additionally provided for in paragraph 5(2).

Annual review of the amount of a premium

- 4.(1) Each year after the commencement of this Scheme, the amount of a premium shall be increased by the same percentage as the annual increase in the qualifying benefit;
- (2) No increase in the rate of a premium shall be payable without the concurrence of the Treasury.

Reductions in the amount of a premium

- 5.(1) The amount of a premium shall be reduced by the total weekly amount of any relevant benefits to which the qualified person (whether or not a partner) is, or is treated as, entitled; and where that total weekly amount equals or exceeds the amount mentioned in paragraph 3(1) no premium shall be payable to that qualified person.
- (2) In the case of a qualified person who is a partner and that person's partner (whether or not also a qualified person) has, or is treated as having, relevant benefits of a total weekly amount in excess of the amount mentioned in paragraph 3(1), the amount of any premium payable in such a case shall be reduced or further reduced, as the case may be, by the amount of that excess; and where the total weekly amount of any reductions provided for in this sub-paragraph and sub-paragraph (1) equals or exceeds the amount mentioned in paragraph 3(1) no premium shall be payable in such a case.

Persons in hospital

6. The Social Security (Hospital In-Patients) Regulations 1975(a) as they have effect in the Island shall apply to the premium as if references to personal benefit in those regulations were to the aggregate of personal benefit (as defined in regulation 2(1)) and the premium, but only in a case where an adjustment of personal benefit is required under regulation 6 (Adjustment of personal benefit after 52 weeks in hospital).

(a) S.I. 1975/555.

PART III

Claims and Payments

Claims

7. The Department shall make arrangements for the identification of qualified persons and, in accordance with the provisions of this scheme, for the determination and award of premiums. Except in such cases and in such manner as the Department may direct, a qualified person will not be required to submit a claim for a premium.

Time and manner of payment

8. Except in such cases as the Department may direct any premium payable to a qualified person shall be paid by the Department at the same time and in the same manner as the qualifying benefit payable to that person.

PART IV

Adjudication

Determination of questions by an adjudication officer

- 9.(1) Subject to the provisions of this Part, there shall be submitted to an adjudication officer any question arising in connection with entitlement to a premium or to the award of a premium.
- (2) Sub-paragraph (1) does not apply to any question which falls to be determined otherwise than by an adjudication officer.
- (3) An adjudication officer to whom a question is submitted under sub-paragraph (1) shall take it into consideration, and so far as practicable, determine the question within 14 days of its submission to him.
- (4) The decision of an adjudication officer on any question shall be notified in writing to the person raising the question. If that decision is adverse the notification shall also contain the reasons for the decision and the person raising the question shall at the same time be advised of his right of appeal under paragraph 10.

Appeals

- 10(1) Where an adjudication officer has decided a question adversely to the person raising the question, that person may appeal to the Chief Adjudication Officer within 28 days of the date of the notification referred to in paragraph 9(4).
- (2) An appeal shall be in writing and shall be made by sending or delivering it to an office of the Department within the time specified in sub-paragraph (1) which time may be extended for special reasons on application in writing to the Chief Adjudication Officer.
- (3) The procedure for considering and determining an appeal shall be such as the Chief Adjudication Officer may determine having regard to the circumstances in any particular case.
- (4) Where a question first arises in the course of an appeal, the Chief Adjudication Officer may proceed to determine the question notwithstanding that it has not been considered by an adjudication officer.
- (5) Sub-paragraph (4) does not apply to any question which falls to be determined otherwise than by an adjudication officer.

Reviews

- 11(1) Any decision under this Scheme of an adjudicating authority may be reviewed at any time by an adjudicating authority if -
 - (a) the authority is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
 - (b) there has been a relevant change of circumstances since the decision was given; or
 - (c) the decision was based on a decision of a question which under this Scheme falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised; or

- (d) the adjudicating authority is satisfied that the decision was based on an incorrect interpretation of this Scheme.
- (2) Where on a review a decision is revised so as to make a premium payable, or to increase the amount of the premium, the decision given on the review shall have effect from such date as may be specified in the decision being a date not earlier than the date 12 months before the beginning of the week in which the application for review is made.
- (3) Nothing in sub-paragraph (2) shall operate so as to limit the amount of a premium that may be awarded on a review of a decision if the adjudicating authority making the review is satisfied either -
 - (a) that the decision under review was erroneous by reason only of a mistake made, or of something done or omitted to be done by an officer of the Department or by an adjudicating authority, and that the claimant and anyone acting for him neither caused nor materially contributed to that mistake, act or omission; or
 - (b) that where the grounds for review are that the decision was given in ignorance of or was based on a mistake as to a material fact, these grounds are established by evidence which was not before the adjudicating authority which gave the decision; that the claimant and anyone acting for him could not reasonably have produced that evidence to that authority at or before the time the decision was given, and that it has been produced as soon as reasonably practicable.

Finality of Decisions

- 12. Subject to the provisions of this Part, the decision of any question in accordance with this Part shall be final.

PART V

General Provisions

Interpretation

13.(1) In this Scheme -

"Adjudicating Authority" means an adjudication officer or the Chief Adjudication Officer;

"Adjudicating Officer" means a person appointed under section 97(1) and (1A) of the Act;

"Chief Adjudication Officer" means a person appointed under section 97(1B) of the Act;

"Department" means the Department of Health and Social Security of the Isle of Man;

"relevant benefits" means -

- (a) any additional pension to which a person is entitled under Part II of the Pensions Act, after deduction of any guaranteed minimum pension referred to in (b) or (c) below;
- (b) any guaranteed minimum pension to which a person is entitled under Part III of the Pensions Act;
- (c) any guaranteed minimum pension to which a person is treated as being entitled under section 29(2A) of the Pensions Act or under section 4 of the 1986 Act;
- (d) any age addition to which a person is entitled under Part II of the Act.
- (e) any invalidity allowance to which a person is entitled under Part II of the Act.

"Overlapping Benefit Regulations" means the Social Security (Overlapping Benefits) Regulations 1979(a) as those regulations have effect in the Island (b);

"partner" means one of a married or unmarried couple;

"premium" has the meaning assigned to it in paragraph 1;

"qualifying benefit" means a retirement pension under Part II of the Act;

"the 1986 Act" means the Social Security Act 1986 (of Parliament)(c) as that Act has effect in the Island(d);

"the Act" means the Social Security Act 1975 (of Parliament)(a) as that Act has effect in the Island (b);

"the Pensions Act" means the Social Security Pensions Act 1975 (of Parliament)(c) as that Act has effect in the Island (d);

(2) The Interpretation Act 1976 applies to this Scheme as it applies to an Act of Tynwald.

(a) S.I. 1979/597; (c) G.C. 207/79; (c) c. 50; (d) G.C. 85/87.

Citation and Commencement

14. This Scheme may be cited as the Retirement Pension (Premium) Scheme 1993 and shall come into operation on 12th April 1993.

Revocation

15. The Retirement Pension (Premium) Scheme 1990 is revoked.

Made this 11th day of February 1993

B MAY M.H.K.

MINISTER FOR HEALTH AND SOCIAL SECURITY

EXPLANATORY NOTE

(This note is not part of the Scheme)

1. This Scheme consolidates and amends the Retirement Pension (Premium) Scheme 1990; in that it -
 - a) incorporates amendments to the Scheme previously approved by Tynwald,
 - b) provides for the premium to be increased from £8.65 to £8.95 with effect from 12th April 1993, and
 - c) provides that in future years the amount of a premium shall be increased in line with the general up-rating of the standard rate of retirement pension.
2. The Retirement Pension (Premium) Scheme 1990 made provision for a premium to be paid with the Retirement Pension of certain persons aged 75 or over.
3. Part II determines the amount of the premium. Paragraph 3 establishes that with effect from 12 April 1993 a qualified person shall be entitled to a premium of £8.95 per week but subject to modification. Paragraph 4 provides for the rate of a premium to be increased each year in line with the general up-rating of the retirement pension. Paragraph 5 provides for the modification of the premium by way of certain deductions. Paragraph 6 is concerned with the payment of a premium to a person who is in hospital; in particular it provides that the premium will not be reduced until that person has been in hospital for 52 weeks.
4. Part III provides that claims for the premium will not normally be required, and indicates the time and manner of payment. Part IV makes provisions for the adjudication of questions, and Part V contains general provisions, including interpretation, citation, commencement and revocation.
5. The cost of premiums under the Scheme, which is to be met from moneys provided out of the Manx National Insurance Fund, is estimated at £2.39 millions in the 1993/94 financial year.