



Statutory Document No. 135/07

THE PENSION SCHEMES ACT 1995

THE PENSION SCHEMES LEGISLATION (APPLICATION) (No. 3) ORDER 2007

Approved by Tynwald 20th March 2007

Coming into operation in accordance with Article 1

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Pension Schemes Act 1995(a), and of all other enabling powers, the following Order is hereby made:-

Citation and commencement

1. (1) This Order may be cited as the Pension Schemes Legislation (Application) (No. 3) Order 2007 and shall, subject to section 1(4) of the Pension Schemes Act 1995, come into force as provided for in paragraph (2).

(2) This Article and Articles 2 and 3 shall come into force forthwith and each provision of the applied legislation, as modified, shall be deemed to have come into force on the same day as that provision came into force in Great Britain.

Interpretation

2. (1) In this Order “the applied legislation” means the Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006(b).

(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;

(a) 1995 c.11; (b) S.I. 2006/343.

- (b) reference in any legislation applied by this Order to any provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Social Security Act 2000^(a) or section 1 of the Pension Schemes Act 1995 (Acts of Tynwald) shall be construed as a reference to that legislation as it has effect in the Island.

Application to the Island of the applied legislation

3. The applied legislation, as modified and shown in the Schedule to this Order, shall apply to the Island as part of the law of the Island.

^(a) 2000 c.5.

SCHEDULE

This Schedule sets out the text of the Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006 (S.I. 2006/343) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

2006 No. 343

PENSIONS

The Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006

Citation, commencement and interpretation

1. (1) This Order may be cited as the Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006 and shall *be deemed to have* come into force on *14th February 2006*.

(2) In this Order—

"FAS payments" means payments made under the Financial Assistance Scheme Regulations 2005¹ *(as they have effect in Great Britain)*;

"PPF payments" means any payments made in relation to a person—

- (a) under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004² or Article 146(2) of the Pensions (Northern Ireland) Order 2005³ (the pension compensation provisions) *(as that Act and that Order have effect in Great Britain and Northern Ireland respectively)*; or
- (b) under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.) *(as that Act and that Order have effect in Great Britain and Northern Ireland respectively)*.

Amendments of Acts

2. The Schedule to this Order (which contains amendments of provisions of certain Acts relating to pensions and benefit payments and extends those provisions to take into account PPF payments and FAS payments) shall have effect.

¹ S.I. 2005/1986.

² 2004 c.35.

³ S.I. 2005/255 (N.I. 1).

Amendments of Acts

PART 1

Amendment of the Social Security Contributions and Benefits Act 1992⁴

1. (1) In section 30DD (incapacity benefit: reduction for pension payments)—

(a) in the heading to the section after "Incapacity benefit: reduction for pension payments" insert "and PPF periodic payments";

(b) for subsection (1) substitute—

"(1) Where—

(a) a person is entitled to incapacity benefit in respect of any period of a week or part of a week,

(b) there is—

(i) a pension payment;

(ii) a PPF periodic payment; or

(iii) any combination of the payments specified in sub-paragraphs (i) and (ii) above,

payable to him in respect of that period (or a period which forms part of that period or includes that period or part of it), and

(c) the amount of the payment or payments (or, as the case may be, the amount which in accordance with regulations is to be taken as payable to him by way of pension payments or PPF periodic payments in respect of that period), when taken together exceeds the threshold,

the amount of that benefit shall be reduced by an amount equal to 50 per cent. of that excess."; and

(c) in subsection (4), in paragraphs (b) and (c), in both places after "pension payments" insert "or PPF periodic payments".

(2) In section 89 (earnings to include occupational and personal pensions for purposes of provisions relating to increases of benefits in respect of adult dependants)—

(a) in the heading to the section after "personal pensions" insert "etc.";

(b) after subsection (1) insert—

"(1A) Except as may be prescribed, in sections 82 to 86A above, and in regulations under section 86A above, any reference to earnings includes a reference to payments by way of PPF periodic payments.";

(c) in subsection (2)—

(i) for "subsection (1) above" substitute "subsections (1) and (1A) above"; and

⁴ 1992 c.4 (see S.D. 505/94).

- (ii) after "occupational or personal pension" insert "or PPF periodic payments"; and
- (d) after subsection (2) add—

"(3) In this section "PPF periodic payments" means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*); or
- (b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*),

other than payments made to a surviving dependant of a person entitled to such compensation."

(3) In section 122(1) (interpretation of Parts I to VI and supplementary provisions), after the definition of "pensionable age" insert—

""PPF periodic payments" means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*); or
- (b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*);"

PART 2

Amendment of the Jobseekers Act 1995⁵

2. (1) In section 4(1) (amount payable by way of a jobseeker's allowance), in paragraph (b), for "and pension payments" substitute ", pension payments, PPF payments and FAS payments".

(2) In section 35 (interpretation), in the appropriate alphabetical places, insert—

""FAS payments" means payments made under the Financial Assistance Scheme Regulations 2005 (*as they have effect in Great Britain and Northern Ireland*);" and

"PPF payments" means any payments made in relation to a person—

- (a) payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*); or

⁵ 1995 c.18 (see S.D. 8/96).

- (b) payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.) (*as that Act and that Order have effect in Great Britain and Northern Ireland respectively*);".

PART 3

Amendment of the State Pension Credit Act 2002

3. *Omitted.*

Made 6th February 2007



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. Section 1 of the Pension Schemes Act 1995 enables the Department by Order to apply to the Island, as part of the law of the Island and incorporating such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that Act applies.
2. *Inter alia*, the Act applies to the Pensions Act 2004 (an Act of the United Kingdom Parliament) and to any statutory instrument made or having effect as if made under that Act.
3. This Order applies to the Isle of Man the Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006, the provisions of which are summarised in the following paragraphs. The applied legislation is deemed to have come into force on 14th February 2006, at the same time as it did so in Great Britain.

4. **The Pensions Act 2004 (PPF Payments and FAS Payments) (Consequential Provisions) Order 2006 (S.I. 2006/343)**
- 4.1 The legislation applied to the Isle of Man by this Order amends the Social Security Contributions and Benefits Act 1992 (“the Contributions and Benefits Act”) and the Jobseekers Act 1995 (“the Jobseekers Act”) so as to allow incapacity benefit and adult benefit dependency increases to take into account periodic payments made by the United Kingdom Pension Protection Fund (“periodic PPF payments”), and for contribution-based jobseeker’s allowance to take into account PPF payments and payments under the United Kingdom Financial Assistance Scheme (“FAS payments”), in a similar way to that in which pensions and benefit payments are treated.
- 4.2 The Pension Protection Fund and the Financial Assistance Scheme were established in the United Kingdom to pay compensation to members of certain defined benefit pension schemes where the employer sponsoring the scheme became insolvent and where there were insufficient assets in the scheme to cover levels of compensation of the Fund and the Scheme.
- 4.3 No equivalent to the Pension Protection Fund or the Financial Assistance Scheme operates in the Isle of Man and although people cannot qualify for periodic PPF payments or FAS payments in respect of their membership of an Isle of Man occupational pension schemes, Isle of Man residents can qualify for payments from the United Kingdom Fund and payments under the United Kingdom Scheme in respect of their membership of a pension scheme established in the United Kingdom and which qualifies for assistance. Provision is therefore being inserted into social security legislation to take this scenario into account in accordance with the following.
- 4.4.1 Article 1 provides for the citation, commencement and interpretation of the Order.
- 4.4.2 Article 2 introduces the Schedule to the Order, which contains the amendments.
- 4.4.3 Part 1 of the Schedule amends sections 30DD (incapacity benefit: reduction for pension payments) and 89 (earnings to include occupational and personal pensions for purposes of provisions relating to increases of benefits in respect of adult dependants) of the Contributions and Benefits Act to provide that periodic PPF payments are treated in the same manner as occupational and personal pensions for the purposes of determining whether incapacity benefit and increases of benefit for adult dependants are payable. It also introduces a definition of “PPF periodic payments” into that Act.
- 4.4.4 Part 2 of the Schedule amends the Jobseekers Act to specify that, for the purposes of contribution-based jobseeker’s allowance, PPF payments and FAS payments shall be taken into account when calculating the rate of contribution-based jobseeker’s allowance that is to be paid to a person. It also introduces definitions of “PPF payments” and “FAS payments” into that Act.

