Parliamentary Pensions Act 1978

1978 CHAPTER 56

An Act to make further provision with respect to the contributory pensions schemes for Members of the House of Commons and for the holders of certain Ministerial and other offices. [2nd August 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Pensions for Members on early retirement

Pensions for Members on early retirement.

1.—(1) Section 7 (pensions of Members) of the Parliamentary and other Pensions Act 1972 (hereafter in this Act referred to as " the Act of 1972 ") shall be amended as follows.

1972 c. 48.

(2) After subsection (4) there shall be inserted as subsection (4A)—

" (4A) Where, in the case of any dissolution of Parliament occurring after the passing of the Act of 1978, a person who—

(*a*) immediately before the dissolution was a Member of the House of Commons ;

(*b*) at the dissolution had attained the age of sixty-two years and had been a Member of that House for a period of not less than twenty-five years, or for two or more periods amounting in the aggregate to not less than twenty-five years ; and

(*c*) is not a candidate for election to that House,

applies to the Trustees, before the end of the day of the poll in the general election consequent upon the dissolution, for a pension under this section payable from the time when the salary payable to him as a Member of that House ceases to be payable, then, if the Trustees are satisfied that he does not intend to stand for re-election to that House, he shall be entitled to receive a pension under this section as from the time when that salary ceases to be payable, calculated (subject to sections 11 and 31 of this Act) in accordance with subsection (3) of this section.".

Ill-health pensions

Ill-health pensions based on service as a Member.

2.—(1) A person who because of ill-health—

(*a*) has after the passing of this Act ceased to be a Member of the House of Commons before attaining the age of sixty-five years; or

(*b*) having been at any time a Member of that House has, after the passing of this Act and while not a Member of that House, ceased to hold a qualifying office before attaining that age,

may apply to the Trustees for an early pension under section 7 of the Act of 1972 if at the time when he so ceased (" the material time ") he would have become entitled to receive a pension under that section but for his not having attained the age of sixty-five years.

(2) If on an application under this section the Trustees are satisfied—

(*a*) that the applicant does not intend to seek re-election to the House of Commons or to accept any future offer of a qualifying office;

(*b*) that his ceasing as mentioned in subsection (1)(*a*) or (*b*) above was a direct consequence of his ill-health; and

(*c*) that his ill-health is such as would prevent him from performing adequately the duties of a Member of the House of Commons,

the applicant shall be entitled to receive a pension under section 7 of the Act of 1972 as from the material time.

(3) A person who, if he were to cease as mentioned in paragraph (*a*) or (*b*) of subsection (1) above at a particular time in the future because of ill-health, would become entitled to make an application under that subsection may make such an application before that time, specifying in it the time when he proposes to so cease; and where on such an application the Trustees are satisfied that, if the applicant so ceases at the time specified

therein, he will be entitled under subsection (2) above to receive a pension under section 7 of the Act of 1972 as from that time, they shall give him notice in writing to that effect.

(4) The annual amount of a pension payable under section 7 of the Act of 1972 to a person by virtue of this section shall (subject to sections 11 and 31 of that Act) be calculated in accordance with section 7(3) of that Act; but for the purposes of that calculation his aggregate period of reckonable service as a Member shall, subject to subsection (5) below, be increased by whichever of the following periods applies in his case, namely—

(*a*) if, apart from this subsection, his aggregate period of reckonable service as a Member at the material time was less than ten years, a period equal to that aggregate period;

(*b*) if, apart from this subsection, his aggregate period of reckonable service as a Member at that time was ten years or more but less than twenty years, a period equal to the difference between that aggregate period and twenty years or a period of six years and eight months, whichever is the longer;

(*c*) in any other case, a period of six years and eight months.

(5) A person's aggregate period of reckonable service as a Member—

(*a*) shall in no case be increased under subsection (4) above by a period longer than the period between his ceasing as mentioned in subsection (1)(*a*) or (*b*) above and the time when he would attain the age of sixty-five years; and

(*b*) as increased under section (4) above shall in no case exceed forty years.

(6) References in subsections (4) and (5) above to a person's aggregate period of reckonable service as a Member are references to that period as increased by or under any provision of the Act of 1972 or this Act other than subsection (4) above, and include any additional period of reckonable service which, in accordance with any provision made by order under section 11 of this Act, he has undertaken to purchase by way of periodical deductions from salary.

(7) In relation to a person who—

(*a*) was a Member of the House of Commons at any time before 1st January 1972 but has not been a Member of that House on or after that date; and

(*b*) because of ill-health has after the passing of this Act ceased to hold a qualifying office before attaining the age of sixty-five years,

subsections (1) to (5) above shall have effect with the following modifications, that is to say—

(i) references to section 7 of the Act of 1972 shall be read as references to Part II of the Act of 1965 ;

(ii) references to a person's aggregate period of reckonable service as a Member shall be read as references to the aggregate of his periods of reckonable service within the meaning of the said Part II ; and

(iii) in subsection (4), paragraph (*a*) and the reference to section 11 of the Act of 1972 shall be omitted, and the reference to section 7(3) of that Act shall be read as a reference to section 7(3) of the Act of 1965.

(8) For the purposes of this section—

(*a*) a person who has ceased to be a Member of the House of Commons in consequence of the dissolution of Parliament shall be treated as having so ceased because of ill-health if, but only if, he satisfies the Trustees that as a direct consequence of his ill-health he did not seek re-election to that House after the dissolution ; and

(*b*) a person who has, while not a Member of that House, ceased to hold a qualifying office because of the result of a general election consequent upon the dissolution of Parliament shall be treated as having so ceased as a direct consequence of his ill-health if, but only if, he satisfies the Trustees that on the day of the poll in that election his ill-health was such as would prevent him from performing adequately the duties of a Member of the House of Commons.

Ill-health pensions based on service as an office-holder.

3.—(1) A person who because of ill-health—

(*a*) has after the passing of this Act ceased to be a Member of the House of Commons before attaining the age of sixty-five years ; or

(*b*) has, after the passing of this Act and while not a Member of that House, ceased to hold a qualifying office before attaining that age,

may apply to the Trustees for an early pension under section 9 of the Act of 1972 if at the time when he so ceased (" the material time ") he would have become entitled to receive a pension under that section but for his not having attained the age of sixty-five years.

(2) If on an application under subsection (1) above the Trustees are satisfied as mentioned in paragraph (*a*) (so far as applicable

and paragraphs (*b*) and (*c*) of section 2(2) of this Act, the applicant shall be entitled to receive a pension under section 9 of the Act of 1972 as from the material time.

(3) Subsection (3) of section 2 of this Act shall apply in relation to subsections (1) and (2) above as it applies in relation to subsections (1) and (2) of that section, the reference to a pension under section 7 of the Act of 1972 being for this purpose read as a reference to a pension under section 9 of that Act.

(4) The annual amount of a pension payable under section 9 of the Act of 1972 by virtue of this section shall (subject to sections 11 and 31 of that Act) be calculated in accordance with section 10(1) to (3) of that Act.

(5) Section 2(8) of this Act shall apply for the purposes of this section.

Ill-health pensions for those no longer Members or office-holders.

4.—(1) A person who because of ill-health has, after the passing of this Act and while neither a Member of the House of Commons nor a candidate for election to it nor the holder of a qualifying office, retired from gainful work before attaining the age of sixty-five years may apply to the Trustees for an early pension under section 7 of the Act of 1972, or under section 9 of that Act, or under Part II of the Act of 1965 if at the time when he so retired he would have become entitled to receive a pension under that section or Part but for his not having attained the age of sixty-five years.

(2) If on an application under this section the Trustees are satisfied—

(*a*) that the applicant does not intend to seek election to the House of Commons or to accept any future offer of a qualifying office ;

(*b*) that his retirement from gainful work was a direct consequence of his ill-health ; and

(*c*) that his ill-health is such as would prevent him from performing adequately the duties of a Member of the House of Commons,

the applicant shall, as from the date on which the Trustees are so satisfied, be entitled to receive a pension under, or under each of, whichever one or more of the following provisions is or are applicable to him, namely sections 7 and 9 of the Act of 1972 and Part II of the Act of 1965.

(3) Where an application is made under this section, the Trustees shall by notice in writing inform the applicant whether they are satisfied as mentioned in subsection (2) above and, if they are so satisfied, shall state the date as from which the pension or pensions payable to him by virtue of this section is or are payable in accordance with that subsection.

(4) In this section " gainful work " means work under a contract of employment, or as the holder of an office, or as a self-employed person engaged in a business or profession, being in any case work from which the person concerned gains the whole or a substantial part of his income.

Medical evidence for purposes of ss. 2 to 4.

5.—(1) Every application under section 2, 3 or 4 of this Act must be accompanied by medical evidence of the applicant's state of health.

(2) In the case of any such application, the Trustees may require the applicant to undergo a medical examination by a medical practitioner nominated by them for the purpose; and the fees for any such examination shall be borne by the Trustees or the applicant, as the Trustees may determine.

Widows, widowers and children

Widowers' pensions.

6.—(1) In section 14 of the Act of 1972 (pensions for certain widowers), after subsection (1) (qualifying conditions) there shall be inserted as subsection (1A)—

" (1A) Subject to the following provisions of this section, the widower of a woman who was a Member of the House of Commons at any time after the passing of the Act of 1978 shall, if at the time of her death she fulfilled any of the conditions specified in paragraphs (*a*) and (*b*) of subsection (1) above (as it applies in her case), be entitled to receive a pension under this section—

(*a*) as from the day following the date of her death if at the time of her death he had attained the age of sixty-five years or was incapable by reason of bodily or mental infirmity of earning his own living; or

(*b*) where the preceding paragraph does not apply, as from the time when he attains the age of sixty-five years or, before attaining that age, becomes incapable as mentioned in that paragraph;

and subsection (1) above shall not apply in the case of a widower to whom this subsection applies."

(2) In the case of a widower to whom subsection (1A) of section 14 of the Act of 1972 applies, subsections (3) and (4) of that section (Trustees' power to terminate or restore pension in certain events) shall have effect with the following modifications, that is to say—

(*a*) the references to subsection (1) of that section shall be read as references to subsection (1A) thereof; and

(*b*) so much of subsection (3) as relates to the termination of a widower's pension in the event of his ceasing to be

incapable as there mentioned shall not apply after the widower has attained the age of sixty-five years;

and where his pension has been terminated under subsection (3) of that section on his ceasing to be incapable as there mentioned before attaining the age of sixty-five, that fact shall not affect his entitlement to the pension as from the time when he attains that age.

Widows', widowers' and children's pensions.

7.—(1) Where the widow of a man who—

(*a*) has been a Member of the House of Commons at any time since the passing of this Act; and

(*b*) was at the time of his death entitled to receive a pension under section 7 of the Act of 1972,

is entitled to receive a pension under section 13 of that Act, subsections (2) and (3) below shall apply.

(2) If, for any part of the three-month period, the aggregate of the following amounts, namely—

(*a*) the amount payable to her by way of pension under section 13 of the Act of 1972 apart from this subsection; and

(*b*) any amount which (by direction of the Trustees under section 15(5) of that Act) is payable to her by way of pension under section 15 of that Act for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in subsection (3) below, then for that part of that period the amount payable to her by way of pension under the said section 13 shall be increased by the difference.

(3) The said amount is the amount or aggregate amount which, if the deceased had lived, would have been payable to him for the part of the three-month period in question by way of pension under one or both of sections 7 and 9 of the Act of 1972.

(4) Where a man has died after the passing of this Act and, at the time of his death, he—

(*a*) was a Member of the House of Commons; and

(*b*) was not entitled to receive a pension under section 7 of the Act of 1972 but had an aggregate period of reckonable service (whether as a Member or otherwise) of not less than four years,

subsections (5) to (7) below (so far as applicable) shall apply if his widow is entitled to receive a pension under section 13 of that Act or if a children's pension under section 15 of that Act is payable for the benefit of any relevant child or children of his.

(5) If the deceased died before attaining the age of sixty-five years, the annual amount of any pension payable to his widow under section 13 of the Act of 1972 or for the benefit of any relevant child or children of his under section 15 of that Act shall be calculated as if he had immediately before his death ceased to be a Member of the House of Commons because of ill-health and had by virtue of section 2 of this Act been entitled to receive a pension under section 7 of the Act of 1972 as from the time when he so ceased.

(6) If, for any part of the three-month period, the aggregate of the following amounts, namely—

(*a*) the amount payable to the deceased's widow by way of pension under section 13 of the Act of 1972 apart from this subsection; and

(*b*) any amount which (by direction of the Trustees under section 15(5) of that Act) is payable to her by way of pension under section 15 of that Act for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in subsection (7) below, then for that part of that period the amount payable to her by way of pension under the said section 13 shall be increased by the difference.

(7) The said amount is the amount which, if—

(*a*) the deceased had lived and had at the material time become entitled to a pension under section 7 of the Act of 1972; and

(*b*) the annual amount of that pension had been (subject to section 31 of that Act) a sum equal to a Member's ordinary salary at the rate in force at the material time,

would have been payable to him for the part of the three-month period in question by way of that pension.

In this subsection "the material time" means the time when the deceased in fact died.

(8) The preceding provisions of this section are without prejudice to subsections (3) to (5) of section 13 of the Act of 1972 (duration of widow's pension, and restrictions on payment).

(9) The preceding provisions of this section shall apply in relation to a woman who has died after the passing of this Act and her widower as they apply in relation to a man who has so died and his widow, subject to the modifications that any reference to section 13 of the Act of 1972 shall be read as a

reference to section 14 of that Act, the reference to subsections (3) to (5) of section 13 of that Act shall be read as a reference to the following provisions of that Act, namely section 14(3) and (4) and section 13(4) and (5) as applied by section 14(5), and subsections (2) and (6) above shall not apply where the widower is entitled to a pension by virtue of section 14(1A)(*b*) of that Act.

(10) In this section—

" a Member's ordinary salary " has the same meaning as in section 3(6) of the Act of 1972 ;

" relevant child " has the same meaning as in section 15 of the Act of 1972 ;

" the three-month period ", in relation to a person who has died, means the period of three months beginning with the day following the date of his death.

Short-term pensions for widows, widowers and children.

8.—(1) Where a person has died after the passing of this Act and, at the time of his death, he—

(*a*) was a Member of the House of Commons ; and

(*b*) had an aggregate period of reckonable service (whether as a Member or otherwise) of less than four years ; and

(*c*) was not entitled to receive a pension under section 7 of the Act of 1972,

the following provisions of this section (so far as applicable) shall apply.

(2) Subject to subsections (6) to (8) below, if the deceased was a man and left a widow, she shall be entitled to receive a pension under this subsection for the relevant period beginning with the day following the date of the deceased's death, that is to say—

(*a*) if there is no relevant child of the deceased, three months ;

(*b*) if there is only one relevant child of the deceased, four months and fifteen days ;

(*c*) if there are two or more relevant children of the deceased, six months ;

and, subject to section 31 of the Act of 1972, a pension under this subsection shall be payable at a rate equal to what was the rate of a Member's ordinary salary at the time of the deceased's death.

(3) If the deceased was a woman and left a widower who, at the time of her death, was incapable by reason of bodily or mental infirmity of earning his own living or had attained the age of sixty-five years, subsection (2) above shall apply in relation to the deceased and her widower as it applies in relation to a man who has died and his widow.

(4) Subject to subsections (5) and (9) below (and whether the deceased was a man or a woman), a pension under this subsection shall be payable for the benefit of any relevant child or children of the deceased for the relevant period beginning with the day following the date of the deceased's death, that is to say—

(*a*) if there is only one relevant child, two months;

(*b*) if there are two or more relevant children, four months;

and, subject to section 31 of the Act of 1972, a pension under this subsection shall be payable at a rate equal to what was the rate of a Member's ordinary salary at the time of the deceased's death.

(5) So much of any pension under subsection (4) above as would otherwise (by direction of the Trustees under section 15(5) of the Act of 1972 as applied by subsection (9) below) be payable to the widow or widower of the deceased for the benefit of any relevant child or children of the deceased shall not be payable for any period for which a pension under subsection (2) above is payable.

(6) A pension payable under subsection (2) above to a widow shall cease to be payable if she remarries, unless the Trustees direct otherwise; and the Trustees may, if they think fit, so direct, if satisfied that there are exceptional reasons for continuing to pay the pension notwithstanding her remarriage.

(7) A pension payable under subsection (2) above to a widower—

(*a*) may be terminated by direction of the Trustees in the event of his remarriage or of his ceasing to be incapable as mentioned in subsection (3) above; and

(*b*) if so terminated, may be restored by direction of the Trustees if the pensioner again becomes incapable as mentioned in subsection (3) above, or if the Trustees are satisfied that for exceptional reasons it is proper to restore the pension.

(8) Subsections (4) and (5) of section 13 of the Act of 1972 (provisions as to cohabitation, and as to marriage in the year preceding death) shall apply for the purposes of subsection (2) above with the necessary modifications, references to that section or to a widow's pension being for this purpose read as referring to subsection (2) above or, as the case may be, to a pension thereunder.

(9) Subsections (4) and (5) of section 15 of the Act of 1972 (restrictions on, and payment and application of, children's pension) shall apply in relation to a pension under subsection (4) above as they apply in relation to a pension under that section

subject, in the case of subsection (4) of the said section 15, to the modifications that—

(*a*) the reference to a pension under section 13 or 14 of that Act shall be read as a reference to a pension under subsection (2) above;

(*b*) the references to the provision as to cohabitation shall be read as references to section 13(4) of that Act as applied by subsection (8) above.

(10) In this section—

" a Member's ordinary salary " has the same meaning as in section 3(6) of the Act of 1972;

" relevant child " has the same meaning as in section 15 of the Act of 1972.

Children's pensions.

9.—(1) Subject to subsection (5) below, section 15 of the Act of 1972 (amount and payment of children's pension) shall be amended as follows:

(2) In subsection (2) (children's pension to be sum equal to one-eighth of deceased's pension for each child not exceeding four) the words " to the next following subsection and " shall cease to have effect, and for the words " one-eighth " and " four " there shall be substituted the words " one-quarter " and " two " respectively.

(3) Subsection (3) (children's pension, where no widow or widower, to be one-quarter of deceased's pension if only one child or one-half of that pension in the case of two or more children) and, in subsection (4), the words from " and if " to the end of the subsection shall cease to have effect.

(4) In subsection (6)(*a*) (age at which child not in full-time education or dependent on deceased ceases to be a relevant child) for the word " sixteen " there shall be substituted the word " seventeen ".

(5) Subsections (2) to (4) above and the repeals in section 15 of the Act of 1972 provided for in Schedule 2 to this Act shall not apply for the determination of the annual amount of a children's pension payable for the benefit of a relevant child or children (within the meaning of section 15 of the 1972 Act) of a person who has not been a Member of the House of Commons or the holder of a qualifying office since the passing of this Act.

Gratuity on death of Member or office-holder.

10.—(1) Subject to subsection (5) below, section 16 of the Act of 1972 (gratuity on death of Member or office-holder) shall be amended as follows.

(2) In subsection (1) (discretion to grant gratuity to personal representatives) the words " (subject to the next following subsection) " and " to his personal representatives " shall be omitted, and at the end there shall be added the words " in respect of him ".

(3) After subsection (1) there shall be inserted as subsections (1A) and (1B)—

" (1A) A gratuity granted under this section in respect of a person shall be granted—

(*a*) to the person nominated in any nomination made by him for the purposes of this section which was in force at the time of his death ; or

(*b*) if no such nomination was in force at that time, to his personal representatives.

(1B) Only the wife or husband of a person (" the nominator ") making a nomination for the purposes of this section may be nominated in it, and any such nomination—

(*a*) must be made by notice in writing given to the Trustees ;

(*b*) may be revoked by a subsequent notice in writing so given by the nominator ; and

(*c*) shall cease to have effect if in the lifetime of the nominator the person nominated ceases to be the nominator's wife or husband, as the case may be."

(4) Subsection (2) (which precludes the grant of a gratuity if the deceased had insufficient reckonable service) shall cease to have effect.

(5) This section, and the repeals in section 16 of the Act of 1972 provided for in Schedule 2 to this Act, shall not apply in the case of a person who died before the passing of this Act.

Other provisions

Purchase of added years.

11.—(1) The Lord President of the Council may by order made by statutory instrument make provision for enabling Members of the House of Commons, subject to compliance with any specified conditions, to purchase additional periods of reckonable service as a Member ; and the aggregate period of reckonable service as a Member of a person who purchases an additional period in pursuance of an order under this section shall be treated as increased by that additional period.

(2) Without prejudice to the generality of subsection (1) above, an order under that subsection may—

(*a*) enable Members to purchase additional periods of reckonable service either by way of periodical deductions from salary or by payment of a lump sum ;

(*b*) specify different conditions in relation to different methods of payment; and

(*c*) be framed by reference to the opinion of the Trustees or to their approval, or require any matter to be established to their satisfaction.

(3) An order under subsection (1) above may enable persons who are Members of the House of Commons at the passing of this Act but who cease to be Members before the date on which an order under this section is first made to purchase additional periods of reckonable service as a Member.

(4) An order made under subsection (1) above may be revoked or varied by a subsequent order made under that subsection.

(5) A statutory instrument containing an order made under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

Reckonable service.

12.—(1) Subject to subsections (7) and (8) below, section 6 of the Act of 1972 (reckonable service) shall be amended as follows.

(2) In subsection (1), after the word " means " there shall be inserted the words " (subject to subsection (2A) of this section) ".

(3) In subsection (2)(*b*) (maximum reckonable service before 16th October 1964), after the words " ten years " there shall be inserted the words " or, in the case of a person who is or was a Member of the House of Commons after the passing of the Act of 1978, fifteen years ".

(4) After subsection (2) there shall be inserted as subsection (2A)—

" (2A) In calculating for the purposes of this Part of this Act a person's aggregate period of reckonable service as a Member, a period during which he was a Member of the House of Commons shall be disregarded—

(*a*) in so far as it fell after the time when his aggregate period of reckonable service as a Member reached forty years and before the time when he attains or attained the age of sixty-five years; and

(*b*) in so far as it fell after the time when he attained that age and would, apart from this paragraph, cause his aggregate period of reckonable service as a Member to exceed forty-five years.".

(5) In subsection (3), after the word " means " there shall be inserted the words " (subject to subsection (3A) of this section) ".

(6) After subsection (3), there shall be inserted as subsection (3A)—

" (3A) In calculating for the purposes of this Part of this Act a person's aggregate period of reckonable service as an office-holder, his period or periods of reckonable service as an office-holder shall be disregarded—

(*a*) so far as may be necessary to prevent his aggregate period of reckonable service as an office-holder from exceeding forty years at or before the time when he attains or attained the age of sixty-five years ; and

(*b*) so far as may be necessary to prevent his aggregate period of reckonable service as an office-holder from exceeding forty-five years at any time ;

and, in the case of any person, the particular part or parts of his period of reckonable service as an office-holder to be disregarded in pursuance of this subsection or, if there are two or more such periods, the particular periods or parts of periods (or both) to be so disregarded shall be that or those which, being disregarded, will make the aggregate of the contribution credits calculated in his case under section 10(3) of this Act as large as possible consistently with this subsection.".

(7) Subsections (2) and (4) above shall not apply in relation to a person who became entitled to receive a pension under section 7 of the Act of 1972 before the passing of this Act ; and subsections (5) and (6) above shall not apply in relation to a person who became entitled to receive a pension under section 9 of that Act before the passing of this Act.

(8) For the purpose of calculating the annual amount of—

(*a*) a pension payable under section 13 of the Act of 1972 to the widow of a man whose aggregate period of reckonable service (whether as a Member or otherwise) comprises no period which began before 6th April 1978 ; or

(*b*) a pension payable under section 14 of that Act to the widower of a woman whose aggregate period of reckonable service (whether as a Member or otherwise) comprises no period which began before that date,

subsections (2), (4), 5) and (6) above shall be disregarded ; and where to do so would increase the annual amount of a pension payable under the said section 13 or 14, there shall be disregarded, both for the purposes of this subsection and for the purpose of calculating that annual amount, all periods before 6th April 1978 during which the deceased was a Member of the House of Commons or held a qualifying office.

13.—(1) Section 2 of the Act of 1972 (participation by holders of qualifying offices) shall be amended as follows. Participation by holders of qualifying offices.

(2) In subsection (2), for the words "he may elect to be, or not to be, a participant under this section." there shall be substituted the words "he shall be a participant under this section unless he has elected otherwise in accordance with subsection (3) of this section.".

(3) In subsection (3)—

(*a*) in paragraph (*b*), for the words "in any other case" there shall be substituted the words "if the period of tenure of a qualifying office in question began after the passing of this Act but before the passing of the Act of 1978", and at the end of the paragraph there shall be added the word "and"; and

(*b*) for the words from "and any person who" onwards there shall be substituted as paragraph (*c*)—

"(*c*) in any other case, such an election must be made by notice in writing given to the Trustees before the end of the period of twelve months beginning—

(i) if a salary is payable to the holder of the office as from the date on which his period of tenure of that office began, with that date;

(ii) if a salary becomes payable to the holder of the office as from a date later than the date on which his period of tenure of that office began, with that later date,

or, in any case within this paragraph, before the end of such further period as the Trustees, having regard to the circumstances of the case, may allow.".

(4) The following subsections shall be substituted for subsection (4)—

"(3A) An election made under this section after the passing of the Act of 1978 shall be irrevocable and shall have effect from the date on which the period in question began.

(4) Notwithstanding the preceding provisions of this section, where before the passing of the Act of 1978 a person has elected to be a participant under this section in respect of a period of tenure of a qualifying office, he shall continue to be a participant under this section in respect of that period.".

Increase of contributions from Parliamentary remuneration.

14.—(1) In section 3 of the Act of 1972 (contributions from Parliamentary remuneration), in subsection (2) (contributions to be at the rate of five per cent. of a Member's pensionable salary) for the words "five per cent." there shall be substituted the words "six per cent.".

(2) In the case of the payment of salary made in respect of a period falling partly before and partly after the passing of this Act, the amendment made by subsection (1) above shall not apply in relation to so much of the payment as is attributable to the part of the period which falls before the passing of this Act.

Future changes in basis of contributions to and payments out of the Fund.
1976 c. 48.

15.—(1) For subsection (7) of section 3 of the Act of 1972 (which was inserted by section 1 of the Parliamentary and other Pensions and Salaries Act 1976) there shall be substituted the following subsection—

"(7) Any reference in this Part of this Act to a resolution of the House of Commons relating to the remuneration of Members shall be construed as a reference to an effective resolution of the House of Commons relating to the remuneration of Members and, where there are two or more such resolutions in force, as a reference to those resolutions taken together."

(2) In section 35(1) (interpretation) of the Act of 1972 the following shall be inserted after the definition of "contribution"—

"'effective resolution' means a resolution which is not framed as an expression of opinion".

(3) This section shall not affect the operation under the Act of 1972 of any resolution passed by the House of Commons before the commencement of this Act.

Reduction of reckonable service needed for pension under s. 9 of Act of 1972.

16.—(1) The minimum aggregate period of reckonable service (whether as a Member or otherwise) needed to qualify for a pension under section 9 of the Act of 1972 shall be reduced from four years to three years; and accordingly in subsection (1) of that section there shall be added at the end the words ", paragraph (*c*) of the said section 7(1) being for this purpose read as if it mentioned an aggregate period of reckonable service (whether as a Member or otherwise) of not less than three years (instead of four).".

(2) This section, and the repeal in section 25 of the Act of 1972 provided for in Schedule 2 to this Act, shall not apply in the case of a person who has held no qualifying office since the passing of this Act.

Duration of pensions and provision for partial abatement.

17.—(1) The provisions of section 12 of the Act of 1972 (duration of pension under section 7 or section 9 of that Act) shall be amended as follows and, as so amended, shall apply to any such pension under Part II of the Act of 1965 as is mentioned in section 36(2)(*c*) of the Act of 1972 as they apply to a pension under the said section 7.

(2) In subsection (2) of the said section 12 (periods in respect of which pension is not payable)—

(*a*) at the beginning there shall be inserted the words " Subject to subsection (2A) of this section " ; and

(*b*) after the words " or in respect of any part of a period of tenure of a qualifying office " there shall be added the words " other than a part in respect of which no salary is payable or in respect of which no salary is drawn.".

(3) After subsection (2) of the said section 12 there shall be inserted as subsection (2A)—

" (2A) Where, in the case of any person, a pension under section 7 or section 9 of this Act or a pension under each of those sections would, but for subsection (2) of this section, be payable to him in respect of a period of tenure of a qualifying office during which he is neither a Member of the House of Commons nor a candidate for election to that House—

(*a*) that subsection shall not apply to that pension or either of those pensions in respect of any part of that period ; but

(*b*) the amount or aggregate amount payable to him in right of that pension or those pensions for any part of that period shall not exceed the amount, if any, by which the total salary payable to him for that part of that period falls short of the amount which, in accordance with the relevant resolution or resolutions of the House of Commons relating to the remuneration of Members, would be payable to a Member for that part of that period by way of a Member's ordinary salary as defined in section 3(6) of this Act ; and

(*c*) if he is a participant under section 2 of this Act in respect of that period then, for the purpose of calculating the amount, if any, which apart from the preceding paragraph would be payable to him in right of a pension under the said section 9 for any part of that period (but not for any other purpose, and in particular not for the purpose of recalculating at the end of that period the annual amount of the pension, if any, to which apart

from the preceding paragraph he is entitled under the said section 9), that period shall be deemed not to be a period of reckonable service as an office-holder.

In this subsection 'salary' (except in the expression 'a Member's ordinary salary') means salary payable to the holder of a qualifying office in respect of his tenure of that office.".

Transfers to and from overseas pensions schemes.

18.—(1) In section 21(2) of the Act of 1972 (transfers to other pension schemes)—

(*a*) in paragraph (*a*), after the words "any scheme" there shall be inserted the words "(other than an overseas fund or scheme)";

(*b*) in paragraph (*b*), after the words "any fund or scheme" there shall be inserted the words "(other than an overseas fund or scheme)"; and

(*c*) at the end of paragraph (*b*) there shall be added the words "and

(*c*) to any overseas fund or scheme which is recognised by the Trustees and approved by the Commissioners of Inland Revenue and the Occupational Pensions Board for the purposes of this section.

In this section 'overseas fund or scheme' means a fund or scheme which is established outside the United Kingdom or wholly or primarily administered outside the United Kingdom.".

(2) At the request of any person—

(*a*) in respect of whom any sum has been paid under section 21 of the Act of 1972 into or for the purposes of an overseas fund or scheme (within the meaning of subsection (2) of that section); and

(*b*) who is not at the time the request is made a Member of the House of Commons or a participant under section 2 of that Act,

the Trustees may receive a sum, out of, or out of moneys held for the purposes of, that fund or scheme, equal to the sum paid under section 21 of that Act together with interest thereon from the date of that payment at such rate as may be agreed by the Trustees.

(3) The following provisions of the Act of 1972 shall not apply in relation to any person in respect of whom a sum is received by the Trustees under subsection (2) above, namely—

(*a*) paragraph (*c*) of section 7(1) (minimum qualifying period for pension), including that paragraph as applied by section 9(1) of that Act; and

(*b*) section 21(4)(*a*) (discounting of reckonable service in period before date of payment under section 21 of the Act of 1972).

Amendment of s. 30(3) of Act of 1972.

19. In section 30(3) of the Act of 1972 (refund of contributions paid by former holders of certain offices)—

(*a*) after the words "equal to" there shall be inserted the words "the amount obtained by reducing by the appropriate percentage the following amount, namely"; and

(*b*) at the end there shall be added—

"For the purposes of this subsection the appropriate percentage is a percentage equal to the rate of tax for the time being in force under paragraph 2(2) of Part II of Schedule 5 to the Finance Act 1970 (tax on repayment of employee's contributions).".

Rate of interest for purposes of Act of 1972.

20. In section 35(1) of the Act of 1972 (interpretation) in the definition of "interest", after the words "three per cent. per annum" there shall be inserted the words "in respect of any period falling before the passing of the Act of 1978 and at the rate of four per cent. per annum in respect of any later period, and, in either case, the interest shall be".

Financial provisions.

21. There shall be paid out of money provided by Parliament, or paid into or out of the Consolidated Fund, any increase attributable to this Act in the sums so payable under the Act of 1972.

Citation, construction, minor and consequential amendments and repeals.

22.—(1) This Act may be cited as the Parliamentary Pensions Act 1978.

(2) In this Act "the Act of 1972" means the Parliamentary and other Pensions Act 1972.

1972 c. 48.

(3) This Act and the Act of 1972 shall have effect as if this Act (except section 20 and paragraphs 8 and 9 of Schedule 1) were contained in Part I of that Act, and any reference to Part I of the Act of 1972 in any other enactment shall be construed accordingly.

(4) The provisions of the Act of 1972 specified in Schedule 1 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the preceding provisions of this Act.

(5) Subject to the transitional provisions contained in this Act, the enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULES

Section 22(4).

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS OF ACT OF 1972

1. The provisions of the Act of 1972 which refer to a person who has or had elected to be a participant under section 2 of that Act shall be amended as follows—

(*a*) in sections 4(1), 6(3), 9(1), 18(3)(*a*), 22(1) and 23(*b*), for "has elected to be" substitute "is";

(*b*) in sections 16(1)(*b*), 19(*a*) and 25(2)(*b*), for "had elected to be" substitute "had been";

(*c*) in sections 18(3)(*b*) and 22(2)(*a*), for "he elects to be" substitute "he is"; and

(*d*) in section 21(1), for paragraph (*b*) substitute—

"(*b*) is a participant under section 2 of this Act in respect of a period of tenure of a qualifying office but has ceased to be the holder of a qualifying office,".

2. In section 7 (pensions of Members), after subsection (5) add—

"(6) For the purposes of paragraph 4 of Schedule 16 to the Social Security Act 1973 (meaning of "normal pension age" in relation to an occupational pension scheme) subsections (4) and (4A) of this section shall be disregarded.".

3. In section 10 (pensions of office-holders), after subsection (6) add—

"(7) For the purposes of paragraph 4 of Schedule 16 to the Social Security Act 1973 (meaning of "normal pension age" in relation to an occupational pension scheme) subsection (4) of this section shall be disregarded.".

4. Subject to paragraph 10 below, in sections 13(1)(*b*) and 14(1)(*b*) (reckonable service needed for widow's or widower's pension), for the words from "was not so entitled" onwards substitute "was not so entitled, but either—

(i) had been a Member of the House of Commons on or after 1st January 1972 and had an aggregate period of reckonable service (whether as a Member or otherwise) of not less than four years; or

(ii) had been a participant under section 2 of this Act in respect of one or more periods of tenure of a qualifying office and had an aggregate period of recknoable service (whether as a Member or otherwise) of not less than three years.".

5. Subject to paragraph 10 below, in section 18 (refund of contributions to contributor)—

(*a*) in subsection (2), after "person" insert "under section 5 of the Act of 1965 or under section 3 or section 4 of this Act"; and

(*b*) in subsection (3)(*c*), after "four years" insert "or, in the case of contributions paid under section 4 of this Act, less than three years". SCH. 1

6. In section 22(2) (transfers from other pension schemes), for "three months" substitute "twelve months".

7.—(1) Subject to paragraph 10 below, section 25 (interpretation of Part I) shall be amended as follows.

(2) In subsection (2) (meaning of "basic or prospective pension or pensions")—

(*a*) after "means", where it first occurs, insert "(subject to subsection (2A) of this section)";

(*b*) omit the words from "but had" to "four years"; and

(*c*) in paragraph (*b*), for "mentioned in the preceding paragraph" substitute "specified in paragraphs (*a*) to (*d*) of section 7(1) of this Act, paragraph (*c*) of the said section 7(1) being for this purpose read as provided in section 9(1) of this Act.".

(3) After subsection (2) insert—

"(2A) Where, in the case of a person who has died and who at the time of his death was entitled to receive a pension under section 7 or section 9 of this Act, the annual amount of that pension resulted from one or more reductions made under section 7(4), 10(4) or 11(2) of this Act, no such reduction shall be made in calculating the annual amount of that pension for the purposes of subsection (2) of this section.".

8. In section 31(4) (construction of references to Pensions (Increase) Act 1971) after "as amended by this section" insert "and by section 22(3) of the Act of 1978". 1971 c. 56.

9. In section 35(1) (interpretation), after the definition of "the Act of 1965" insert—

"'the Act of 1978' means the Parliamentary Pensions Act 1978;".

10. Paragraphs 4, 5 and 7(2)(*b*) and (*c*) above shall not apply in the case of a person who has held no qualifying office since the passing of this Act.

Section 22(5).

SCHEDULE 2

REPEALS

Chapter	Short title	Extent of repeal
1965 c. 11.	Ministerial Salaries and Members' Pensions Act 1965.	Section 7(4), so far as unrepealed.
1972 c. 48.	Parliamentary and other Pensions Act 1972.	In section 15, in subsection (2), the words "to the next following subsection and", subsection (3) and, in subsection (4), the words from "and if" to the end of the subsection. In section 16, in subsection (1), the words "(subject to the next following subsection)" and "to his personal representatives", and subsection (2). In section 25(2), the words from "but had" to "four years".