SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 26.

An Act to enable provision to be made for preventing loss of benefits under certain superannuation schemes by persons undertaking service in the forces or employment for war purposes.

[13th June 1940.]

BE it enacted by the King'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 :—

Power to make provision for continuance of benefits.

1.—(1) Where a person who by virtue of any employment fell within a class of persons for whose benefit a superannuation scheme to which this Act applies is in force has ceased to follow that employment during the period of the present emergency (whether before or after the commencement of this Act) in order to undertake service in any of the naval, military or air forces of the Crown, or employment for war purposes, the following provisions shall have effect in relation to that person (in this Act referred to as " the employee ").

(2) The trustees or other persons concerned with the administration of the scheme shall have power, and shall be deemed always to have had power, notwithstanding anything to the contrary in the scheme or in any enactment or rule of law, to do all such things as appear to them necessary to secure that the benefits accruing under the scheme to the employee, or accruing thereunder to any other person by reference to the

employee's employment, should be the same, as nearly as may be, as if he had not ceased to follow his employment, subject to any adjustments which they may think proper to make.

(3) Any person who would have been authorised to make any contributions for the purposes of the scheme if the employee had continued to follow his employment during the period of his service in the forces, or of his employment for war purposes, shall have power, and shall be deemed always to have had power, notwithstanding anything to the contrary in the scheme or in any enactment or rule of law, to make those contributions and to make any contributions for the purposes of the scheme which the employee would in the ordinary course have made if he had so continued.

(4) Subsection (2) of this section shall not have effect if the scheme is constituted by rules of a friendly society or trade union within the meaning of the Societies (Miscellaneous Provisions) Act, 1940, or of a society registered under the Industrial and Provident Societies Acts, 1893 to 1928, and if a fund is registered under the Superannuation and other Trust Funds (Validation) Act, 1927, in connection with the scheme, then—

3 & 4 Geo. 6. c. 19.

17 & 18 Geo. 5. c. 41.

(*a*) the power conferred by subsection (2) of this section shall be exercisable only in accordance with a resolution recorded in writing; and

(*b*) the trustees shall, within twenty-one days after the passing of any such resolution, furnish a copy thereof to the registrar within the meaning of that Act; and

(*c*) if any amendment of the rules of the fund is effected, subsection (3) of section three of that Act shall have effect in relation to the amendment notwithstanding anything in subsection (2) of this section.

(5) The schemes to which this Act applies are any superannuation schemes in force with respect to any persons other than such persons as are specified in the Schedule to this Act.

(6) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"Employment for war purposes" means employment, or employment in work of a kind, which the Minister of Labour and National Service certifies to be such as in his opinion may properly be treated for the purposes of this Act in the same manner as service in the forces of the Crown;

"Period of the present emergency" means the period beginning with the date of the commencement of the Military Training Act, 1939, and ending on such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end; 2 & 3 Geo. 6. c. 25.

"Superannuation scheme" means any enactment, rules, deed or other instrument, providing for the payment of annuities or lump sums to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits.

2. Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws, in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or any part thereof, for purposes similar to the purposes of this Act. Provision as respects Northern Ireland. 10 & 11 Geo. 5. c. 67.

3.—(1) This Act may be cited as the Superannuation Schemes (War Service) Act, 1940. Short title and extent.

(2) This Act, except the provisions of the last preceding section, shall not extend to Northern Ireland.

Section 1.

SCHEDULE.

PERSONS TO WHOM THIS ACT DOES NOT APPLY.

1. Persons serving in any superannuable capacity (within the meaning of the Local Government Staffs (War Service) Act, 1939), specified in the first column of the Schedule to that Act, or in any employment which is deemed by virtue of that Act to be service in such a capacity.

2 & 3 Geo. 6. c. 94.

2. Persons in service which is contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1939.

3. Constables and firemen within the meaning of the Police and Firemen (War Service) Act, 1939.

2 & 3 Geo. 6. c. 103.

4. Persons who are, or are deemed to be, teachers within the meaning of the Superannuation Scheme framed in pursuance of the Education (Scotland) Superannuation Acts, 1919 to 1939.

5. Persons in relation to whom the Local Government Staffs (War Service) Act, 1939, has effect by virtue of the King Edward the Seventh Welsh National Memorial Association Act, 1940.

3 & 4 Geo. 6. c. ix.

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