

## SCHEDULE 2

Regulation 166

### Transitional provisions

## PART 1

### General

#### **Interpretation**

1. In this Schedule—

“closing date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of an existing scheme, the tapered protection closing date for that member; or
- (b) if the member is not a protected member of that scheme, the scheme closing date;

“full protection member”, in relation to an existing scheme, has the meaning given in paragraphs 8 and 9;

“protected member”, in relation to an existing scheme, means a full protection member or tapered protection member of that scheme;

“protection period”—

- (a) for a full protection member of an existing scheme, has the meaning given in paragraph 6;
- (b) for a tapered protection member of an existing scheme, has the meaning given in paragraph 11;

“tapered protection closing date”, in relation to a tapered protection member of an existing scheme, has the meaning given in paragraph 3;

“tapered protection member”, in relation to an existing scheme, has the meaning given in paragraphs 12 and 13;

“transition date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of an existing scheme, the day after the tapered protection closing date for that member;
- (b) if the member is not a protected member of that scheme, the day after the scheme closing date or, if later, the day the person ceased to be a protected member of the scheme;

“transition member” means a person—

- (a) who is a member of an existing scheme by virtue of the person’s pensionable service under that scheme before the transition date; and
- (b) who is a member of this scheme by virtue of the person’s pensionable service under this scheme.

#### **Meaning of “continuity of service”**

2. For the purposes of this Schedule, a transition member (T) has continuity of service between pensionable service in an existing scheme and pensionable service in this scheme (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before the transition date; and
- (b) ends on the day on which T becomes an active member of this scheme.

*Status: This is the original version (as it was originally made).*

### **Meaning of “tapered protection closing date”**

3.—(1) The tapered protection closing date for a tapered protection member of an existing scheme is—

- (a) if the member exercises the option under Part 4 of this Schedule, the scheme closing date; or
- (b) if the member does not exercise the option, a date between 31st May 2015 and 31st January 2022 (both dates inclusive) determined by the scheme manager by reference to a table published for that purpose.

(2) A tapered protection closing date determined under sub-paragraph (1)(b) must fall on the last day of a month.

### **Meaning of “active member of an existing scheme “**

4.—(1) For the purpose of Parts 2 and 3 of this Schedule, a person (P) is an active member of an existing scheme on a given date if on that date—

- (a) P is in pensionable service under that scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1)(b), after the closing date for an existing scheme P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), “the closing date for an existing scheme” means the date referred to in section 18(4) of the Act as applicable.

### **Commencement of active membership of this scheme**

5.—(1) A person who is a transition member on entering pensionable service under this scheme who does not have continuity of service becomes an active member of this scheme on the day the person is appointed to qualifying judicial office.

(2) A person who is a transition member on entering pensionable service under this scheme who has continuity of service (T) becomes an active member of this scheme—

- (a) if T is in pensionable service in a qualifying judicial office on the transition date, on that date; or
- (b) if T is not in pensionable service in a qualifying judicial office on the transition date, on the day T enters pensionable service in a qualifying judicial office after that date.

## **PART 2**

Exceptions to section 18(1) of the Act: full protection members of an existing scheme

### **Exception for full protection members during protection period**

6.—(1) The protection period for a person (P) who is a full protection member of an existing scheme is the period which—

- (a) begins on the day after the scheme closing date; and
- (b) ends when P ceases to be a full protection member of that scheme.

(2) During the protection period—

- (a) P is eligible to be in pensionable service under an existing scheme;
- (b) section 18(1) of the Act does not apply in respect of that pensionable service; and

- (c) benefits are to be provided under an existing scheme to or in respect of P in relation to that pensionable service.

#### **Full protection member not eligible to join this scheme**

7.—(1) While a person (P) is a full protection member of an existing scheme, P is not eligible to be an active member of this scheme.

(2) P ceases to be a full protection member of an existing scheme when P ceases to be in pensionable service under that scheme.

#### **Members of an existing scheme on scheme closing date**

8.—(1) A person (P) is a full protection member of an existing scheme if sub-paragraph (2) or sub-paragraph (3) applies—

(2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme on 31st March 2012;
- (b) P was an active member of that scheme on the scheme closing date; and
- (c) unless P dies, P would reach normal pension age under that scheme on or before 1st April 2022.

(3) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P was an active member of an existing scheme (“Scheme A”) on the scheme closing date; and
- (c) P would, unless P dies, reach normal pension age under Scheme A and P’s transitional scheme on or before 1st April 2022.

#### **Members moving between schemes after the scheme closing date**

9.—(1) A person (P) is a full protection member of an existing scheme if—

- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012 and on the closing date for that scheme;
- (b) P begins pensionable service which is pensionable under an existing scheme (“Scheme A”), not more than 5 years after leaving pensionable service in P’s transitional scheme.
- (c) P would have been a fully protected member of P’s transitional scheme had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under Scheme A; and
- (d) P would, unless P dies, reach normal pension age under Scheme A and P’s transitional scheme on or before 1st April 2022.

(2) For the purposes of this paragraph—

- (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act as applicable;
- (b) “exception”, in relation to an existing scheme, means an exception under section 18(6) of the Act provided for in scheme regulations which relate to that scheme; and
- (c) “fully protected member” of an existing scheme means a person in respect of whom an exception applies and that exception is one to which section 18(6) of the Act applies for the purposes of that scheme.

## PART 3

### Exceptions to section 18(1) of the Act: tapered protection members of an existing scheme

#### **Exception for tapered protection members during protection period**

10.—(1) The protection period for a tapered protection member of an existing scheme is the period which—

- (a) begins on the day after the scheme closing date; and
  - (b) ends when P ceases to be a tapered protection member of an existing scheme.
- (2) During the protection period—
- (a) P is eligible to be in pensionable service under an existing scheme;
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
  - (c) benefits are to be provided under that scheme to or in respect of P in relation to that pensionable service.

#### **Tapered protection member not eligible to join this scheme**

11.—(1) While a person (P) is a tapered protection member of an existing scheme, P is not eligible to be an active member of this scheme.

(2) P ceases to be a tapered protection member of an existing scheme on whichever of the following days occurs first—

- (a) P's tapered protection closing date; or
- (b) the day on which P ceases to be in pensionable service under an existing scheme.

#### **Member of an existing scheme on scheme closing date**

12.—(1) A person (P) is a tapered protection member of an existing scheme if sub-paragraph (2) or sub-paragraph (3) applies—

- (2) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme on 31st March 2012;
  - (b) P was an active member of an existing scheme on the scheme closing date; and
  - (c) unless P dies, P would reach normal pension age during the period beginning with 2nd April 2022 and ending with 1st September 2025.
- (3) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012;
  - (b) P was an active member of an existing scheme (“Scheme A”) on the scheme closing date; and
  - (c) P would, unless P dies, reach normal pension age under—
    - (i) Scheme A during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
    - (ii) P’s transitional scheme on or before 1st September 2025.

### **Members moving between schemes after the scheme closing date**

- 13.—(1) A person (P) is a tapered protection member of an existing scheme if—
- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012 and on the closing date for that scheme;
  - (b) P begins pensionable service which is pensionable under an existing scheme (“Scheme A”), not more than 5 years after leaving pensionable service in P’s transitional scheme.
  - (c) P would have been a protected member of P’s transitional scheme had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under Scheme A; and
  - (d) P would, unless P dies, reach normal pension age under—
    - (i) Scheme A during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
    - (ii) P’s transitional scheme on or before 1st September 2025.
- (2) For the purposes of this paragraph—
- (a) the closing date for an existing scheme is the date referred to in section 18(1) of the Act as applicable;
  - (b) “exception”, in relation to an existing scheme, means an exception under section 18(5) of the Act provided for in scheme regulations which relate to that scheme; and
  - (c) “protected member of P’s transitional scheme” means a person in respect of whom an exception applies for the purposes of that scheme.

## **PART 4**

### **Option for tapered protection members of an existing scheme**

#### **Option to begin pensionable service before the transition date**

14.—(1) This paragraph applies in relation to a tapered protection member (P) of an existing scheme.

(2) The scheme manager may offer P the option to begin pensionable service under this scheme on the day after the scheme closing date.

(3) If P does not exercise the option within the period determined by the scheme manager, P begins pensionable service under this scheme on P’s transition date.

(4) If P ceases to be a tapered protection member after the scheme closing date but before P’s transition date, P begins pensionable service under this scheme on the day P begins service in a qualifying judicial office.

## **PART 5**

### **Payment of ill-health benefits to transition members with continuity of service**

#### **Transition member who has not reached normal pension age under an existing scheme**

15.—(1) This paragraph applies to a transition member with continuity of service who becomes entitled to an ill-health pension under this scheme and an existing scheme.

*Status: This is the original version (as it was originally made).*

(2) If the member is entitled under this scheme and an existing scheme to immediate payment of an ill-health pension, the annual rate of that ill-health pension is the sum of—

- (a) the annual rate of an ill-health pension under an existing scheme; and
- (b) the annual rate of an ill-health pension under this scheme.

(3) Where a member is entitled to immediate payment of an ill-health pension, payment of any pension or enhancement in respect of the member's assumed period of pensionable service is not payable under an existing scheme.

(4) In this paragraph, "the member's assumed period of pensionable service" means the period—

- (a) beginning with the day after the day on which the member's continuous period of pensionable service ceased; and
- (b) ending with—
  - (i) for a member appointed for a fixed term, the day on which that term ends; or
  - (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age).

## PART 6

Payment of death benefits in respect of transition members with continuity of service

### **Annual rate of surviving adult's pensions payable under this scheme when a transition member dies in service**

16.—(1) This paragraph applies in relation to a transition member with continuity of service—

- (a) who dies as an active member of this scheme; and
- (b) whose period of service is at least 12 months.

(2) Where there is an entitlement under this scheme and an existing scheme to a surviving adult's pension, the annual rate of that pension is the sum of—

- (a) the amount of dependant's earned pension calculated under regulation 100; and
- (b) the amount of the equivalent surviving spouse's or surviving civil partner's pension payable under an existing scheme.

(3) Where there is an entitlement to a surviving adult's pension, the payment of any pension or enhancement in respect of the member's assumed period of pensionable service is not payable under an existing scheme.

(4) In this paragraph—

"the member's assumed period of pensionable service" means the period—

- (a) beginning with the day after the date of the member's death; and
- (b) ending with—
  - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
  - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and

"period of service" means—

- (a) the member's continuous period of pensionable service under this scheme; and

- (b) the member's pensionable service under an existing scheme before the transition date for that member.

**Annual rate of eligible child's pension payable under this scheme when a transition member dies in service**

- 17.—(1) This paragraph applies in relation to a transition member with continuity of service—
- (a) who dies as an active member of this scheme; and
  - (b) whose period of service is at least 12 months.
- (2) The annual rate of child's pension payable is the sum of—
- (a) the annual rate of child's earned pension calculated under regulation 105; and
  - (b) the annual rate of child's pension payable under an existing scheme.
- (3) Where a child's pension is payable, the payment of any pension or enhancement in respect of the member's assumed period of pensionable service is not payable under an existing scheme.
- (4) In this paragraph—
- “the member's assumed period of pensionable service” means the period—
- (a) beginning with the day after the date of the member's death; and
  - (b) ending with—
    - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
    - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and
- “period of service” means—
- (a) the member's continuous period of pensionable service under this scheme; and
  - (b) the member's pensionable service under an existing scheme before the transition date for that member.

**Death in service lump sum**

- 18.—(1) This paragraph applies in relation to a transition member with continuity of service who dies in service within the meaning of regulation 121.
- (2) On the death of the member—
- (a) a lump sum death benefit is payable under regulation 121; but
  - (b) a death in service lump sum death benefit is not payable under an existing scheme.

**Death out of service lump sum**

- 19.—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a deferred member or pensioner member of this scheme dies out of service under this scheme and an existing scheme.
- (2) On the death of such a member—
- (a) if regulation 122 applies to the member, a lump sum death benefit is payable under that regulation; and
  - (b) if the member is a pensioner member of an existing scheme and the conditions for payment of a death out of service lump sum death benefit under the rules of the existing scheme are met, a death out of service lump sum death benefit is payable under that scheme.

## PART 7

### Transitional provisions relating to an existing scheme

#### **Pensionable service under an existing scheme**

20.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under this scheme.

(2) The provisions of an existing scheme relating to payment of contributions for added pension and added years continue to apply after the closing date as if T continued in pensionable service under that scheme.

(3) If T has continuity of service—

- (a) in determining whether T qualifies under an existing scheme for retirement benefits, T's pensionable service under that scheme terminates when T's pensionable service under this scheme terminates;
- (b) in determining T's final salary for any purposes of an existing scheme under Schedule 7 to the Act, pensionable earnings derived from service under this scheme are to be regarded as derived from service under an existing scheme; and
- (c) where T has a working pattern or patterns involving a pro rata reduction in salary as at the date when they cease pensionable service in this scheme, T's final salary for an existing scheme is to be calculated by reference to their full-time equivalent final salary, or to the proportion or proportions of their full-time equivalent final salary appropriate to T's working pattern as at the closing date.

#### **Repayment of contributions under the existing scheme**

21. If a transition member with continuity of service (T) opts out of this scheme and T has less than 2 years' qualifying service—

- (a) T must be repaid members' contributions under an existing scheme; and
- (b) any periodical payments for added pension or added years under an existing scheme cease to be payable.

#### **Qualifying for retirement benefits under the existing scheme**

22. In determining whether a transition member with continuity of service qualifies for retirement benefits under an existing scheme, the member's qualifying service includes the total of—

- (a) the member's qualifying service under an existing scheme; and
- (b) the member's qualifying service under this scheme.

#### **Nomination under the existing scheme continues to have effect**

23.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under these Regulations to receive a lump sum death benefit under this scheme.

(2) An existing nomination has effect as if made under these Regulations until the transition member makes a nomination under these Regulations.

(3) In this paragraph, "existing nomination" means a nomination which—

- (a) was made for the purpose of an existing scheme; and
- (b) as at the member's transition date, had effect under that scheme.