SCHEDULE 3

Modifying provisions and amendments

PART 2

Modification of early leaver and other provisions

Application of this Part

3.—**[**[F1](1)**]** This Part applies where a person (P)—

(a) is a member of an existing scheme [F2]... listed in paragraph 2 of Schedule 5 to the Act, whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the Act (final salary link);

(b) is a member of this scheme by virtue of pensionable service for this scheme; and

(c) is a person to whom paragraph 1 or 2 of Schedule 7 to the Act applies by virtue of that person's pensionable service for this scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.

[[F3](2) This Part also applies where a person (P)—

(a) is a member of the Fee-Paid Judges Scheme by virtue of pensionable service for that scheme;

(b) is a member of this scheme by virtue of pensionable service for this scheme;

(c) P's service in the Fee-Paid Judges Scheme and service in the new scheme are continuous.

(3) In this Part "the old scheme" means a scheme referred to in sub-paragraph (1)(a) or (2)(a) of which P is a member.**]**

Textual Amendments

F1 Sch. 3 para. 3 renumbered as Sch. 3 para. 3(1) (2.5.2023) by The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/63), regs. 1(2), **17(4)(a)**

F2 Words in Sch. 3 para. 3(1) omitted (2.5.2023) by virtue of The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/63), regs. 1(2), **17(4)(b)**

F3 Sch. 3 para. 3(2)(3) inserted (2.5.2023) by The Judicial Pensions (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/63), regs. 1(2), **17(4)(c)**

Certification

4.—(1) Section 11A of the 1993 Act [M1] (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable service under the scheme is to be taken as a reference to pensionable service either for the old scheme or for this scheme.

Marginal Citations

M1 Section 11A was inserted by Article 29 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

Preservation of benefit

5.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

(a) in section 66 [M2] (interpretation), in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;

(b) in section 67(1) (basic principle as to short service benefit)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;

(iii) a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme;

(iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,

and subsequent references in the Chapter to "short service benefit" are to be construed accordingly;

(c) in section 67(5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme;

(d) in section 67(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old scheme and this scheme taken together; and

(e) in sections 68(2) (no discrimination between short service and long service beneficiaries), 70(6) and (7) (computation of short service benefit), 71(3) and (4) (credits) and 72(1) and (3) (pension increases), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme.

(3) In the application of that Chapter to this scheme—

(a) in section 66, in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;

(b) in section 67(1)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;

(iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,

and subsequent references in the Chapter to "short service benefit" are to be construed accordingly;

(c) in section 67(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for this scheme or for the old scheme and this scheme taken together; and

(d) in section 70(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

Marginal Citations

M2 Section 66 was amended by S.R. 2005 No. 434.

Revaluation of preserved benefit

6.—(1) Chapter 2 of Part 4 of the 1993 Act (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

(a) in section 79(1)(a)(ii) [M3] (scope of Chapter 2), the reference to the date on which P's pensionable service ends is to be taken as a reference to the date on which P's pensionable service ends in relation to this scheme; and

(b) subsequent references in that Chapter to "the termination date" and the "pre-pension period" are to be construed accordingly.

Marginal Citations

M3 Section 79 was amended by section 84(1) of, and paragraphs 20 of Schedule 9 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). It was amended further in relation to the definition of "normal pension age" by section 27 of, and paragraph 21 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 2(N.I.)).

Protection of increases in guaranteed minimum pensions

7.—(1) Chapter 3 of Part 4 of the 1993 Act (protection for early leavers: protection of increases in guaranteed minimum pensions ("anti-franking")) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

(a) in section 83(1)(a)(i) [M4] (general protection principle), the reference to the time when P ceases to be in contracted-out employment by reference to a scheme is to be taken as a reference to the time when P ceases to be in service in a qualifying judicial office which is contracted-out by reference to this scheme; and

(b) subsequent references to "the cessation date" are to be construed accordingly.

Marginal Citations

M4 Section 83 was amended by section 13(3)(a) of, and paragraph 28 of Schedule 4 to, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)).

Transfer values

8.—(1) Chapter 4 of Part 4 of the 1993 Act (protection for early leavers: transfer values) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme, in—

(a) section 89(1)(a) [M5] (scope of Chapter 4),

(b) section 93(3)(a) (calculation of cash equivalents), and

(c) section 94(1A) and (3) [M6] (variation and loss of rights under section 90),

a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme.

Marginal Citations

M5 Section 89(1)(a) was substituted by Article 148 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

M6 Section 94(1A) was inserted by, and section 48(3) amended by, Article 165 of, and paragraph 7 of Schedule 4 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

Transfer values regulations

9.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 [M7] are modified as follows.

(2) In the application of regulation 3 of those Regulations (rules on continuation in employment after termination of pensionable service) to P as a member of the old scheme—

(a) in paragraph (1), a reference to employment to which a scheme applies is to be taken as a reference to service in a qualifying judicial office to which this scheme applies;

(b) in paragraph (1)(a), a reference to P's pensionable service terminating at P's request is to be taken as a reference to P's pensionable service in relation to this scheme so terminating; and

(c) in paragraph (1)(b)(i), a reference to P's pensionable service continuing until the guarantee date is to be taken as a reference to P's pensionable service in relation to this scheme so continuing.

(3) In the application of regulation 4 of those Regulations (right to further cash equivalent on termination of employment to which the scheme applies) to P as a member of the old scheme, in paragraphs (1), (2), (3)(a) and (4) a reference to termination of P's employment is to be taken as a reference to termination of P's service in a qualifying judicial office to which this scheme applies.

Marginal Citations

M7 S.R. 1996 No. 619.

Cash transfers and contribution refunds

10.—(1) Chapter 5 of Part 4 of the 1993 Act [M8] (protection for early leavers: cash transfers and contribution refunds) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

(a) in section 97AA(1)(a) and (b) (scope of Chapter 5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme;

(b) in section 97AA(2), a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old scheme and this scheme taken together; and

(c) in section 97AB(1) and (3) (right to cash transfer sum and contribution refund), 97AC(1) and (2)(a) (notification of right to cash transfer sum or contribution refund) and 97AI(7) (rights under section 971AB: definition of "reply date"), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to this scheme.

(d) In the application of that Chapter to P as a member of this scheme, in section 97AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for this scheme or for the old scheme and this scheme taken together.

(3) In the application of that Chapter to P as a member of this scheme, in section 97AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under this scheme or under the old scheme and this scheme taken together.

Marginal Citations

M8 Chapter 5 was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)).

Changes to legislation:
The Judicial Pensions Regulations (Northern Ireland) 2015, PART 2 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:
Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

– Sch. 3 para. 7A inserted by S.R. 2016/138 reg. 2(2) (On the coming into operation day of this amendment Sch. 3 para. 7 of SR2015 No. 76 ceases to have effect.)