



# Pension Schemes Act 2015

## 2015 CHAPTER 8

### PART 4

#### PENSIONS FLEXIBILITIES

#### CHAPTER 4

##### TRANSFERS

##### *Great Britain*

#### **68 Restriction on transfers out of unfunded public service defined benefits schemes: Great Britain**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 95 (ways of taking right to cash equivalent), in subsection (2), after “occupational pension scheme” insert “ that is not an unfunded public service defined benefits scheme ”.
- (3) In section 95, after subsection (2) insert—
  - “(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—
    - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—
      - (i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,
      - (ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and

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- (iii) the other scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
  - (b) for acquiring rights allowed under the rules of a personal pension scheme if—
    - (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
    - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and
    - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
  - (c) for purchasing from one or more insurers such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury;
  - (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury.
- (2B) The Treasury may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in prescribed circumstances or in relation to prescribed schemes or schemes of a prescribed description.
- (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—
- (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
  - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 95(5) insert—
- “(5A) Except in such circumstances as may be prescribed in regulations made by the Secretary of State or the Treasury, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 95(6)—
- (a) after “subsections (2)” insert “, (2A) ”;
  - (b) after “subsection (2)” insert “ or (2A) ”.
- (6) In section 96 (further provisions concerning exercise of option under section 95), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A) ”.
- (7) In section 100 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A) ”.
- (8) The amendments made by this section have no effect in relation to an application made under section 95(1) of the Pension Schemes Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes Act 1993 specified in the first column of the table, regulations made

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under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 95(2A)(a)(iii)	Section 95(2)(a)(ii)
Section 95(2A)(b)(iii)	Section 95(2)(b)(ii)
Section 95(2A)(c)	Section 95(2)(c)
Section 95(2A)(d)	Section 95(2)(d)
Section 95(5A)	Section 95(5)(a).

#### Commencement Information

- II** S. 68 wholly in force; s. 68 in force at Royal Assent for specified purposes; s. 68 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### **69 Reduction of cash equivalents: funded public service defined benefits schemes: Great Britain**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 97 (calculation of cash equivalents), in subsection (1)—
  - (a) after “verified” insert “—  
(a)”;
  - (b) at the end insert “, and  
(b) where a designation has been made under section 97A or 97B, in accordance with regulations under section 97C.”
- (3) After section 97 insert—

#### **“97A Designation of funded public service defined benefits schemes**

- (1) This section applies to funded public service defined benefits schemes other than schemes to which section 97B applies (equivalent provision for certain Scottish schemes).

A scheme to which this section applies is referred to below as an “eligible scheme”.

- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and

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- (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify—
  - (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (9) If the trustees or managers of a scheme, or part of a scheme, which is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify—
  - (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (10) In this section—
  - “eligible scheme” has the meaning given by subsection (1);
  - “funded public service defined benefits scheme” means a public service pension scheme that—
    - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
    - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
  - “local authority” means—
    - (a) a county or district council in England,
    - (b) a county or county borough council in Wales,
    - (c) a London borough council,
    - (d) the Greater London Authority,
    - (e) the Common Council of the City of London in its capacity as a local authority, or
    - (f) the Council of the Isles of Scilly;

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“payment out of public funds” means a payment provided directly or indirectly—

- (a) out of—
  - (i) the Consolidated Fund or any other account or source of money which cannot be drawn or spent other than by, or with the authority of, the Treasury, or
  - (ii) the Welsh Consolidated Fund, or
- (b) by a local authority;

“the relevant person” means—

- (a) in relation to a scheme established by virtue of paragraph 12 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the Independent Parliamentary Standards Authority and the trustees of the Parliamentary Contributory Pension Fund;
- (b) in relation to a scheme established by virtue of paragraph 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the trustees of the Parliamentary Contributory Pension Fund;
- (c) in any other case, either of the following—
  - (i) the Treasury, or
  - (ii) any Minister of the Crown by whom, or with whose approval, the scheme was established.

- (11) The Treasury may by regulations modify the definitions of “local authority” and “the relevant person” in subsection (10).

### **97B Designation of funded public service defined benefits schemes: Scotland**

- (1) This section applies to a funded public service defined benefits scheme that is—
  - (a) a scheme established by, or with the approval of, the Scottish Ministers;
  - (b) a scheme established by virtue of section 81(4)(b) of the Scotland Act 1998.

A scheme to which this section applies is referred to below as an “eligible scheme”.

- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
  - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.

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- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
- (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify the Scottish Ministers.
- (9) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify the Scottish Ministers.
- (10) In this section—
- “eligible scheme” has the meaning given by subsection (1);
  - “funded public service defined benefits scheme” means a public service pension scheme that—
    - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
    - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
  - “payment out of public funds” means a payment provided directly or indirectly—
    - (a) out of the Scottish Consolidated Fund, or
    - (b) by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - “the relevant person” means—
    - (a) in relation to a scheme falling within subsection (1)(a), the Scottish Ministers;
    - (b) in relation to a scheme falling with subsection (1)(b), the trustees of the Scottish Parliamentary Contributory Pension Fund.
- (11) The Scottish Ministers may by regulations modify the definition of “the relevant person” in subsection (10).”
- (4) After section 97B (inserted by subsection (3)) insert—

**“97C Reduction of cash equivalents in case of designated schemes**

- (1) The Treasury may by regulations provide that where, under section 95(1), a member of a designated scheme requires the trustees or managers to use a

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cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.

- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 97) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 95(1)) is designated under section 97A or 97B.”

#### Commencement Information

- I2** S. 69 wholly in force; s. 69 in force at Royal Assent for specified purposes; s. 69 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 70 Sections 68 and 69: consequential amendments

- (1) In the Pension Schemes Act 1993, in section 182 (orders and regulations: general provisions), after subsection (1) insert—

“(1A) Subsection (1) does not apply to the power of the Scottish Ministers to make regulations under section 97B(11).”
- (2) In that Act, in section 185 (consultations about other regulations), after subsection (5) insert—

“(5A) Subject to subsection (5C), before the Treasury (acting alone) make any regulations under section 95, 97A or 97C they shall consult such persons as they may consider appropriate.

(5B) Subject to subsection (5C), before the Scottish Ministers make any regulations under section 97B(11) they shall consult such persons as they may consider appropriate.

(5C) Subsections (5A) and (5B) do not apply to regulations in the case of which the Treasury or (as the case may be) the Scottish Ministers consider consultation inexpedient because of urgency or to regulations of the type described in subsection (2)(b) or (e).”
- (3) In that Act, in section 186 (Parliamentary control of orders and regulations)—
  - (a) in subsection (1) (negative procedure), after “Secretary of State” insert “ or the Treasury ”;
  - (b) in subsection (3) (affirmative procedure), after paragraph (e) insert “, or  
(f) regulations made under section 97A(11)”;
  - (c) after subsection (5) insert—

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- “(6) Regulations made by the Scottish Ministers under section 97B(11) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”
- (4) In the Pensions Act 2004, in section 18 (pension liberation: interpretation), in subsection (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.
- (5) The consultation requirement in section 185(5A) of the Pension Schemes Act 1993 (inserted by subsection (2)) may be satisfied by things done before the day on which this Act is passed.

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#### **Commencement Information**

- I3** S. 70 wholly in force; s. 70 in force at Royal Assent for specified purposes; s. 70 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)



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