

## SCHEDULE 2

### Transitional provisions

## PART 2

### Exceptions to section 18(1) of the Act: full protection members of the PCSPS

#### Interpretation of Part

**8.** In this Part—

“active member of an existing public body pension scheme” has the meaning given in paragraph 6;

“active member of an existing scheme” has the meaning given in paragraph 5; and

“active member of the PCSPS” has the meaning given in paragraph 4.

#### Full protection members of the PCSPS

**9.—(1)** A person (P) to whom any of paragraphs 12 to 17 applies is a full protection member of the PCSPS.

(2) P ceases to be a full protection member of the PCSPS when P ceases to be in pensionable service under that scheme unless sub-paragraph (3) or (4) applies.

(3) This sub-paragraph applies if—

(a) P returns to service which is pensionable under the PCSPS from service which is pensionable under an existing scheme or an existing public body pension scheme; and

(b) P would have been a fully protected member of that existing scheme or existing public body pension scheme had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the PCSPS.

(4) This sub-paragraph applies if—

(a) P returns to service which is pensionable under the PCSPS otherwise than from service which is pensionable under an existing scheme or an existing public body pension scheme; and

(b) P returns to service which is pensionable under the PCSPS after a gap in service not exceeding 5 years.

(5) If P returns to service which is pensionable under the PCSPS in circumstances where sub-paragraph (6) applies, P is a tapered protection member of the PCSPS when P returns to that service.

(6) This sub-paragraph applies if—

(a) P returns to service which is pensionable under the PCSPS from service which is pensionable under an existing scheme or an existing public body pension scheme; and

(b) P would have been a protected member of the existing scheme or existing public body pension scheme by virtue of an exception to which section 18(7)(a) and (b) of the Act (or that section as applied by section 31(4)) applies had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the PCSPS.

(7) In this paragraph—

“exception” means—

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- (a) in relation to an existing scheme, an exception under section 18(5) of the Act provided for in the scheme regulations for that scheme;
- (b) in relation to an existing public body pension scheme, an exception under section 31(4) of the Act provided for by the public authority responsible for that scheme;

“fully protected member” of an existing scheme or an existing public body scheme means a person in respect of whom an exception applies, which exception is one to which section 18(6) of the Act (or that section as applied by section 31(4)) applies for the purposes of that scheme.

(8) For the purpose of paragraph (4)(b), after the scheme closing date P is not on a gap in service while P is in pensionable public service.

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

**10.**—(1) The protection period for a person (P) who is a full protection member of the PCSPS is the period which—

- (a) begins on the day after the scheme closing date (or if paragraph 15(3) applies, the day after the existing public body pension scheme closed to all members); and
- (b) ends when P ceases to be a full protection member of the PCSPS (unless P is a tapered protection member by virtue of paragraph 9(5)).

(2) During the protection period—

- (a) P is eligible to be in pensionable service under the PCSPS;
- (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
- (c) benefits are to be provided under the PCSPS to or in respect of P in relation to that pensionable service.

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

**11.** While a person (P) is a full protection member of the PCSPS, P is not eligible to be an active member of this scheme.

### **Members of the PCSPS on scheme closing date**

**12.**—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies.

(2) This sub-paragraph applies if—

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

### **Pre-fresh start prison officers**

**13.**—(1) This paragraph applies if P was in service as a pre-fresh start prison officer under Section II of the PCSPS on—

- (a) 31st March 2012;
- (b) the scheme closing date; and
- (c) 1st April 2015.

(2) For the purposes of this paragraph, P is in service as a pre-fresh start prison officer if P is in service as a prison officer to whom rule 2.27 of Section II of the PCSPS applies.

(3) In sub-paragraph (2), “in service as a prison officer” has the meaning given in rule 2.26 of Section II of the PCSPS.

### **Members of an existing scheme**

**14.**—(1) This paragraph applies if—

- (a) P was an active member of an existing scheme other than the PCSPS or an existing public body pension scheme on the closing date for that scheme;
- (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (c) P begins service which is pensionable under the PCSPS not more than 5 years after leaving pensionable service under an existing scheme other than the PCSPS;
- (d) P would have been a fully protected member of the existing scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS; and
- (e) P would, unless P dies, reach normal pension age under the PCSPS 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)(a) or (b) of the Act, as applicable;
- (b) the closing date for an existing public body pension scheme is the date determined under section 31(2) of the Act by the public authority responsible for that scheme;
- (c) “exception”, in relation to an existing scheme, means an exception under section 18(5) of the Act provided for in the scheme regulations for that scheme; and
- (d) “fully protected member” of an existing scheme means a person in respect of whom an exception applies, which exception is one to which section 18(6) of the Act applies for the purposes of that scheme.

### **Members of an existing public body pension scheme**

**15.**—(1) This paragraph applies 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 other than the PCSPS or an existing public body pension scheme on the closing date for that scheme;
- (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (c) P begins service which is pensionable under the PCSPS not more than 5 years after leaving pensionable service under an existing public body pension scheme;
- (d) P would have been a fully protected member of the existing public body pension scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS; and

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- (e) P would, unless P dies, reach normal pension age under the PCSPS and P's transitional scheme on or before 1st April 2022.
- (3) This sub-paragraph applies if—
  - (a) P was an active member of an existing public body pension scheme on a date that the scheme closed to any further accrual by members of benefits under the scheme, whether under section 31 of the Act or otherwise;
  - (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
  - (c) P begins service which is pensionable under the PCSPS not more than 5 years after leaving pensionable service under the existing public body pension scheme referred to in paragraph (a); and
  - (d) P would, unless P dies, reach normal pension age under the PCSPS and P’s transitional scheme on or before 1st April 2022.
- (4) For the purposes of this paragraph—
  - (a) the closing date for an existing scheme is the date referred to in section 18(4)(a) or (b) of the Act, as applicable;
  - (b) the closing date for an existing public body pension scheme is the date determined under section 31(2) of the Act by the public authority responsible for that scheme;
  - (c) “exception”, in relation to an existing public body pension scheme, means an exception under section 31(4) of the Act provided for by the public authority responsible for that scheme; and
  - (d) “fully protected member” of an existing public body pension scheme means a person in respect of whom an exception applies, which exception is one to which section 18(6) of the Act, as applied by section 31(4), applies for the purposes of that scheme.

#### **Fair Deal eligible persons transferred out on or before 31st March 2012**

- 16.**—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.
- (2) This sub-paragraph applies if—
    - (a) P ceased to be an active member of the PCSPS on a date (P’s transfer date) on or before 31st March 2012;
    - (b) P begins service which is pensionable under the PCSPS as a section 1(4A) eligible person on a date (P’s re-joining date) after 31st March 2012; and
    - (c) Between P’s transfer date and P’s re-joining date—
      - (i) P was not eligible to be in pensionable service under the PCSPS; or
      - (ii) P was only eligible to be in pensionable service under the PCSPS as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS as a result of the transfer P was—
        - (aa) an active member of the PCSPS; and
        - (bb) continuously employed to carry out the transferred services whilst P was eligible to be in pensionable service under the PCSPS.
  - (3) This sub-paragraph applies if P is an active member of the PCSPS as a section 1(4A) eligible person continuously after P’s re-joining date.
  - (4) This sub-paragraph applies if P is a Fair Deal eligible person.

(5) This sub-paragraph applies if P would, unless P dies, reach normal pension age under the PCSPS before 2nd April 2022.

(6) In this paragraph, “continuously” means without a gap of any period.

#### **Fair Deal eligible persons transferred out after 31st March 2012**

17.—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.

(2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P ceased to be an active member of the PCSPS or of this scheme on a date (P’s transfer date) after 31st March 2012;
- (c) P was an active member of an existing scheme or an existing public body pension scheme throughout the period between 31st March 2012 and P’s transfer date;
- (d) P begins service which is pensionable under the PCSPS as a section 1(4A) eligible person on a date (P’s re-joining date) after P’s transfer date; and
- (e) Between P’s transfer date and P’s re-joining date—
  - (i) P was not eligible to be in pensionable service under the PCSPS; or
  - (ii) P was only eligible to be in pensionable service under the PCSPS as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS as a result of the transfer P was—
    - (aa) an active member of the PCSPS; and
    - (bb) continuously employed to carry out the transferred services whilst P was eligible to be an active member of the PCSPS.

(3) This sub-paragraph applies if P is an active member of the PCSPS as a section 1(4A) eligible person continuously after P’s re-joining date.

(4) This sub-paragraph applies if P is a Fair Deal eligible person.

(5) This sub-paragraph applies if P would, unless P dies, reach normal pension age under the PCSPS and P’s transitional scheme before 2nd April 2022.

(6) In this paragraph, “continuously” means without a gap of any period.