

PUBLIC SERVICE PENSIONS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Transitional

Section 18: Restriction of existing pension schemes

119. **Section 18** provides that benefits may not be provided under existing pension schemes in relation to service after the closing date for the scheme. Its effect is to bring to an end further accrual of pension benefits in existing schemes, except where transitional arrangements have been agreed to allow those who are closest to retirement to continue to accrue benefits under the scheme. The transitional arrangements for each scheme vary within the parameters set centrally by Government.
120. **Subsection (1)** prohibits the provision of benefits under an existing scheme for service after the closing date for that scheme, as provided by subsection (4). Subsection (1) does not require the scheme to be wound up, and will not crystallise the liabilities in that scheme.
121. **Subsection (2)** specifies that “existing schemes” for the purposes of the Act are those listed in Schedule 5.
122. **Subsection (3)** provides that the above restriction does not apply to defined contribution schemes or to the benefits specifically excepted by Schedule 5, which are injury and compensation benefits.
123. **Subsection (4)** sets out that the closing date mentioned in subsection (1) is 31st March 2015 or, in the case of the Local Government Pension Scheme in England and Wales, 31st March 2014. The local government schemes plan to bring regulations for reformed schemes into force one year earlier than the other major public service schemes.
124. **Subsection (5)** permits scheme regulations to provide exceptions to subsection (1) for:
- persons who were, or were eligible to be, members of an existing scheme immediately before 1st April 2012; and
 - for other persons who ceased to be, or to be eligible to be, members of existing schemes before that date.

This provision is permissive, but not mandatory; schemes may decide not to adopt transitional arrangements if they wish. It is anticipated that schemes will, in practice, all provide the transitional protections that have been agreed in consultations prior to the Act.

125. Such exceptions may, by **subsection (6)**, be framed in particular by reference to a person reaching normal pension age under their existing scheme, or another age, or to the satisfaction of another condition before a particular date. These exceptions are to permit the various transitional arrangements that have been agreed as part of developing

reformed public service pension schemes, and to enable delivery of the new Fair Deal policy (to which section 29 and Schedule 9 are also relevant).

126. *Subsection (7)* allows for additional transitional provisions for those who do not fall within the categories that scheme regulations provide under subsection (6). These provisions may extend qualified transitional arrangements for up to a further four years. This subsection allows the impact of reformed schemes to be moderated for those who fall just outside of the main categories for which transitional protection has been agreed. This is typically people who are between 10 and 14 years from retirement in their existing schemes. These ‘tapering’ provisions have also been agreed following extensive discussions, and are designed to afford protection to those scheme members who do not benefit from full exemption under transitional agreements. For example, in the NHS pension scheme, members who are between 10 and 13.5 years of their normal pension age will have limited protection with linear tapering, so the further they are from reaching normal pension age before a particular date, the less transitional protection they receive.
127. *Subsection (8)* allows the arrangements under subsections (5) and (7) to be provided by amending existing schemes through scheme regulations.
128. *Subsection (9)* clarifies that death in service benefits are included within the reference to “benefits” in subsection (1).

Section 19: Closure of existing injury and compensation schemes

129. **Section 19** deals with existing injury and compensation schemes. *Subsection (1)* permits scheme regulations to provide for the closure or restriction of existing schemes that provide for the payment of benefits relating to compensation for loss of office and for injury benefits, as listed in Schedule 6. The Act does not set a date or require a date to be set for the closure of these injury and compensation schemes.
130. The schemes listed in Schedule 6 relate to employment in the armed forces, civil service, fire service, judiciary, local government, NHS, the police and teaching. These injury benefit and compensation schemes are for the most part separate from the pension schemes for those workforces and their membership is not restricted to persons who are members of those pension schemes.
131. **Section 1** of the Act provides powers for schemes to be made in relation to those workforces in the future (see section 1 and paragraph 2 of Schedule 3); replacement schemes can be set up in the event that the powers in subsection (1) are used.
132. *Subsection (3)* provides for schemes to make exceptions to subsection (1). This power could be used to allow for transitional provisions for current members.
133. *Subsection (4)* provides that closure or restriction may be achieved by amending the existing schemes using scheme regulations made under the Act.

Section 20: Final salary link

134. This section introduces Schedule 7, which sets out the final salary link that applies to past service in those final salary schemes restricted under section 18.