

PUBLIC SERVICE PENSIONS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

New schemes: supplementary

Section 25: Extension of schemes

155. This section allows schemes made under section 1 to be extended to persons who are not in the main categories of persons in public service specified there. This is similar to the process where public servants who are not civil servants are admitted to the Principal Civil Service Pension Scheme by inclusion within Schedule 1 of the Superannuation Act 1972. However, this section is designed to provide a more streamlined and transparent process that can be widely applied across all public service workers.
156. *Subsection (1)* enables scheme regulations to make provision for pension and other benefits to public service workers who fall within one of the core descriptions of public service workers set out in section 1 and Schedule 1, but for whom the responsible authority for that scheme could not otherwise make a scheme. This is to enable schemes to extend access, if appropriate, to other core public service workers.
157. *Subsection (2)* allows scheme regulations to deem persons to fall within a given description of persons in public service where they do not fall within that description. This enables scheme regulations to extend the scheme to persons of any description including those within the core description of public service workers, other public service workers and other workers generally.
158. *Subsection (3)* permits scheme regulations to specify persons who, though not specified in section 1(2), may potentially be covered by a scheme made under section 1. This is to enable scheme regulations to make provision for pension and other benefits to public service and other workers who do not fall within the core descriptions of public service workers. They are potentially covered by a scheme because the further step set out in *subsection (5)* is needed to make the scheme actually relate to some or all of these persons.
159. *Subsection (4)* gives discretion to the responsible authority to specify under subsection (3) any persons not in the core description of public service workers whom it considers appropriate.
160. *Subsection (5)* allows the responsible authority to determine which of the persons who have been specified in scheme regulations under subsection (3) are to be covered by the scheme. This gives the responsible authority the ability to admit some or all of a class of specified persons.
161. The eligibility of those who are not in the core description of public service workers to join a scheme under this section is, therefore, a two-stage process. First, the persons whom the scheme may cover must be specified in the scheme regulations (that is likely to be done by a generic description). Then, the responsible authority must determine

which of those persons are permitted to be members of the scheme. As subsection (5) says, the determination may cover some or all of the specified group.

162. *Subsection (7)* notes that *subsection (6)*, which applies the terms of the scheme to all workers to whom it is extended by a determination under subsection (5), is subject to any special provisions in the scheme regulations and to a direction made by the responsible authority under subsection (8) for such persons.
163. *Subsection (8)* allows for the scheme regulations to provide the responsible authority with powers to make a direction administratively modifying the application of the scheme to persons admitted to the scheme under subsection (2) or (3). The use of such directions must be in accordance with the objectives set out in paragraphs (a) to (c) of subsection (8). This mirrors current procedure in some public service schemes and enables them to extend membership while retaining the flexibility necessary to adapt that extension to any special circumstances.
164. *Subsection (9)* requires the responsible authority to publish a list of the persons for whom a determination has been made under subsection (5). The list provides a comprehensive and up to date record of the non-public service membership of the relevant scheme. This list must be kept up to date.
165. *Subsection (10)* allows determinations under subsection (5) to have retrospective effect. This means that the eligibility of persons to join the scheme can be backdated so that it takes effect from a date before the date of the determination. For example, if it is decided in 2016 that a group of persons may enter a scheme, but the scheme regulations are updated later in 2017, it will be possible to admit them with effect from 2016 when the decision was made. Section 1 of the Superannuation Act 1972 contains a similar power to allow the membership of the Principal Civil Service Pension Scheme to be extended with retrospective effect, which is used in similar circumstances.
166. *Subsection (11)* provides the responsible authority the ability to delegate its powers under subsections (5) to (9) to scheme managers in the locally-administered schemes under Section 1. This delegation will be subject to any conditions imposed by the responsible authority.
167. Between them, section 1(2) and section 25 determine the scope of schemes made under this part. Section 25 is expected to be used more by so-called “mixed” public service schemes, which have traditionally included members from a wide range of employers (such as the civil service and the local government scheme). It is less likely to be used by schemes that draw their membership from a narrower range of employers or occupations such as the police or teachers’ schemes.
168. Examples of people who would not be captured by section 1(2), but who have historically been able to join public service pension schemes, include: employees of employers with Admitted Body Status (under The Local Government Pension Scheme (Administration) Regulations 2008) who can join the LGPS; and groups that have been granted Direction Status (under the Superannuation (Miscellaneous Provisions) Act 1967) who can enter the NHS pension scheme.

Section 26: Non-scheme benefits

169. This section allows scheme managers and employers to make payments towards the provision of pensions and other benefits that are not delivered through a scheme made under section 1 for persons who could have access to such schemes (specifically, both the class of persons described under section 1(2) and persons to whom a scheme has been extended under section 25). This will enable employers to contribute to private occupational pension schemes where: members of public service schemes wish to take out or retain private occupational pensions in addition to (or instead of) being members of public service schemes (such as the Civil Service Partnership Scheme).

*These notes refer to the Public Service Pensions Act 2013
(c.25) which received Royal Assent on 25 April 2013*

170. *Subsection (2)* makes the use of powers in section 26 subject to any provisions contained in the scheme regulations. This would allow each scheme to limit or modify how the power to make payments outside the scheme for pensions or other benefits may be used.

Section 27: Consequential and minor amendments

171. This section introduces Schedule 8, which contains consequential and minor amendments to primary legislation that are required because of the provisions in the Act. These include amendments to existing scheme legislation, as well as provisions in wider pension legislation to allow the Act to operate properly.