



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 1

PUBLIC SERVICE PENSION SCHEMES

CHAPTER 1

SCHEMES OTHER THAN JUDICIAL SCHEMES AND LOCAL GOVERNMENT SCHEMES

Retrospective provision about remediable service

2 Remediable service treated as pensionable under Chapter 1 legacy schemes

- (1) A person's remediable service in an employment or office that would, apart from this subsection, be pensionable service under a Chapter 1 new scheme—
- (a) is not, and is treated as never having been, pensionable service under that scheme, and
 - (b) is treated as being, and as always having been, pensionable service under the relevant Chapter 1 legacy scheme.

For the meaning of “the relevant Chapter 1 legacy scheme”, see section 4.

- (2) Where a person has remediable service in multiple employments or offices, subsection (1) applies separately in relation to the person's remediable service in each of them.
- (3) Subsection (1) has effect—
- (a) for the purposes of determining which Chapter 1 scheme is (or at any time was) required to pay benefits to or in respect of a member,

- (b) for the purposes of determining the amount of any benefits that are (or at any time were) payable under a Chapter 1 scheme to or in respect of a member, and
 - (c) subject to subsection (4), and to any other provision of this Chapter to the contrary, for all other purposes.
- (4) Subsection (1) does not have effect for the purposes of determining the existence or amount of any liability that any member of a Chapter 1 scheme, or any employer in relation to such a scheme, has (or at any time had) to pay pension contributions in respect of a person’s remediable service.
- (5) Subsection (1) does not affect—
- (a) any arrangements under a Chapter 1 scheme under which a member pays contributions to the scheme on a voluntary basis so as to secure additional benefits, or the earlier payment of benefits, under the scheme, or
 - (b) any rights under a Chapter 1 scheme in respect of a transfer in to the scheme of an amount in respect of rights accrued under another pension scheme.
- (6) For provision disapplying subsection (3)(b), or affecting the time at which that provision applies, in relation to pensioner and deceased members, see section 6 (immediate choice to receive new scheme benefits).
- (7) For further provision under which benefits determined by reference to a member’s remediable service may be new scheme benefits, see section 10 (deferred choice to receive new scheme benefits).

3 Benefits already paid

- (1) Subsection (2) applies in relation to any benefits (“the paid benefits”) that a Chapter 1 new scheme has at any time paid to a person (“P”) so far as—
- (a) they are calculated by reference to P’s, or any other person’s, remediable service in an employment or office, and
 - (b) they are benefits that, as a result of section 2(1)(a), P was not entitled to receive from the scheme.
- (2) The paid benefits are to be treated for all purposes—
- (a) as not having been paid to P by the Chapter 1 new scheme, but
 - (b) as having been paid to P instead by the relevant Chapter 1 legacy scheme.

4 Meaning of “the relevant Chapter 1 legacy scheme” etc

- (1) In this Chapter “the relevant Chapter 1 legacy scheme”, in relation to a person’s remediable service in an employment or office, means the Chapter 1 legacy scheme for people in that employment, or holders of that office, under which (disregarding section 2(1)) the person most recently accrued pensionable service.

This is subject to subsections (2) to (8).

- (2) In a case in which—
- (a) on or before the closing date, the person opted that their service in the employment or office in question should no longer be pensionable service under the Chapter 1 legacy scheme mentioned in subsection (1),
 - (b) on the closing date, the rules of that scheme prohibited a person from becoming an active member of the scheme, and

- (c) on that date, the rules of another Chapter 1 legacy scheme for people in the employment, or holders of the office, in question did not include such a prohibition,

“the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office, means the Chapter 1 legacy scheme mentioned in paragraph (c).

- (3) In a case in which—

- (a) at any time after the closing date, the person—
- (i) opted that their service in the employment or office in question should no longer be pensionable service under a Chapter 1 scheme, or
 - (ii) ceased to be in service in the employment or office in question,
- (b) at any later time before 1 April 2022, the person—
- (i) opted that their service in the employment or office in question should again be pensionable service under a Chapter 1 scheme, or
 - (ii) resumed service in the employment or office in question,
- (c) at that time, the rules of the Chapter 1 legacy scheme mentioned in subsection (1) prohibited a person from becoming an active member of the scheme, and
- (d) at that time, the rules of another Chapter 1 legacy scheme for people in the employment, or holders of the office, in question did not include such a prohibition,

“the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office that takes place after the time mentioned in paragraph (b), means the Chapter 1 legacy scheme mentioned in paragraph (d).

- (4) In a case in which any of the person’s remediable service in the employment or office in question is excess teacher service, “the relevant Chapter 1 legacy scheme”, in relation to so much of the person’s remediable service as is excess teacher service, means the local government new scheme mentioned in section 110(2).

- (5) Subsection (6) applies in a case in which—

- (a) the person never accrued pensionable service as mentioned in subsection (1), or
- (b) paragraphs (a) and (b) of subsection (2) apply, but no Chapter 1 legacy scheme falls within paragraph (c) of that subsection.

- (6) Where this subsection applies, “the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office, means the Chapter 1 legacy scheme for people in the employment, or holders of the office, in question that the person would have been eligible to join on 31 March 2012 if, on that date, the person—

- (a) had been in that employment or a holder of that office, and
- (b) had met all other conditions as to eligibility (if any).

- (7) Subsection (8) applies in a case in which paragraphs (a) to (c) of subsection (3) apply, but no Chapter 1 legacy scheme falls within paragraph (d) of that subsection.

- (8) Where this subsection applies, “the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office that takes place after the time mentioned in subsection (3)(b), means the Chapter 1 legacy scheme for people in

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the employment, or holders of the office, in question that the person would have been eligible to join on 31 March 2012 if, on that date, the person—

- (a) had been in that employment or a holder of that office, and
- (b) had met all other conditions as to eligibility (if any).

(9) Remediable service that is treated under section 2(1) as pensionable service under a Chapter 1 legacy scheme is, if the scheme has different sections or otherwise makes different provision in relation to different people, treated as pensionable service under—

- (a) the section or provision of the scheme under which the person most recently accrued pensionable service (disregarding section 2(1)), or
- (b) if the person has not (disregarding section 2(1)) accrued pensionable service under the scheme, the section or provision under which the person would have accrued service if on 31 March 2012 the person had been in service in the employment or in the office in question, and had joined the scheme on that date.

5 Election for retrospective provision to apply to opted-out service

(1) Scheme regulations for a Chapter 1 legacy scheme must make provision so as to secure that an election may be made in relation to relevant opted-out service in an employment or office.

(2) Where an election by virtue of this section is made in relation to relevant opted-out service in an employment or office—

- (a) the second condition in section 1 is treated as met in relation to the service (so that the service becomes “remediable service”), and
- (b) section 2(1)(b) applies to the service (so that the service is treated as pensionable service under the relevant Chapter 1 legacy scheme).

(3) An election by virtue of this section—

- (a) must be made before the end of the election period,
- (b) takes effect when it is made, and
- (c) is irrevocable.

(4) In subsection (3) “the end of the election period” means—

- (a) the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of the member, or
- (b) such later time as the scheme manager considers reasonable in all the circumstances.

(5) Scheme regulations made by virtue of subsection (1) may, in particular, include provision—

- (a) under which an election may be made in relation to a person’s relevant opted-out service only on the making of an application by or on behalf of the person;
- (b) under which an application by virtue of paragraph (a) may be refused unless a condition specified in the regulations is met;
- (c) requiring information to be provided before an election is made;
- (d) about the form and manner in which an election is to be made;
- (e) about who may make an election in relation to the service of a deceased member.

- (6) The conditions that may be specified by virtue of subsection (5)(b) include in particular—
- (a) a condition relating to the reason why the person opted that the service to which the application relates should not be pensionable service (or did not opt that it should be pensionable service) under a Chapter 1 scheme;
 - (b) a condition requiring—
 - (i) the transfer to the scheme of any assets and liabilities held for the purposes of a partnership pension account that are referable to pension contributions made by or on behalf of the person in respect of the person’s relevant opted-out service, and
 - (ii) the surrender of any entitlement to a pension under the scheme, and any right to a future pension under the scheme, that would otherwise arise under the rules of the scheme in respect of the value of the assets and liabilities transferred;
 - (c) in cases in which any assets and liabilities that are referable to pension contributions made by or on behalf of the person have been transferred out of a partnership pension account, a condition requiring the payment to the scheme of an amount in respect of the transfer.
- (7) For the purposes of this section a person’s opted-out service is “relevant” in relation to a Chapter 1 legacy scheme if the scheme is the relevant Chapter 1 legacy scheme (within the meaning given by section 4) in relation to that service (reading any reference in that provision to remediable service as a reference to opted-out service).