



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 1

PUBLIC SERVICE PENSION SCHEMES

CHAPTER 3

LOCAL GOVERNMENT SCHEMES

Compensation

82 Power to pay compensation

- (1) The scheme manager for a local government new scheme may pay amounts by way of compensation in respect of compensatable losses incurred by members or, in the case of deceased members, their personal representatives.
- (2) Scheme regulations for a local government new scheme may make provision under which an employer in relation to the scheme is required to reimburse the scheme manager for amounts paid under subsection (1).
- (3) For the purposes of this section a loss incurred by a member, or by a member's personal representatives, is "compensatable" if and to the extent that—
 - (a) either of the following conditions is met, and
 - (b) the loss is of a description specified in Treasury directions.
- (4) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule.
- (5) The second condition is that the loss is attributable to the application of any provision of, or made under, this Chapter.

Status: This is the original version (as it was originally enacted).

- (6) In this section (subject to subsection (8)) “loss” includes a loss of any kind including, in particular, a Part 4 tax loss.
- (7) In this section “Part 4 tax loss”, in relation to a member, means a loss arising as a result of the member—
- (a) incurring a charge, or incurring an increased charge, under Part 4 of FA 2004, or
 - (b) not being entitled to a relief, or being entitled to less relief, under that Part of that Act.
- (8) In this section “loss” does not include an amount that is payable under this Chapter or under regulations made by virtue of this Chapter.
- (9) In this section “non-discrimination rule” means a rule that is, or at any time was, included in a local government scheme by virtue of—
- (a) section 61 of EA 2010, or
 - (b) paragraph 2 of Schedule 1 to EEAR(NI) 2006.
- (10) For the purposes of this section a breach of a non-discrimination rule is “relevant” if it arises from the application of a provision of scheme regulations made before 1 April 2022 under which the benefits payable under the scheme that are determined by reference to a member’s pensionable service in an employment or office are final salary benefits.
- (11) Subsection (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—
- (a) any person has already received amounts by way of compensation in respect of them, or
 - (b) amounts that any person has paid the scheme have been reduced by amounts in respect of them,
- whether pursuant to an order of a court or tribunal or otherwise.

83 Indirect compensation

- (1) Scheme regulations for a local government new scheme may make provision under which, where a member has incurred a compensatable loss that is a Part 4 tax loss—
- (a) the member is not paid an amount under section 82 by way of compensation in respect of the loss, and
 - (b) the member is instead paid such additional benefits under the scheme as may be determined in accordance with the regulations.
- (2) In this section “compensatable loss” and “Part 4 tax loss” have the same meaning as in section 82.