



# Public Service Pensions and Judicial Offices Act 2022

## 2022 CHAPTER 7

### PART 1

#### PUBLIC SERVICE PENSION SCHEMES

### CHAPTER 3

#### LOCAL GOVERNMENT SCHEMES

#### *Remediable service*

#### **77      Meaning of “remediable service”**

- (1) For the purposes of this Chapter any continuous period of service of a person in an employment or office is “remediable service” in that employment or office if the following four conditions are met.
- (2) In this section “the service in question” means the service mentioned in subsection (1).
- (3) The first condition is that the service in question takes place in the period—
  - (a) beginning with the day after the closing date, and
  - (b) ending with 31 March 2022 or, if earlier, the date on which the person attains legacy scheme normal pension age.
- (4) The second condition is that the service in question is pensionable service under a local government new scheme (including where the service is excess teacher service that is so pensionable by virtue of section 2(1)).
- (5) The third condition is that the person was, on 31 March 2012 or any earlier day, in pensionable service under—
  - (a) a Chapter 1 legacy scheme (within the meaning of Chapter 1),

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- (b) a judicial legacy scheme (within the meaning of Chapter 2), or
  - (c) a local government legacy scheme.
- (6) The fourth condition is that there is no disqualifying gap in service falling within the period—
- (a) beginning with the day after the most recent day in relation to which the third condition is met, and
  - (b) ending with the day before the first day of the service in question.
- (7) In subsection (3)—
- “the closing date” means—
- (a) 31 March 2014 in relation to service which is pensionable service under regulations under section 7 of SA 1972 which relate to persons in England and Wales;
  - (b) 31 March 2015 in relation to service which is pensionable service under any other local government new scheme;
- “legacy scheme normal pension age” means—
- (a) in a case in which the person meets the third condition in relation to a local government legacy scheme, the person’s normal pension age under that scheme;
  - (b) otherwise, the age of 65.
- (8) In subsection (6) “disqualifying gap in service” means a period longer than 5 years at no time during which is the person in service in an employment or office which—
- (a) is pensionable service under—
    - (i) a Chapter 1 scheme (within the meaning of Chapter 1),
    - (ii) a judicial scheme (within the meaning of Chapter 2), or
    - (iii) a local government scheme,
  - (b) is, as a result of a Fair Deal transfer, pensionable service under a Fair Deal scheme, or
  - (c) is, as a result of a local government contracting-out transfer, pensionable service under a pension scheme that offers pension arrangements that are broadly comparable with those offered to the person before the transfer.

### *Power to pay final salary benefits*

## **78 Power to pay final salary benefits**

- (1) Scheme regulations for a local government new scheme may make provision under which the benefits payable under the scheme, so far as they are determined by reference to a member’s remediable service in any employment or office, are final salary benefits.
- (2) The reference in subsection (1) to remediable service includes—
  - (a) remediable service within the meaning of Chapter 1 that has been transferred in from a Chapter 1 scheme, and
  - (b) remediable service within the meaning of Chapter 2 that has been transferred in from a judicial scheme.

- (3) Scheme regulations made by virtue of subsection (1) may, in particular, include provision under which final salary benefits are only payable under the scheme to or in respect of a person who has service in multiple employments or offices if—
- (a) so much of the service as is otherwise pensionable under another local government scheme, or under a Chapter 1 scheme or a judicial scheme, is transferred in to the scheme, or
  - (b) the service is aggregated for the purposes of determining those benefits.
- (4) Scheme regulations for a local government new scheme may make provision under which the benefits payable under the scheme, so far as they are determined by reference to a member's final salary transferred-in service in any employment or office, are final salary benefits.
- (5) For the purposes of subsection (4) a member's service in an employment or office is "final salary transferred-in service" if—
- (a) the service has been transferred in from another pension scheme, and
  - (b) before the transfer, the benefits payable under that other scheme, so far as determined by reference to the service, were final salary benefits.
- (6) Except as provided by the preceding provisions of this section, scheme regulations for a local government new scheme may not make provision 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.

## **79 Section 78: transitional provision**

- (1) Any provision of scheme regulations that—
- (a) was, at any time before the coming into force of section 78(1), made (or purportedly made) in relation to a local government new scheme under—
    - (i) section 18 of PSPA 2013 or section 18 of PSPA(NI) 2014 (restriction of existing pension schemes), or
    - (ii) any other enactment, and
  - (b) could have been made under section 78(1) if it had been in force at that time, is treated as having been made under section 78(1).
- (2) Section 78(6) does not affect the continued operation of any scheme regulations made before the coming into force of that provision.

*Power to make provision in relation to special cases*

## **80 Pension credit members**

- (1) Scheme regulations for a local government new scheme may make provision about the benefits payable to or in respect of a relevant pension credit member and the corresponding pension debit member.
- (2) In this section "relevant pension credit member", in relation to a local government new scheme, means a member of the scheme who has rights under the scheme—
- (a) which are attributable (directly or indirectly) to a pension credit, and

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- (b) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service in an employment or office of another member.
- (3) In this section “the corresponding pension debit member”, in relation to a relevant pension credit member, means the member mentioned in subsection (2)(b).
- (4) The provision that may be made by scheme regulations under this section includes, in particular—
  - (a) provision modifying any provision of this Chapter in its application to persons of a description specified in the regulations;
  - (b) provision corresponding to, or applying, any provision of this Chapter, with or without modifications.
- (5) In this section—
  - “modifying” includes disapplying or supplementing (and cognate expressions are to be construed accordingly);
  - “pension debit” means a debit under section 29(1)(a) of WPRA 1999 or Article 26(1)(a) of WRP(NI)O 1999;
  - “pension credit” means a credit under section 29(1)(b) of WPRA 1999 or Article 26(1)(b) of WRP(NI)O 1999.

## **81 Further powers to make provision about special cases**

- (1) Scheme regulations for a local government new scheme may make further provision relating to a member who has remediable service in an employment or office.
- (2) The provision that may be made under subsection (1) includes, in particular, provision about cases in which a person has remediable service in an employment or office any of which is excess teacher service.
- (3) Scheme regulations for a local government new scheme may make provision about injury and compensation benefits payable under a relevant injury and compensation scheme to or in respect of a member who has remediable service in an employment or office.
- (4) Provision made under subsection (3) may in particular be made by amending the relevant injury and compensation scheme.
- (5) In subsections (3) and (4) and this subsection—
  - (a) “injury and compensation scheme” means a pension scheme that is listed in Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 (existing injury and compensation schemes);
  - (b) an injury and compensation scheme is “relevant”, in relation to a local government new scheme, if it is connected with the local government new scheme;
  - (c) a reference to “injury and compensation benefits” payable under an injury and compensation scheme is a reference to—
    - (i) in the case of an injury and compensation scheme in relation to which Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 specifies particular benefits, those benefits;
    - (ii) in the case of any other injury and compensation scheme, any benefits payable under the scheme.

- (6) The provision that may be made by scheme regulations under this section includes, in particular—
- (a) provision modifying any provision of this Chapter in its application to persons of a description specified in the regulations;
  - (b) provision corresponding to, or applying, any provision of this Chapter, with or without modifications.
- (7) In this section “modifying” includes disapplying or supplementing (and cognate expressions are to be construed accordingly).

### *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.
- (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

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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.

*Further provision about final salary benefits, special cases and compensation*

### **84 Interest and process**

- (1) Scheme regulations for a local government new scheme may make provision—
- (a) under which interest is required to be calculated and paid on relevant amounts;
  - (b) about the process by which relevant amounts (and any interest on them) are to be paid.
- (2) Scheme regulations made by virtue of subsection (1)(b) may, in particular, include provision—
- (a) about when relevant amounts (and any interest on them) are to be paid (including provision under which they are paid in instalments);
  - (b) under which relevant amounts (and any interest on them) may be paid only on the making of an application;
  - (c) conferring rights of appeal against decisions taken under the regulations.
- (3) In this section “relevant amounts” means any amounts that are payable by the scheme to a person under or by virtue of this Chapter.

### **85 Treasury directions**

- (1) The powers mentioned in subsection (2) must be exercised in accordance with Treasury directions.
- (2) The powers are—
- (a) the power to make scheme regulations by virtue of section 80 (pension credit members) and any powers exercisable by virtue of such regulations;

- (b) the power to make scheme regulations by virtue of section 81 (further powers to make provision about special cases) and any powers exercisable by virtue of such regulations;
  - (c) the power of a scheme manager under section 82(1) (power to pay compensation);
  - (d) the power to make scheme regulations by virtue of section 82(2) (power to require employer to reimburse compensation paid by scheme manager) and any powers exercisable by virtue of such regulations;
  - (e) the power to make scheme regulations by virtue of section 83(1) (indirect compensation) and any powers exercisable by virtue of such regulations;
  - (f) the power to make scheme regulations by virtue of section 84(1) (interest and process) and any powers exercisable by virtue of such regulations.
- (3) Treasury directions under this section may provide for amounts that are to be paid by a scheme in relation to a member to be determined—
- (a) taking into account the particular circumstances of the member and (if different) the person to whom the amount is to be paid, or
  - (b) without taking into account any or all of the particular circumstances of that person or those persons.
- (4) Treasury directions under this section that relate to the calculation and payment of interest, and variations and revocations of such directions, may only be made after consultation with the Government Actuary.
- (5) For the definition of “Treasury directions”, see section 87(1).

### *Interpretation*

## **86 Meaning of “local government scheme” etc**

- (1) In this Chapter “local government scheme” means—
- (a) a local government new scheme, or
  - (b) a local government legacy scheme.
- (2) In this Chapter “local government new scheme” means—
- (a) a scheme under section 1 of PSPA 2013 (schemes for persons in public service) which is a defined benefits scheme for local government workers (within the meaning of that Act), or
  - (b) a scheme under section 1 of PSPA(NI) 2014 (schemes for persons in public service) which is a defined benefits scheme for local government workers (within the meaning of that Act).
- (3) In this Chapter “local government legacy scheme” means—
- (a) an existing scheme (within the meaning of PSPA 2013) mentioned in paragraph 16 or 17 of Schedule 5 to PSPA 2013 (local government workers), or
  - (b) an existing scheme (within the meaning of PSPA(NI) 2014) mentioned in paragraph 3 of Schedule 5 to PSPA(NI) 2014 (local government workers).

**87 Interpretation of Chapter****(1) In this Chapter—**

- “Chapter 1 scheme” has the same meaning as in Chapter 1;
- “final salary benefits” has the meaning given by subsection (2);
- “judicial scheme” has the same meaning as in Chapter 2;
- “local government legacy scheme” has the meaning given by section 86(3);
- “local government new scheme” has the meaning given by section 86(2);
- “local government scheme” has the meaning given by section 86(1);
- “scheme regulations”—

- (a) in relation to a local government new scheme within section 86(2)(a) has the same meaning as in PSPA 2013 (see section 1(4) of that Act);
- (b) in relation to a local government new scheme within section 86(2)(b) has the same meaning as in PSPA(NI) 2014 (see section 1(4) of that Act);

“Treasury directions” means—

- (a) in relation to a local government scheme within section 86(2)(a) or (3) (a), directions given by the Treasury;
- (b) in relation to a local government scheme within section 86(2)(b) or (3) (b), directions given by the Department of Finance in Northern Ireland.

**(2) For the purposes of this Chapter, benefits payable under a pension scheme to or in respect of a member are “final salary benefits” if they are determined by reference to the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to—**

- (a) the time when the member’s pensionable service in relation to the scheme ends, or
- (b) the time when the member attains normal pension age under a local government legacy scheme.

**(3) Where—**

- (a) a member of a pension scheme has service in multiple employments or offices that is pensionable service under the scheme, and
- (b) the service is aggregated for the purpose of determining the amount of any benefit under the scheme,

the service is treated for the purposes of this Chapter as service in a single employment or office (and references to the employment or office in relation to the service are to be read accordingly).