



# Public Service Pensions and Judicial Offices Act 2022

## 2022 CHAPTER 7

### PART 1

#### PUBLIC SERVICE PENSION SCHEMES

### CHAPTER 4

#### GENERAL

#### *Interpretation of Part*

#### **109**    **Meaning of “member” etc**

- (1) In this Part “member”, in relation to a pension scheme, means a member of the scheme of any description (whether or not in pensionable service or in receipt of a pension) and includes a deceased member.
- (2) For the purposes of this Part a person is an “active member” of a pension scheme in relation to their service in an employment or office if—
  - (a) there are presently arrangements made under the pension scheme for the accrual of benefits to or in respect of the person that are calculated by reference to the person’s service in that employment or office, and
  - (b) the person is not a pensioner member of the scheme in relation to that employment or office.
- (3) For the purposes of this Part a person is a “pensioner member” of a pension scheme in relation to their service in an employment or office if the person is entitled to the present payment of benefits under the scheme that are calculated by reference to the person’s service in that employment or office.

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*Status: This is the original version (as it was originally enacted).*

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- (4) For the purposes of this Part a person is a “deferred member” of a pension scheme in relation to their service in an employment or office if—
- (a) the person has accrued rights under the pension scheme, and
  - (b) the person is neither an active member of the scheme, nor a pensioner member of the scheme, in relation to that employment or office.

## 110 Interpretation of Part

- (1) In this Part—

“accrual rate”, in relation to a pension scheme, means the rate at which rights to benefits accrue over time by reference to periods of pensionable service;

“active member” has the meaning given by section 109;

“connected” means—

- (a) connected within the meaning of PSPA 2013 (see section 4(6) and (7) of that Act), or
- (b) connected within the meaning of PSPA(NI) 2014 (see section 4(6) and (7) of that Act);

“continuous period of service”, in relation to an employment or office, means a period of service in that employment or office that does not include a gap in service;

“deferred member” has the meaning given by section 109;

“EA 2010” means the Equality Act 2010;

“EEAR(NI) 2006” means the Employment Equality (Age) Regulations (Northern Ireland) 2006 ([S.R. \(N.I.\) 2006 No. 261](#));

“employer”, in relation to a pension scheme, means—

- (a) any employer of persons to whom the scheme relates,
- (b) the person responsible for the remuneration of an office-holder to whom the scheme relates, or
- (c) such other persons (in addition to, or instead of, any person falling within paragraph (a) or (b)) as scheme regulations or (in the case of a public body pension scheme) the rules of the scheme may provide;

“employment”: references to a person’s service in an employment include, in relation to a health service worker, any service of the person that, if the person were in pensionable service under a scheme under section 1 of PSPA 2013, or section 1 of PSPA(NI) 2014, for health service workers, would be pensionable service under the scheme;

“enactment” includes—

- (a) an enactment comprised in subordinate legislation (within the meaning given by section 21 of the Interpretation Act 1978),
- (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru,
- (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
- (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation;

“entitled”: section 165(3)(b) of FA 2004 (time when person becomes “entitled” to pension) applies for the purposes of this Part as it applies for the

purposes of Part 4 of that Act (reading the reference to a registered pension scheme as a reference to any pension scheme);

“excess teacher service” has the meaning given by subsection (2);

“FA 2004” means the Finance Act 2004;

“Fair Deal scheme” means—

(a) a pension scheme that, in accordance with the Fair Deal Statement of Practice, has been certified by the Government Actuary’s Department as offering, to persons who have been subject to a Fair Deal transfer, pension arrangements that are broadly comparable with those offered to them before the transfer, or

(b) a pension scheme in relation to which the obligation to give such a certificate has been waived in accordance with that statement of practice;

“Fair Deal Statement of Practice” means the statement of practice entitled “Staff Transfers in the Public Sector” issued by the Cabinet Office in January 2000, as supplemented and modified from time to time;

“Fair Deal transfer” means a transfer of a person’s employment from a public sector employer to a private sector employer in accordance with the Fair Deal Statement of Practice;

“health service workers” means—

(a) health service workers within the meaning of PSPA 2013 (see paragraph 5 of Schedule 1 to that Act), or

(b) health service workers within the meaning of PSPA(NI) 2014 (see paragraph 5 of Schedule 1 to that Act);

“HMRC” means Her Majesty’s Revenue and Customs;

“JUPRA 1993” means the Judicial Pensions and Retirement Act 1993;

“local government contracting-out transfer” means a transfer of a person’s employment that was required to be conducted—

(a) in accordance with directions given, and having regard to guidance issued, for the purposes of section 101(1) of the Local Government Act 2003 (contracting out: staff transfer matters), or

(b) having regard to guidance issued for the purposes of section 52 of the Local Government in Scotland Act 2003 (asp 1) (guidance on contractual matters);

“member” has the meaning given by section 109;

“normal pension age” means normal pension age within the meaning of PSPA 2013 (see section 10(5) of that Act) or PSPA(NI) 2014 (see section 10(10) of that Act);

“occupational defined contributions scheme” means—

(a) a defined contributions scheme (within the meaning given by section 4 of PSA 2015) that is an occupational pension scheme within the meaning of PSA 1993 (see section 1 of that Act), or

(b) a defined contributions scheme (within the meaning given by section 4 of PSA(NI) 2016) that is an occupational pension scheme within the meaning of PS(NI)A 1993 (see section 1 of that Act);

“PA 1995” means the Pensions Act 1995;

“P(NI)O 1995” means the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22));

“partnership pension account”, in relation to a person in service in an employment or office, means—

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

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- (a) a stakeholder pension scheme,
- (b) a personal pension scheme, or
- (c) an occupational defined contributions scheme,

to which the person's employer is paying contributions;

“pension contributions”, in relation to a pension scheme, means—

- (a) contributions that a member of the scheme or the employer is required under the scheme to pay to the scheme, or
- (b) amounts that a person is required under or by virtue of this Part to pay to the scheme by way of pension contributions;

“pension scheme” means a scheme for the payment of pensions or other benefits to or in respect of persons with service of a particular description;

“pensionable earnings”, in relation to a pension scheme and a member of it, means earnings by reference to which a pension or other benefits under the scheme are calculated;

“pensionable service”, in relation to a pension scheme, means service which qualifies a person to a pension or other benefits under that scheme;

“pensioner member” has the meaning given by section 109;

“personal pension scheme” means a personal pension scheme within the meaning of PSA 1993 (see section 1 of that Act) or PS(NI)A 1993 (see section 1 of that Act);

“PSA 1993” means the Pension Schemes Act 1993;

“PS(NI)A 1993” means the Pension Schemes (Northern Ireland) Act 1993;

“PSA 2015” means the Pension Schemes Act 2015;

“PSA(NI) 2016” means the [Pension Schemes Act \(Northern Ireland\) 2016 \(c.1 \(N.I.\)\)](#);

“PSPA 2013” means the Public Service Pensions Act 2013;

“PSPA(NI) 2014” means the [Public Service Pensions Act \(Northern Ireland\) 2014 \(c. 2 \(N.I.\)\)](#);

“public body pension scheme” means a scheme which is a public body pension scheme for the purposes of PSPA 2013 (see section 30(5) of that Act) or PSPA(NI) 2014 (see section 31(4) of that Act);

“SA 1972” means the Superannuation Act 1972;

“scheme manager” has the meaning given by section 4 of PSPA 2013 or section 4 of PSPA(NI) 2014;

“stakeholder pension scheme” means a scheme which is a stakeholder pension scheme for the purposes of Part 1 of WRPA 1999 (see section 1 of that Act) or Part 2 of WRP(NI)O 1999 (see Article 3 of that Order);

“teacher” means teacher within the meaning of PSPA 2013 (see paragraph 4 of Schedule 1 to that Act) or PSPA(NI) 2014 (see paragraph 4 of Schedule 1 to that Act);

“voluntary contributions” means amounts that are paid to a pension scheme by a member of the scheme on a voluntary basis, in accordance with the scheme, for the purpose of securing additional benefits, or securing the earlier payment of benefits, under the scheme;

“WRPA 1999” means the Welfare Reform and Pensions Act 1999;

“WRP(NI)O 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)).

- (2) In this Part “excess teacher service” means a person’s service in an employment or office as a teacher where (disregarding section 2(1))—
- (a) the service is pensionable service under a local government new scheme, or
  - (b) the service—
    - (i) is pensionable service under a Chapter 1 new scheme for teachers, and
    - (ii) would have been pensionable service under a local government new scheme but for the person’s failure to meet a condition relating to the person’s attainment of normal pension age, or another specified age, by a specified date.

Service in an employment or office is “excess teacher service” if all of the service falls within paragraphs (a) and (b) (even if it does not all fall within only one of those paragraphs).

- (3) In subsection (2)—
- “Chapter 1 new scheme” has the same meaning as in Chapter 1;
  - “local government new scheme” has the same meaning as in Chapter 3.