



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 1

PUBLIC SERVICE PENSION SCHEMES

CHAPTER 4

GENERAL

Other amendments of PSPA 2013 and PSPA(NI) 2014

94 Amendments relating to scheme regulations

- (1) Section 3 of PSPA 2013 (scheme regulations) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1) after “this Act” insert “and Part 1 of PSPJOA 2022”.
- (3) In subsection (2), after paragraph (b) insert—
 - “(c) consequential, supplementary, incidental or transitional provision in relation to any provision of Part 1 of PSPJOA 2022.”
- (4) After subsection (4) insert—
 - “(4A) In subsection (2)(c)—
 - (a) the reference to consequential provision includes consequential provision amending any primary legislation passed before or in the same session as PSPJOA 2022 (as well as consequential provision amending any secondary legislation);
 - (b) the reference to supplementary, incidental or transitional provision includes supplementary, incidental or transitional provision amending

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an existing scheme contained in primary legislation (as well as supplementary, incidental or transitional provision amending any secondary legislation).

(4B) See sections 37 and 74 of PSPJOA 2022 for provision under which certain powers to make provision under Part 1 of that Act by means of scheme regulations may be exercised by amending existing schemes.”

(5) In subsection (6) omit paragraph (b).

(6) After subsection (6) insert—

“(7) A Treasury order may amend this section so as to add, remove or vary exceptions to the requirement in subsection (5).

(8) A Treasury order under subsection (7) is subject to the negative procedure.”

(7) In section 8 of PSPA 2013 (types of scheme), after subsection (4) insert—

“(4A) The extent to which a scheme under section 1 is a career average revalued earnings scheme is not affected by provision contained in scheme regulations that is made under section 78 of PSPJOA 2022 (local government schemes: power to pay final salary benefits).”

(8) In section 21 of PSPA 2013 (consultation), after subsection (3) insert—

“(4) Subsection (1) may, in relation to provision contained in scheme regulations—
 (a) under any provision contained in Part 1 of PSPJOA 2022, or
 (b) under section 3(2)(c) of this Act (consequential etc provision in relation to Part 1 of PSPJOA 2022),
 be satisfied by consultation before, as well as after, the coming into force of the provision mentioned in paragraph (a) or (b).”

(9) In section 23 of PSPA 2013 (procedure for retrospective provision), after subsection (5) insert—

“(6) This section does not apply in relation to provision contained in scheme regulations that is made—
 (a) under any provision contained in Part 1 of PSPJOA 2022, or
 (b) under section 3(2)(c) of this Act (consequential etc provision in relation to Part 1 of PSPJOA 2022).”

(10) In section 37 of PSPA 2013 (general interpretation), at the appropriate place insert—
 ““PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”.

(11) Section 3 of PSPA(NI) 2014 (scheme regulations) is amended in accordance with subsections (12) to (14).

(12) In subsection (1), after “this Act” insert “and Part 1 of PSPJOA 2022”.

(13) In subsection (2), after paragraph (b) insert—

“(c) consequential, supplementary, incidental or transitional provision in relation to any provision of Part 1 of PSPJOA 2022.”

(14) After subsection (4) insert—

“(4A) In subsection (2)(c)—

- (a) the reference to consequential provision includes consequential provision amending any primary legislation made or passed before or within the period of 12 months from the date on which PSPJOA 2022 receives Royal Assent (as well as consequential provision amending any secondary legislation);
- (b) the reference to supplementary, incidental or transitional provision includes supplementary, incidental or transitional provision amending an existing scheme contained in primary legislation (as well as supplementary, incidental or transitional provision amending any secondary legislation).

(4B) See sections 37 and 74 of PSPJOA 2022 for provision under which certain powers to make provision under Part 1 of that Act by means of scheme regulations may be exercised by amending existing schemes.”

(15) In section 8 of PSPA(NI) 2014 (types of scheme), after subsection (4) insert—

“(4A) The extent to which a scheme under section 1 is a career average revalued earnings scheme is not affected by provision contained in scheme regulations that is made under section 78 of PSPJOA 2022 (local government schemes: power to pay final salary benefits).”

(16) In section 21 of PSPA(NI) 2014 (consultation), after subsection (3) insert—

“(4) Subsection (1) may, in relation to provision contained in scheme regulations—

- (a) under any provision contained in Part 1 of PSPJOA 2022, or
- (b) under section 3(2)(c) of this Act (consequential etc provision in relation to Part 1 of PSPJOA 2022),

be satisfied by consultation before, as well as after, the coming into force of the provision mentioned in paragraph (a) or (b).”

(17) In section 23 of PSPA(NI) 2014 (procedure for retrospective provision), after subsection (5) insert—

“(6) This section does not apply in relation to provision contained in scheme regulations that is made—

- (a) under any provision contained in Part 1 of PSPJOA 2022, or
- (b) under section 3(2)(c) of this Act (consequential etc provision in relation to Part 1 of PSPJOA 2022).”

(18) In section 34 of PSPA(NI) 2014 (general interpretation), at the appropriate place insert—

““PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”.

95 Amendments relating to the establishment or restriction of schemes

(1) PSPA 2013 is amended in accordance with subsections (2) to (7).

(2) In section 4 (scheme manager)—

(a) after subsection (3) insert—

“(3A) Subsection (1) does not apply to a scheme under section 1 if—

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- (a) the scheme is connected with another scheme under section 1, and
 - (b) a scheme manager is provided for under subsection (1) in scheme regulations for that other scheme.”;
- (b) after subsection (6) insert—
 - “(6A) The reference in subsection (6) to a statutory pension scheme includes a statutory pension scheme established (under section 1 or otherwise) after the establishment of the scheme under section 1 mentioned in that subsection.”
- (3) In section 5 (pension board), after subsection (2) insert—
 - “(2A) Subsection (1) does not apply to a scheme under section 1 if—
 - (a) the scheme is connected with another scheme under section 1, and
 - (b) a pension board is provided for under subsection (1) in scheme regulations for that other scheme.”
- (4) In section 7 (scheme advisory board)—
 - (a) in subsection (1), for “on the desirability of changes to the scheme” substitute “on—
 - (a) the desirability of changes to the scheme, or
 - (b) the desirability of changes to any other scheme under section 1 which—
 - (i) is connected with it, and
 - (ii) is not an injury or compensation scheme.”;
 - (b) after subsection (1) insert—
 - “(1A) Subsection (1) does not apply to a scheme under section 1 if—
 - (a) the scheme is connected with another scheme under section 1 which is not an injury or compensation scheme, and
 - (b) a scheme advisory board is provided for under subsection (1) in scheme regulations for that other scheme.”
- (5) In section 11 (valuations), after subsection (1) insert—
 - “(1A) Subsection (1) does not apply to a scheme under section 1 if—
 - (a) the scheme is connected with another scheme under section 1, and
 - (b) actuarial valuations are provided for under subsection (1) in scheme regulations for that other scheme.”
- (6) After section 12 insert—

“12A Sections 11 and 12: restricted schemes

- (1) Section 11(1) (valuations) does not require scheme regulations to provide for actuarial valuations to be made of a scheme to which this section applies.
- (2) Section 12(1) (employer cost cap) does not apply to a scheme to which this section applies.
- (3) This section applies to a scheme under section 1 which—
 - (a) is a restricted scheme, and

- (b) is specified for the purposes of this section in Treasury regulations.
- (4) For the purposes of this section a scheme under section 1 is a “restricted scheme” at any time if any enactment restricts the provision of benefits under the scheme to or in respect of a person in relation to the person’s service after that time.
- (5) Treasury regulations under this section may include consequential or supplementary provision.
- (6) Treasury regulations under this section are subject to the negative Commons procedure.”
- (7) In section 30 (new public body pension schemes), in subsection (1)(e), for “and 12” substitute “to 12A”.
- (8) PSPA(NI) 2014 is amended in accordance with subsections (9) to (15).
- (9) In section 4 (scheme manager)—
- (a) after subsection (3) insert—
- “(3A) Subsection (1) does not apply to a scheme under section 1 if—
- (a) the scheme is connected with another scheme under section 1, and
- (b) a scheme manager is provided for under subsection (1) in scheme regulations for that other scheme.”;
- (b) after subsection (6) insert—
- “(6A) The reference in subsection (6) to a statutory pension scheme includes a statutory pension scheme established (under section 1 or otherwise) after the establishment of the scheme under section 1 mentioned in that subsection.”
- (10) In section 5 (pension board)—
- (a) in subsection (1), for “subsection (2)” substitute “subsections (2) and (2A)”;
- (b) after subsection (2) insert—
- “(2A) Subsection (1) does not apply to a scheme under section 1 if—
- (a) the scheme is connected with another scheme under section 1, and
- (b) a pension board is provided for under subsection (1) in scheme regulations for that other scheme.”
- (11) In section 7 (scheme advisory board)—
- (a) in subsection (1), for “on the desirability of changes to the scheme” substitute “on—
- (a) the desirability of changes to the scheme, or
- (b) the desirability of changes to any other scheme under section 1 which—
- (i) is connected with it, and
- (ii) is not an injury or compensation scheme.”;
- (b) after subsection (1) insert—
- “(1A) Subsection (1) does not apply to a scheme under section 1 if—

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- (a) the scheme is connected with another scheme under section 1 which is not an injury or compensation scheme, and
- (b) a scheme advisory board is provided for under subsection (1) in scheme regulations for that other scheme.”

(12) In section 11 (valuations), after subsection (1) insert—

“(1A) Subsection (1) does not apply to a scheme under section 1 if—

- (a) the scheme is connected with another scheme under section 1, and
- (b) actuarial valuations are provided for under subsection (1) in scheme regulations for that other scheme.”

(13) After section 12 insert—

“12A Sections 11 and 12: restricted schemes

- (1) Section 11(1) (valuations) does not require scheme regulations to provide for actuarial valuations to be made of a scheme to which this section applies.
- (2) Section 12(1) (employer cost cap) does not apply to a scheme to which this section applies.
- (3) This section applies to a scheme under section 1 which—
 - (a) is a restricted scheme, and
 - (b) is specified for the purposes of this section in regulations made by the Department of Finance.
- (4) For the purposes of this section a scheme under section 1 is a “restricted scheme” at any time if any statutory provision restricts the provision of benefits under the scheme to or in respect of a person in relation to the person’s service after that time.
- (5) Regulations made by the Department of Finance under this section may include consequential or supplementary provision.
- (6) Regulations made by the Department of Finance under this section are subject to negative resolution.”

(14) In section 31 (new public body pension schemes), in subsection (1)(e), for “and 12” substitute “to 12A”.

(15) In section 34 (general interpretation), at the appropriate place insert—

““statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;”.

96 Amendments relating to the Secret Intelligence Service etc

(1) PSPA 2013 is amended in accordance with subsections (2) to (4).

(2) In section 18 (restriction of existing pension schemes)—

- (a) in subsection (4), after paragraph (a) insert—
 - “(aa) 31 March 2016 for an existing scheme which is a relevant Agency scheme, and”;
- (b) in subsection (10) after “subsection (4)” insert “—

“relevant Agency scheme” means regulations under section 1 of the Superannuation Act 1972 which relate to staff of the Secret Intelligence Service or Security Service;”.

- (3) In Schedule 5 (existing schemes), in paragraph 1 omit “other than a scheme which relates to staff of the Secret Intelligence Service or Security Service”.
- (4) In Schedule 10 (public bodies whose pension schemes must be restricted) omit paragraphs 10 and 11.
- (5) In consequence of the amendment made by subsection (3), in PSA 2015 omit section 80 (public service pension schemes).
- (6) Any provision of subordinate legislation that—
 - (a) was, at any time before the coming into force of this section, made (or purportedly made) in relation to a relevant Agency scheme under—
 - (i) section 18 of PSPA 2013 (restriction of existing pension schemes), or
 - (ii) section 31 of that Act (restriction of certain existing public body pension schemes), and
 - (b) could have been made under section 18 of that Act if the amendments made by subsections (1) to (4) had been in force at that time, is treated as having been made under section 18 of that Act.
- (7) In subsection (6) “relevant Agency scheme” means regulations under section 1 of SA 1972 which relate to staff of the Secret Intelligence Service or Security Service.

97 Amendments relating to the judiciary

- (1) PSPA 2013 is amended in accordance with subsections (2) and (3).
- (2) After section 25 (extension of schemes) insert—

“25A Extension of schemes where definition of “the judiciary” expanded

- (1) Subsection (2) applies where—
 - (a) scheme regulations come into force establishing a scheme under section 1 for the judiciary, and
 - (b) subsequently, an order is made under paragraph 2(1) of Schedule 1 (order specifying judicial offices for the purposes of the definition of “the judiciary”).
- (2) Scheme regulations for the scheme mentioned in subsection (1)(a) may make provision under which any right or obligation of a member holding an office specified in the order mentioned in subsection (1)(b) is determined by reference to service which takes place before (as well as after) the order comes into force.
- (3) This section is without prejudice to the generality of section 3(3)(b) (power to make retrospective provision in scheme regulations).”
- (3) In Schedule 1 (persons in public service: definitions), in paragraph 2 (judiciary), for sub-paragraphs (2) and (3) substitute—

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- “(2) An order under sub-paragraph (1) that specifies a devolved office in or as regards Scotland or Northern Ireland may only be made at the request of the relevant national authority.
- (3) In sub-paragraph (2), “relevant national authority” means—
- (a) in relation to a devolved office within paragraph (a) of the definition of “devolved office” in section 37, the Department of Justice in Northern Ireland;
 - (b) in relation to a devolved office within paragraph (b) of the definition of “devolved office” in section 37, the Scottish Ministers.
- (4) An order under sub-paragraph (1) is subject to the negative procedure.”
- (4) PSPA(NI) 2014 is amended in accordance with subsection (5).
- (5) After section 25 (extension of schemes) insert—

“25A Extension of schemes where definition of “the judiciary” expanded

- (1) Subsection (2) applies where—
- (a) scheme regulations come into force establishing a scheme under section 1 for holders of judicial office, and
 - (b) subsequently, an order is made under paragraph 2(1) of Schedule 1 (order specifying judicial offices for the purposes of the definition of “holders of judicial office”).
- (2) Scheme regulations for the scheme mentioned in subsection (1)(a) may make provision under which any right or obligation of a member holding an office specified in the order mentioned in subsection (1)(b) is determined by reference to service which takes place before (as well as after) the order comes into force.
- (3) This section is without prejudice to the generality of section 3(3)(b) (power to make retrospective provision in scheme regulations).”

98 Amendments relating to non-scheme benefits

- (1) Section 26 of PSPA 2013 (non-scheme benefits) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) persons to whom the scheme relates (including any to whom the scheme relates by virtue of section 25), and
 - (b) persons to whom the scheme would have related but for the fact that, in accordance with the scheme, they have opted out of the scheme (or have failed to opt in to the scheme).”
- (3) After subsection (2) insert—
- “(3) For the purposes of subsection (1)(b), a person is treated as having opted out of a scheme if the scheme would have related to the person (or would have done so if the person had opted that it should) but for the fact that the person had a partnership pension account.

(4) In this section—

“occupational defined contributions scheme” means a defined contributions scheme (within the meaning given by section 4 of the Pension Schemes Act 2015) that is an occupational pension scheme within the meaning of the Pension Schemes Act 1993 (see section 1 of that Act);

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

- (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;

“personal pension scheme” has the same meaning as in the Pension Schemes Act 1993 (see section 1 of that Act);

“stakeholder pension scheme” means a scheme which is a stakeholder pension scheme for the purposes of Part 1 of the Welfare Reform and Pensions Act 1999 (see section 1 of that Act).”

(4) Section 26 of PSPA(NI) 2014 (non-scheme benefits) is amended in accordance with subsections (5) and (6).

(5) In subsection (1), for paragraphs (a) and (b) substitute—

- “(a) persons to whom the scheme relates (including any to whom the scheme relates by virtue of section 25), and
- (b) persons to whom the scheme would have related but for the fact that, in accordance with the scheme, they have opted out of the scheme (or have failed to opt in to the scheme).”

(6) After subsection (2) insert—

“(3) For the purposes of subsection (1)(b), a person is treated as having opted out of a scheme if the scheme would have related to the person (or would have done so if the person had opted that it should) but for the fact that the person had a partnership pension account.

(4) In this section—

“occupational defined contributions scheme” means a defined contributions scheme (within the meaning given by section 4 of the Pension Schemes Act (Northern Ireland) 2016) that is an occupational pension scheme within the meaning of Pension Schemes (Northern Ireland) Act 1993 (see section 1 of that Act);

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

- (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;

“personal pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993 (see section 1 of that Act);

“stakeholder pension scheme” means a scheme which is a stakeholder pension scheme for the purposes of Part 2 of the Welfare

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Reform and Pensions (Northern Ireland) Order 1999 (see Article 3 of that Order).”

99 Amendments relating to pension schemes for members of the Senedd

In section 30 of PSPA 2013 (new public body pension schemes), after subsection (4) insert—

“(4A) The following provisions of this section do not apply to a new public body pension scheme which is made under section 20(3) of the Government of Wales Act 2006 (remuneration of members of the Senedd: pensions)—

- (a) subsection (1)(e) (cost control);
- (b) subsection (3) (Treasury consent).”

100 Guidance to public service pension scheme managers on investment decisions

- (1) The Public Service Pensions Act 2013 is amended in accordance with subsection (2).
- (2) In Schedule 3, in paragraph 12(a), at end insert “including guidance or directions on investment decisions which it is not proper for the scheme manager to make in light of UK foreign and defence policy”.