



# Public Service Pensions and Judicial Offices Act 2022

## 2022 CHAPTER 7

### PART 2

#### PENSIONS AND BANKING (SPECIAL PROVISIONS) ACT 2008 BODIES

##### *New public pension schemes*

#### **111 Establishment of new public schemes and transfer of rights**

- (1) The Treasury may by regulations establish one or more schemes (“new public schemes”) which provide for pensions or other benefits to be payable to or in respect of persons who are or have been members of the BBS Pension Scheme or the NRAM Pension Scheme.
- (2) The Treasury may by regulations make provision for the transfer of qualifying accrued rights to a new public scheme (without the need for any approval or consent to the transfer).
- (3) Regulations under subsection (2) may include provision for the discharge of liabilities in respect of qualifying accrued rights that are transferred.
- (4) In this Part—
  - “qualifying accrued rights” means—
    - (a) any right to future benefits under the BBS Pension Scheme or the NRAM Pension Scheme which, at the qualifying time, has accrued to or in respect of a member of that scheme,
    - (b) any entitlement under the BBS Pension Scheme or the NRAM Pension Scheme to the present payment of a pension or other benefit which a member of the BBS Pension Scheme or the NRAM Pension Scheme has at the qualifying time, or

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- (c) any entitlement to benefits, or right to future benefits, under the BBS Pension Scheme or the NRAM Pension Scheme which a survivor of a member of the BBS Pension Scheme or the NRAM Pension Scheme has at the qualifying time in respect of the member;  
“the qualifying time” means the time immediately before the date specified or described in regulations made by the Treasury.
- (5) For the purposes of the definition of “qualifying accrued rights”—
  - (a) references to pensions or other benefits (including future benefits) includes money purchase benefits, and
  - (b) references to a right include a pension credit right.
- (6) Regulations under subsection (4) specifying or describing a date for the purposes of the definition of “the qualifying time” may make provision for the purposes of transfers of qualifying accrued rights generally, transfers of a particular description or a particular transfer.

## **112 New public schemes: further provision**

- (1) A new public scheme may include provision—
  - (a) for pensions or other benefits to be payable to or in respect of some or all persons described in section 111(1);
  - (b) for the provision of money purchase benefits or benefits that are not money purchase benefits (or both);
  - (c) for increasing in particular circumstances the amounts payable in respect of qualifying accrued rights;
  - (d) for the payment or receipt of transfer values or other lump sum payments for the purpose of creating rights to benefits under a new public scheme or otherwise.
- (2) Regulations under section 111(1) may—
  - (a) provide for a new public scheme to be treated as an occupational pension scheme, a previously contracted-out scheme or another type of occupational pension scheme for the purposes of an enactment specified or described in the regulations;
  - (b) provide for the enactment to apply in relation to a new public scheme subject to modifications specified in the regulations.
- (3) Regulations under section 111(1) amending a new public scheme may make retrospective provision.
- (4) Regulations under section 111(1) may—
  - (a) confer functions on the Treasury or another person;
  - (b) provide for a person to exercise a discretion in dealing with a matter.
- (5) The Treasury may—
  - (a) make arrangements for a new public scheme to be administered by any person;
  - (b) delegate to any person a function exercisable by the Treasury under a new public scheme.
- (6) In this section, a “previously contracted-out scheme” means a scheme that before 6 April 2016 was a salary related contracted-out scheme within the meaning of Part 3 of the Pension Schemes Act 1993.

### **113 Protection against adverse treatment: transfer of rights**

- (1) When making regulations under section 111 which transfer qualifying accrued rights to a new public scheme, the Treasury must ensure that the following requirements are met in respect of each person whose qualifying accrued rights are transferred—
  - (a) the general scheme requirement (see subsection (2)), and
  - (b) where the qualifying accrued rights transferred are a person's rights or entitlements to money purchase benefits other than pensions in payment, the money purchase requirement (see subsection (3)).
- (2) The general scheme requirement is that, so far as relevant to the qualifying accrued rights transferred by the regulations, the provision in the new public scheme immediately after the regulations are made is in all material respects at least as good as the provision in the BBS Pension Scheme or the NRAM Pension Scheme (as appropriate) immediately before that time.
- (3) The money purchase requirement is that the value of the rights or entitlements to money purchase benefits, other than pensions in payment, that a person has under the new public scheme immediately after, and as a result of, the transfer is at least equivalent to the value of the qualifying accrued rights of the person that are transferred.
- (4) The Treasury may by regulations make provision about the determination of the value of rights or entitlements for the purposes of subsection (3).
- (5) Regulations under subsection (4) may, among other things—
  - (a) make provision about the person by whom, and the manner in which, the value of rights or entitlements is to be determined,
  - (b) make provision about the date or period by reference to which the value of the qualifying accrued rights transferred is to be determined (subject to subsection (6)), and
  - (c) make provision that applies generally or only for a specific purpose (for example, in relation to a particular transfer).
- (6) Regulations under subsection (4) may not make provision for the value of the qualifying accrued rights transferred to be determined by reference to a date which falls, or a period which ends, more than three months before the transfer.
- (7) Subsection (1) does not require provision to be included in a new public scheme if the Treasury is of the opinion that the provision would be incompatible with an enactment (including an enactment applying as a result of any provision made by or under this Part).
- (8) Nothing in subsections (1) to (3) is to be read as—
  - (a) requiring particular provisions of a new public scheme to take a particular form,
  - (b) requiring a new public scheme to be established in a particular way,
  - (c) requiring any power or duty conferred or imposed by a new public scheme to be exercised or performed in a particular way, or
  - (d) affecting any power of any person to amend a new public scheme.

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## **114 Protection against adverse treatment: amendment of new public schemes**

- (1) The Treasury may not make regulations under section 111 amending a new public scheme unless—
  - (a) in a case where the amendment, on coming into force, would or might adversely affect subsisting rights at that time, the consent requirements or the procedure requirements are satisfied in relation to the amendment, or
  - (b) in any other case, the consultation requirements are satisfied in relation to the amendment.
- (2) The consent requirements are requirements specified or described in regulations made by the Treasury for the purpose of obtaining the consent of interested persons, or their representatives, to amendment of a new public scheme.
- (3) The consultation requirements are requirements specified or described in regulations made by the Treasury for the purpose of consulting interested persons, or their representatives, about amendment of a new public scheme.
- (4) The procedure requirements are requirements which—
  - (a) are specified or described in regulations made by the Treasury for steps to be taken before amending a new public scheme, and
  - (b) are not requirements for the purpose of obtaining the consent of, or consulting, interested persons or their representatives.
- (5) In this section, “subsisting rights”, in relation to any time, means—
  - (a) any right to future benefits under a new public scheme which, at that time, has accrued to or in respect of a member of the scheme,
  - (b) any entitlement under a new public scheme to the present payment of a pension or other benefit which a member of the scheme has at that time, or
  - (c) any entitlement to benefits, or rights to future benefits, under a new public scheme which a survivor of a member of the scheme has at that time in respect of the member.
- (6) For the purposes of the definition of “subsisting rights”—
  - (a) references to pensions or other benefits (including future benefits) include money purchase benefits, and
  - (b) references to a right include a pension credit right.
- (7) In this section, “interested persons”, in relation to an amendment of a scheme, means persons who appear to the Treasury to be likely to be affected by the amendment.

## **115 Transfer of assets and liabilities**

- (1) The Treasury may by regulations provide for the transfer of assets or liabilities of the BBS Pension Scheme or the NRAM Pension Scheme to—
  - (a) a nominee of the Treasury, or
  - (b) a company established by the Treasury for the purpose of holding the assets or the liabilities pending their disposal or discharge.
- (2) Regulations may be made under this section only if regulations under section 111 have been made.
- (3) Regulations under this section may include provision for the making of payments into the Consolidated Fund.

*Other liabilities to pay pensions*

**116 Transfer of other pensions and benefits**

- (1) The Treasury may by regulations make provision for the transfer to the Treasury of any of the following—
  - (a) qualifying liabilities of Bradford & Bingley Limited or NRAM Limited;
  - (b) qualifying liabilities of UK Asset Resolution Limited.
- (2) In this Part, “qualifying liability” means a liability to pay a pension or other benefit to or in respect of a person in connection with the person’s past service as an employee or office-holder of Bradford & Bingley Limited, Northern Rock Plc or another entity, other than a liability arising under the BBS Pension Scheme or the NRAM Pension Scheme.
- (3) The Treasury may by regulations provide for a relevant enactment to apply with modifications, or not to apply, to an arrangement under which a qualifying liability arises that is an occupational pension scheme.
- (4) In subsection (3), “relevant enactment” means an enactment that—
  - (a) relates or refers to occupational pension schemes, and
  - (b) is specified or described in regulations under subsection (3).
- (5) The Treasury may by regulations—
  - (a) provide for an arrangement under which a qualifying liability arises to be treated as a particular type of occupational pension scheme for the purposes of an enactment specified or described in the regulations;
  - (b) provide for the enactment to apply in relation to the arrangement subject to modifications specified in the regulations.

*Supplementary*

**117 Taxation**

- (1) The Treasury may by regulations make provision for varying the way in which any relevant tax would, apart from the regulations, have effect in relation to—
  - (a) a new public scheme;
  - (b) members of a new public scheme;
  - (c) persons who have survived a member of a new public scheme and who have an entitlement to benefits, or a right to future benefits, under the scheme in respect of the member;
  - (d) a company within section 115(1)(b).
- (2) Regulations under subsection (1) may include provision for treating a new public scheme as a registered pension scheme.
- (3) The Treasury may by regulations make provision for varying the way in which any relevant tax would, apart from the regulations, have effect in relation to, or in connection with, anything done by or under, or in consequence of, regulations made under this Part in relation to—
  - (a) the BBS Pension Scheme;
  - (b) the NRAM Pension Scheme;

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- (c) members of the BBS Pension Scheme or the NRAM Pension Scheme;
  - (d) persons who have survived a member of one of those schemes and who have an entitlement to benefits, or a right to future benefits, under the scheme in respect of the member;
  - (e) UK Asset Resolution Limited;
  - (f) persons in respect of whom there is a qualifying liability.
- (4) Regulations under subsection (1) or (3) may include provision for any of the following—
- (a) a tax provision not to apply or to apply with modifications;
  - (b) anything done to have or not to have a specified consequence for the purposes of a tax provision;
  - (c) the withdrawal of relief and the charging of a relevant tax.
- (5) Provision made by regulations under subsection (1) or (3), other than provision withdrawing a relief or charging a relevant tax, may make retrospective provision.
- (6) In this section—
- “relevant tax” means—
    - (a) income tax;
    - (b) capital gains tax;
    - (c) corporation tax;
    - (d) inheritance tax;
    - (e) stamp duty and stamp duty reserve tax;
    - (f) stamp duty land tax;
  - “registered pension scheme” has the meaning given in Part 4 of the Finance Act 2004;
  - “tax provision” means any provision made by or under an enactment relating to a relevant tax.

## **118 Information**

- (1) The Treasury may by regulations make provision requiring a person specified or described in the regulations to give the Treasury a document or other information specified or described in the regulations.
- (2) Regulations under subsection (1) may only make provision in respect of documents or other information which the Treasury reasonably require for the purposes of—
- (a) making regulations under this Part,
  - (b) establishing or administering a new public scheme, including transferring qualifying accrued rights to such a scheme, or
  - (c) administering arrangements under which a qualifying liability arises.
- (3) Regulations under subsection (1) may, among other things, include—
- (a) provision about the time when the document or other information must be given;
  - (b) provision about the form and manner in which it must be given;
  - (c) provision for the imposition of a financial penalty on a person who, without reasonable excuse, fails to comply with a requirement imposed by the regulations (including provision for appeals to a court or tribunal).

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- (4) For the purposes of facilitating the establishment or administration of a new public scheme, including the transfer of qualifying accrued rights to such a scheme—
- (a) information described in subsection (5)(a) may be shared among persons listed in subsection (5)(b), and
  - (b) information described in subsection (6)(a) may be shared among persons listed in subsection (6)(b).
- (5) For the purposes of subsection (4)(a)—
- (a) the information is information relating to—
    - (i) rights or entitlements to pensions or other benefits under the BBS Pension Scheme;
    - (ii) the administration of the BBS Pension Scheme;
    - (iii) rights or entitlements to pensions or other benefits under a new public scheme, so far as they are rights or entitlements of, or in respect of, persons who were members of the BBS Pension Scheme;
    - (iv) the administration of a new public scheme, so far as relevant to rights or entitlements described in sub-paragraph (iii);
  - (b) the persons are—
    - (i) the Treasury;
    - (ii) UK Asset Resolution Limited;
    - (iii) a trustee of the BBS Pension Scheme;
    - (iv) a person who exercises functions under the BBS Pension Scheme;
    - (v) a person who administers, or exercises functions under, a new public scheme.
- (6) For the purposes of subsection (4)(b)—
- (a) the information is information relating to—
    - (i) rights or entitlements to pensions or other benefits under the NRAM Pension Scheme;
    - (ii) the administration of the NRAM Pension Scheme;
    - (iii) rights or entitlements to pensions or other benefits under a new public scheme, so far as they are rights or entitlements of, or in respect of, persons who were members of the NRAM Pension Scheme;
    - (iv) the administration of a new public scheme, so far as relevant to rights or entitlements described in sub-paragraph (iii);
  - (b) the persons are—
    - (i) the Treasury;
    - (ii) UK Asset Resolution Limited;
    - (iii) a trustee of the NRAM Pension Scheme;
    - (iv) a person who exercises functions under the NRAM Pension Scheme;
    - (v) a person who administers, or exercises functions under, a new public scheme.
- (7) For the purposes of facilitating the transfer of qualifying liabilities or the administration of an arrangement under which such liabilities arise—
- (a) information relating to qualifying liabilities of UK Asset Resolution Limited may be shared among persons listed in subsection (8)(a) and (b),
  - (b) information relating to qualifying liabilities of Bradford & Bingley Limited may be shared among persons listed in subsection (8)(a), (b) and (c), and

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- (c) information qualifying liabilities of NRAM Limited may be shared among persons listed in subsection (8)(a), (b) and (d).
- (8) For the purposes of subsection (7), the persons are—
  - (a) the Treasury;
  - (b) UK Asset Resolution Limited;
  - (c) Bradford & Bingley Limited;
  - (d) NRAM Limited.
- (9) Except as provided by subsection (10), the disclosure of information in accordance with this section, or regulations made under this section, does not breach—
  - (a) any obligation of confidence owed by a person in relation to that information, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (10) This section and regulations made under this section do not require or authorise a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account a duty imposed or power conferred by this section or the regulations).
- (11) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

## **119 Regulations**

- (1) The Treasury must consult the relevant trustees before making—
  - (a) regulations under section 111 which establish a new public scheme or transfer qualifying accrued rights to a new public scheme, or
  - (b) regulations under section 115 which make provision for the transfer of assets or liabilities.
- (2) In this section, “the relevant trustees” are—
  - (a) the trustees of the BBS Pension Scheme, where the regulations affect—
    - (i) persons who are members of that scheme, or
    - (ii) persons who have survived a member of that scheme and who have an entitlement to benefits, or a right to future benefits, under the scheme in respect of the member;
  - (b) the trustees of the NRAM Pension Scheme, where the regulations affect—
    - (i) persons who are members of that scheme, or
    - (ii) persons who have survived a member of that scheme and who have an entitlement to benefits, or a right to future benefits, under the scheme in respect of the member.
- (3) Regulations under section 111 are subject to the affirmative procedure if—
  - (a) the making of the regulations is subject to the consent requirements (see section 114(1)(a) and (2)), or
  - (b) the regulations make provision which has retrospective effect.
- (4) Regulations under section 118(1) are subject to the affirmative procedure if they make provision about the amount of a financial penalty.



- (5) A statutory instrument containing regulations under section 117 is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Any other regulations under this Part are subject to the negative procedure.

## **120 Interpretation**

In this Part—

“BBS Pension Scheme” means the Bradford & Bingley Staff Pension 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;

“member” has the meaning given by section 124(1) of the Pensions Act 1995;

“money purchase benefits” has the meaning given by section 181 of the Pension Schemes Act 1993;

“new public scheme” has the meaning given by section 111(1);

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“pension credit right” has the meaning given by section 124(1) of the Pensions Act 1995;

“qualifying liability” has the meaning given by section 116(2).