

## SCHEDULE 3

Regulation 167

### Modifying provisions and amendments

## PART 1

### Modification of contracting-out provisions

#### Application of this Part

1. This Part applies where—
  - (a) an election is made under section 11 (elections as to employments covered by contracting-out certificates) of the 1993 Act<sup>(1)</sup> in relation to persons who become members of this scheme on or after 1st April 2015 and before 6th April 2016 (whether or not any of those persons are members of an existing scheme); and
  - (b) this scheme satisfies the requirements of section 9 (requirements for certification of schemes) of the 1993 Act<sup>(2)</sup>.

#### Contracting-out

2.—(1) Part 2 of the Occupational Pension Schemes (Contracting-out) Regulations 1996<sup>(3)</sup> (certification of employments) is modified as follows in its application to this scheme.

(2) The requirements in regulation 2(1)(a) (making of elections for the issue of contracting-out certificates) and regulations 3 (notices by employers of intended election) to 5 (time for making an election) do not apply.

- (3) In regulation 6 (information to be included in an election)—
  - (a) paragraph (1) is to be read as though, for sub-paragraphs (a) to (f), there were substituted—
    - “(a) the name by which this scheme is to be known;
    - (b) the name by which the existing schemes listed in paragraphs 2 to 15 of Schedule 5 to the Act are known; and
    - (c) any other information necessary to enable the Commissioners of Inland Revenue to identify those existing schemes.”; and
  - (b) paragraphs (2) and (3) do not apply.

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(1) Section 11 was amended by section 1(1) of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions etc.) Act 1999 and by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8). It is prospectively repealed by paragraph 9 of Schedule 13 to the Pensions Act 2014 (c. 19).

(2) Section 9 was amended by sections 136(3) and 151 of, and Schedule 5 to, the Pensions Act 1995 (c. 26), by section 1(1) of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), by section 283 of the Pensions Act 2004 (c. 35), by sections 14(4), 15(3) and 27(2) of, and Schedules 4 and 7 to, the Pensions Act 2007 (c. 22) and by S.I. 2006/745. It is prospectively repealed by paragraph 9 of Schedule 13 to the Pensions Act 2014 (c. 19).

(3) S.I. 1996/1172. Part 2 was amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2), by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and by S.I. 1997/786, 2002/681, 2005/3377, 2011/1245, 2011/1246, and 2013/2734.

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## PART 2

### Modification of early leaver and other provisions

#### Application of this Part

3. This Part applies where a person (P)—
- (a) is a member of an existing scheme (“the old scheme”) listed in paragraphs 2 to 15 of Schedule 5 to the Act, whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the Act (final salary link);
  - (b) is a member of this scheme by virtue of pensionable service for this scheme; and
  - (c) is a person to whom paragraph 1 or 2 of Schedule 7 to the Act applies by virtue of that person’s pensionable service for this scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.

#### Certification

4.—(1) Section 15A of the PSA 1993<sup>(4)</sup> (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable service under the scheme is to be taken as a reference to pensionable service either under the old scheme or under this scheme.

#### Preservation of benefit

5.—(1) Chapter 1 of Part 4 of the PSA 1993 (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

- (a) in section 70<sup>(5)</sup> (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;
- (b) in section 71(1) (basic principle as to short service benefit)—
  - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
  - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
  - (iii) a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;
  - (iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,

and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;

- (c) in section 71(5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;

<sup>(4)</sup> Section 15A was inserted by section 32 of the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>(5)</sup> Section 70 was amended S.I. 2005/2053.

- (d) in section 71(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under the old scheme or under the old scheme and this scheme taken together; and
  - (e) in sections 72(2) (no discrimination between short service and long service beneficiaries), 74(6) and (7) (computation of short service benefit), 75(3) and (4) (credits) and 76(1) and (3) (pension increases), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service under this scheme.
- (3) In the application of that Chapter to this scheme—
- (a) in section 70, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;
  - (b) in section 71(1)—
    - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
    - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
    - (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
  - (c) in section 71(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under this scheme or under the old scheme and this scheme taken together; and
  - (d) in section 74(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

### **Revaluation of preserved benefit**

6.—(1) Chapter 2 of Part 4 of the PSA 1993 (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

- (a) in section 83(1)(a)(ii)(6) (scope of Chapter 2), the reference to the date on which P's pensionable service ends is to be taken as a reference to the date on which P's pensionable service ends under this scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

### **Protection of increases in guaranteed minimum pensions**

7.—(1) Chapter 3 of Part 4 of the PSA 1993 (protection for early leavers: protection of increases in guaranteed minimum pensions (“anti-franking”)) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

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(6) Section 83 was amended by section 84(1) of, and paragraphs 28 and 31 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraphs 18 and 20 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25).

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- (a) in section 87(1)(a)(i)(7) (general protection principle), the reference to the time when P ceases to be in contracted-out employment by reference to a scheme is to be taken as a reference to the time when P ceases to be in service in a qualifying judicial office which is contracted-out by reference to this scheme; and
- (b) subsequent references to “the cessation date” are to be construed accordingly.

### **Protection of increases in guaranteed minimum pensions after abolition of contracting-out**

**8.**—(1) Chapter 3 of Part 4 of the PSA 1993 (protection for early leavers: protection of increases in guaranteed minimum pensions (“anti-franking”)) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 87(1)(a)(i) (general protection principle), the reference to the time when P ceases to be in pensionable service under a scheme that was, before the second abolition date, a salary-related contracted-out scheme is to be taken as a reference to the time when P ceases to be in pensionable service under this scheme; and
- (b) subsequent references to “the cessation date” are to be construed accordingly.

### **Transfer values**

**9.**—(1) Chapter 4 of Part 4 of the PSA 1993 (protection for early leavers: transfer values) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme, in—

- (a) section 93(1)(a)(8) (scope of Chapter 4),
- (b) section 97(3)(a) (calculation of cash equivalents), and
- (c) section 98(1A) and (3)(9) (variation and loss of rights under section 94),

a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme.

### **Transfer values regulations**

**10.**—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996(10) are modified as follows.

(2) In the application of regulation 3 of those Regulations (rules on continuation in employment after termination of pensionable service) to P as a member of the old scheme—

- (a) in paragraph (1), a reference to employment to which a scheme applies is to be taken as a reference to service in a qualifying judicial office to which this scheme applies;
- (b) in paragraph (1)(a), a reference to P’s pensionable service terminating at P’s request is to be taken as a reference to P’s pensionable service under this scheme so terminating; and
- (c) in paragraph (1)(b)(i), a reference to P’s pensionable service continuing until the guarantee date is to be taken as a reference to P’s pensionable service under this scheme so continuing.

(3) In the application of regulation 4 of those Regulations (right to further cash equivalent on termination of employment to which the scheme applies) to P as a member of the old scheme, in

(7) Section 87 was amended by section 15(3)(a) of, and paragraphs 1 and 28 of Schedule 4 to, the Pensions Act 2007 (c. 22). It is prospectively amended by section 24 of, and paragraph 38 of Schedule 13 to, the Pensions Act 2014 (c. 19).

(8) Section 93(1)(a) was substituted by section 152(2) of the Pensions Act 1995 (c. 26).

(9) Section 98(1A) was inserted by, and section 98(3) amended by, section 173 of, and paragraph 5 of Schedule 6 to, the Pensions Act 1995 (c. 26).

(10) S.I. 1996/1847.

paragraphs (1), (2), (3)(a) and (4) a reference to termination of P's employment is to be taken as a reference to termination of P's service in a qualifying judicial office to which this scheme applies.

### **Cash transfers and contribution refunds**

**11.**—(1) Chapter 5 of Part 4 of the PSA 1993<sup>(11)</sup> (protection for early leavers: cash transfers and contribution refunds) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 101AA(1)(a) and (b) (scope of Chapter 5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service under this scheme;
- (b) in section 101AA(2), a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under the old scheme or under the old scheme and this scheme taken together; and
- (c) in section 101AB(1) and (3) (right to cash transfer sum and contribution refund), 101AC(1) and (2)(a) (notification of right to cash transfer sum or contribution refund) and 101AI(7) (rights under section 101AB: definition of "reply date"), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service under this scheme.
- (d) In the application of that Chapter to P as a member of this scheme, in section 101AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under this scheme or under the old scheme and this scheme taken together.

(3) In the application of that Chapter to P as a member of this scheme, in section 101AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under this scheme or under the old scheme and this scheme taken together.

## **PART 3**

### **Amendments**

#### **Amendments to the Judicial Pensions and Retirement Act 1993**

**12.**—(1) Part 1 of the Judicial Pensions and Retirement Act 1993<sup>(12)</sup> (new arrangements for judicial pensions) is amended as follows.

(2) In section 2 (the judicial officer's entitlement to a pension)—

- (a) in subsection (7)(c), after "shall" insert "(subject to subsection (7A))", and
- (b) after subsection (7) insert—

"(7A) Subsection (2)(c) does not apply where, at the date of retirement, the person—

- (a) is a member of a scheme under section 1 of the Public Service Pensions Act 2013; and
- (b) is entitled under that scheme to early payment of benefits on the grounds of ill-health."

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<sup>(11)</sup> Chapter 5 was inserted by section 264 of the Pensions Act 2004 (c.35).

<sup>(12)</sup> 1993 c. 8.

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(3) In section 4 (lump sum on the judicial officer's retirement or death), after subsection (3) insert—

“(3A) Subsection (3) does not apply where, at the date of the person's death—

(a) the person is a member of a scheme under section 1 of the Public Service Pensions Act 2013, and

(b) a lump sum is payable under that scheme on the person's death.”

(4) In section 5 (surviving spouse's and surviving civil partner's pension), after subsection (6) insert—

“(7) In a case within subsection (6)(c), section 2(7)(c) (deemed increase in period of service) is to be disregarded in determining the rate that would have been the appropriate annual rate of the deceased's pension if, at the date of death—

(a) the deceased was a member of a scheme under section 1 of the Public Service Pensions Act 2013, and

(b) under that scheme, benefits are payable on the deceased's death to a widow, widower or surviving civil partner of the deceased.”

(5) In section 8 (rate of children's pension), after subsection (4) insert—

“(5) Section 5(7) accordingly applies for the purposes of this section in a case within section 5(6)(c), but as if the reference in section 5(7)(b) to the benefits payable on the deceased's death included a reference to benefits payable to surviving dependants of the deceased.”

### **Amendments to the Judicial Pensions Act 1981**

**13.—**(1) Part 2 of the Judicial Pensions Act 1981 (lump sums and widows', surviving civil partners' and children's pensions) is amended as follows.

(2) In section 17 (lump sum on retirement or death), after subsection (2) insert—

“(2A) Subsection (2) does not apply where, at the date of the person's death—

(a) the person is a member of a scheme under section 1 of the Public Service Pensions Act 2013, and

(b) a lump sum is payable under that scheme on the person's death.”