



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 1

PUBLIC SERVICE PENSION SCHEMES

CHAPTER 4

GENERAL

Miscellaneous

101 Power of Treasury to make scheme for compensation

- (1) The Treasury may by regulations make provision for a compensation scheme under which amounts are paid by way of compensation in respect of compensatable losses incurred by relevant members.
- (2) The provision that may be made under subsection (1) includes—
 - (a) provision appointing a body to administer the scheme;
 - (b) provision establishing a body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise as the Treasury consider appropriate;
 - (c) provision allowing the body administering the scheme to exercise a discretion;
 - (d) provision conferring power on the Treasury to give guidance or directions to the body administering the scheme;
 - (e) any provision that could be included in—
 - (i) regulations made by virtue of section 26 (interest and process) in relation to amounts payable under section 23 (power to pay compensation), or

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- (ii) regulations made by virtue of section 61 (interest and process) in relation to amounts payable under section 59 (power to pay compensation).
- (3) In this section “compensatable loss” means—
 - (a) a compensatable loss for the purposes of section 23 (power to pay compensation under Chapter 1),
 - (b) a compensatable loss for the purposes of section 59 (power to pay compensation under Chapter 2), or
 - (c) a compensatable loss for the purposes of section 82 (power to pay compensation under Chapter 3).
- (4) In this section “relevant member” means—
 - (a) a member of a Chapter 1 legacy scheme within section 33(2)(a) or (3)(a) who has remediable service that is pensionable service under the scheme,
 - (b) a member of a judicial scheme within section 70(2)(a), (4)(a) or (5) who has remediable service that is pensionable service under the scheme, or
 - (c) a member of a local government new scheme within section 86(2)(a) who has remediable service that is pensionable service under the scheme.
- (5) In subsection (4)—
 - (a) in paragraph (a), “Chapter 1 legacy scheme” and “remediable service” have the same meaning as in Chapter 1;
 - (b) in paragraph (b), “judicial scheme” and “remediable service” have the same meaning as in Chapter 2;
 - (c) in paragraph (c), “local government new scheme” and “remediable service” have the same meaning as in Chapter 3.
- (6) Regulations under this section are subject to the negative procedure.

102 Power of Department of Finance to make scheme for compensation

- (1) The Department of Finance in Northern Ireland may by regulations make provision for a compensation scheme under which amounts are paid by way of compensation in respect of compensatable losses incurred by relevant members.
- (2) The provision that may be made under subsection (1) includes—
 - (a) provision appointing a body to administer the scheme;
 - (b) provision establishing a body for that purpose and making such provision in relation to the appointment of members, staffing, expenditure, procedure and otherwise as the Department of Finance in Northern Ireland considers appropriate;
 - (c) provision allowing the body administering the scheme to exercise a discretion;
 - (d) provision conferring power on the Department of Finance in Northern Ireland to give guidance or directions to the body administering the scheme;
 - (e) any provision that could be included in—
 - (i) regulations made by virtue of section 26 (interest and process) in relation to amounts payable under section 23 (power to pay compensation), or

- (ii) regulations made by virtue of section 61 (interest and process) in relation to amounts payable under section 59 (power to pay compensation).
- (3) In this section “compensatable loss” means—
- (a) a compensatable loss for the purposes of section 23 (power to pay compensation under Chapter 1),
 - (b) a compensatable loss for the purposes of section 59 (power to pay compensation under Chapter 2), or
 - (c) a compensatable loss for the purposes of section 82 (power to pay compensation under Chapter 3).
- (4) In this section “relevant member” means—
- (a) a member of a Chapter 1 legacy scheme within section 33(2)(b) or (3)(b) who has remediable service that is pensionable service under the scheme,
 - (b) a member of a judicial scheme within section 70(2)(b) or (4)(b) who has remediable service that is pensionable service under the scheme, or
 - (c) a member of a local government new scheme within section 86(2)(b) who has remediable service that is pensionable service under the scheme.
- (5) In subsection (4)—
- (a) in paragraph (a), “Chapter 1 legacy scheme” and “remediable service” have the same meaning as in Chapter 1;
 - (b) in paragraph (b), “judicial scheme” and “remediable service” have the same meaning as in Chapter 2;
 - (c) in paragraph (c), “local government new scheme” and “remediable service” have the same meaning as in Chapter 3.
- (6) Regulations under this section are subject to the negative procedure.

103 Power to make provision in relation to certain fee-paid judges

- (1) Scheme regulations for a judicial scheme may make provision for the purpose of putting relevant fee-paid judges, so far as possible, in the position they would have been in if they had always been recognised as being full protection members of a judicial legacy scheme.
- (2) The provision that may be made under subsection (1) includes in particular—
- (a) provision about the amount of benefits to which a person is or was entitled in respect of pensionable service;
 - (b) provision about pension contributions a person is or was required to pay to the scheme in respect of pensionable service;
 - (c) provision about cases in which voluntary contributions have been paid to a judicial 2015 scheme (including provision under which rights to benefits referable to the contributions are retained in the judicial 2015 scheme);
 - (d) provision about cases in which a person has transferred rights into a judicial 2015 scheme (including provision under which the rights are retained in the judicial 2015 scheme);
 - (e) provision about cases in which a person has a partnership pension account;
 - (f) provision about cases in which a person has partially retired;

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- (g) provision enabling a scheme manager to pay amounts by way of compensation, including provision requiring an employer in relation to the scheme to reimburse the scheme manager for such amounts;
 - (h) provision corresponding or similar to any provision of or made under—
 - (i) section 53 (effective pension age payments);
 - (ii) section 54 (transitional protection allowance);
 - (iii) section 55 (power to reduce benefits in lieu of paying liabilities owed to the scheme);
 - (iv) section 56 (powers to reduce or waive liabilities);
 - (v) section 57 (pension credit members);
 - (vi) section 61 (interest and process).
- (3) For the purposes of this section a person (“P”) is a “relevant fee-paid judge” if—
- (a) on 31 March 2012—
 - (i) P held a fee-paid judicial office, and
 - (ii) did not hold a salaried judicial office,
 - (b) on 1 April 2012, P was aged 55 or over,
 - (c) at any time in the period beginning with 1 April 2012 and ending with the day before the relevant date, P held a salaried judicial office, and
 - (d) either—
 - (i) on the relevant date, P did not hold a fee-paid judicial office, or
 - (ii) the condition in regulation 8(2)(a) of the judicial legacy fee-paid scheme (members) is not met in relation to P and the fee-paid judicial office mentioned in paragraph (a)(i).
- (4) In this section “full protection member”—
- (a) in relation to a judicial office within section 71(1)(a) or (b), has the same meaning as in Schedule 2 to the Judicial Pensions Regulations 2015 (S.I. 2015/182) (see paragraph 1 of that Schedule), or
 - (b) in relation to a judicial office within section 71(1)(c), has the same meaning as in Schedule 2 to the Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 76) (see paragraph 1 of that Schedule).
- (5) In this section “the relevant date”—
- (a) in relation to a judicial office within section 71(1)(a) or (b), means 2 December 2012;
 - (b) in relation to a judicial office within section 71(1)(c), means 1 February 2013.
- (6) Expressions used in this section have the same meaning as in Chapter 2.

104 HMRC information-sharing and other functions relating to compensation etc

- (1) HMRC (or anyone acting on their behalf) may—
 - (a) exchange information with a relevant person for the purpose of facilitating the exercise of any compensation function, or
 - (b) do anything else which they think necessary or expedient for that purpose.
- (2) A person to whom HMRC discloses information under this section—
 - (a) may use it only for the purpose for which it was disclosed, and

- (b) may not further disclose it without the consent of HMRC (which may be general or specific).
- (3) Where a person contravenes subsection (2)(b) by disclosing information relating to a person whose identity—
- (a) is specified in the disclosure, or
 - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to the disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.
- (4) Nothing in this section authorises a disclosure of information if the disclosure would contravene the data protection legislation or would be prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the power conferred by this section is to be taken into account).
- (5) Nothing in this section limits the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.
- (6) In this section—
- “compensation function” means a function that relates to—
- (a) the payment of compensation, contributions, benefits or other amounts to or in respect of a person by virtue of a provision made by or under this Part, or
 - (b) the reduction or waiving of a person’s liability to pay an amount by virtue of such a provision;
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016;
- “relevant person” means a person—
- (a) who exercises a compensation function,
 - (b) to or in respect of whom compensation, contributions, benefits or other amounts is or are payable by virtue of a provision made by or under this Part, or
 - (c) whose liability to pay an amount may be reduced or waived by virtue of such a provision.

105 Section 91 of Pensions Act 1995 and section 356 of Armed Forces Act 2006

- (1) Subsection (2) applies in relation to any reference in section 91 of PA 1995 or Article 89 of P(NI)O 1995 (inalienability of occupational pension) to—
- (a) assigning, commuting or surrendering an entitlement to a pension or a right to a future pension, or
 - (b) the exercise of a set-off in respect of such an entitlement or right.
- (2) The reference does not include—
- (a) anything done under or by virtue of this Part of this Act, or
 - (b) the surrender of an entitlement or right under a pension scheme—

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- (i) for the purpose of meeting a condition by virtue of section 5(5)(b) (Chapter 1: surrender of rights required as condition for inclusion of opted-out service in remedy), or
 - (ii) in the course of taking the steps mentioned in section 41(3) or (6) (Chapter 2: partnership pension account: requirement to transfer assets and surrender rights).
- (3) Subsection (4) applies in relation to any reference in section 356 of the Armed Forces Act 2006 (avoidance of assignment of, or charge on, pay and pensions etc) to an assignment (or, in Scotland, assignation) of, or an agreement to assign, any relevant pay or pension (within the meaning of that section).
- (4) The reference does not include anything done under or by virtue of this Part of this Act.

106 Minor amendment

In JUPRA 1993, in section 2 (judicial officer's entitlement to a pension), in subsection (7A), for "(2)(c)" substitute "(7)(c)".

107 Parliamentary procedure for judicial schemes: transitory provision

- (1) This section applies to scheme regulations for a scheme relating to the judiciary that are made at any time within the period of one month beginning with the day on which this Act is passed.
- (2) A statutory instrument containing scheme regulations to which this section applies must be laid before Parliament after being made.
- (3) Regulations contained in a statutory instrument laid before Parliament under subsection (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (4) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (5) If regulations cease to have effect as a result of subsection (3), that does not—
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (6) If regulations otherwise subject to the negative procedure are combined with scheme regulations to which this section applies, the combined regulations are subject to the procedure set out in this section.
- (7) Section 24 of PSPA 2013 (other procedure) does not apply to scheme regulations to which this section applies.
- (8) In this section, the following expressions have the same meaning as in PSPA 2013—
 - “the judiciary” (see paragraph 2 of Schedule 1 to that Act);
 - “negative procedure” (see section 38(3) of that Act);
 - “scheme” (see section 37 of that Act);
 - “scheme regulations” (see section 1(4) of that Act).

108 Power to make consequential provision

- (1) The Treasury may by regulations make provision that is consequential on this Part.
- (2) Regulations under this section may make retrospective provision.
- (3) Regulations under this section may amend, repeal, revoke or otherwise modify provision made by an enactment.
- (4) Regulations under this section that amend, repeal or revoke primary legislation are subject to the affirmative procedure.
- (5) Any other regulations under this section are subject to the negative procedure.
- (6) In this section “primary legislation” means—
 - (a) an Act;
 - (b) retained direct principal EU legislation;
 - (c) an Act of the Scottish Parliament;
 - (d) a Measure or Act of Senedd Cymru;
 - (e) Northern Ireland legislation.