

Status: Point in time view as at 01/02/2017. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2016, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 41

RESTRICTION ON PUBLIC SECTOR EXIT PAYMENTS: CONSEQUENTIAL AND RELATED PROVISION

Small Business, Enterprise and Employment Act 2015

- 1 In section 154 of the Small Business, Enterprise and Employment Act 2015 (regulations in connection with repayment of public sector exit payments)—
- (a) in subsection (4)(c), after “retirement” insert “ or in respect of the cost to a pension scheme of such a reduction not being made ”,
 - (b) after subsection (6), insert—
 - “(7) In this section a reference to a payment made to a person includes a reference to a payment made in respect of that person to another person.”, and
 - (c) in the heading, after “with” insert “ repayment of ”.

Commencement Information

I1 Sch. 6 para. 1 in force at 1.2.2017 by S.I. 2017/70, reg. 2(c)

- 2 In section 156 of that Act (power to make regulations exercisable by the Treasury or Scottish Ministers)—
- (a) for subsection (4) substitute—
 - “(4) The first regulations made by the Treasury under section 154(1) are subject to the affirmative resolution procedure.
 - (4A) The first regulations made by the Scottish Ministers under section 154(1) are subject to the affirmative procedure.”, and
 - (b) in the heading, after “regulations” insert “ under section 154(1) ”.

Commencement Information

I2 Sch. 6 para. 2 in force at 1.2.2017 by S.I. 2017/70, reg. 2(c)

- 3 In section 161 of that Act (supplementary provision about regulations), in subsection (1), after “section 1” insert “ , 153A ”.

Commencement Information

I3 Sch. 6 para. 3 in force at 1.2.2017 by S.I. 2017/70, reg. 2(c)

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Power to amend public sector schemes

- 4 (1) Regulations may amend any relevant public sector scheme to ensure that if any exit payment restriction would have effect to prevent retirement benefits becoming immediately payable under the scheme without reduction—
- (a) the retirement benefits may become immediately payable under the scheme subject to the appropriate early payment deduction, and
 - (b) the member may opt to buy out all or part of that deduction.
- (2) Regulations may also amend any relevant public sector scheme to ensure that if any exit payment restriction has effect to prevent a payment being made by the employer under the scheme in respect of the whole or any part of an extra charge arising to the scheme as a result of retirement benefits becoming immediately payable to a member without reduction—
- (a) the retirement benefits become payable immediately subject to the appropriate early payment deduction except to the extent that the extra charge arising to the scheme as a result of not making that deduction has been met by a payment made by the employer under the scheme, but
 - (b) the member may opt to buy out all or part of that early payment deduction.
- (3) Regulations under this paragraph may be made—
- (a) in relation to exit payments made by a relevant Scottish authority (other than exit payments to which section 153B(2) of the Small Business, Enterprise and Employment Act 2015 applies), by the Scottish Ministers, and
 - (b) in any other case, by—
 - (i) the Treasury, or
 - (ii) another Minister of the Crown with the consent of the Treasury.
- (4) Regulations under this paragraph may make—
- (a) consequential, incidental or supplemental provision;
 - (b) transitional or transitory provision, or savings;
 - (c) different provision for different purposes.
- (5) Regulations under this paragraph (other than regulations made by the Scottish Ministers) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Regulations under this paragraph made by the Scottish Ministers are subject to the negative procedure.
- (8) In this paragraph—
- “the appropriate early payment deduction” means such adjustment as is shown as appropriate in actuarial guidance issued by the Secretary of State;
- “exit payment restriction” means a restriction imposed by regulations under section 153A of the Small Business, Enterprise and Employment Act 2015;
- “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;
- “relevant public sector scheme” has the same meaning as in section 153A of the Small Business, Enterprise and Employment Act 2015;

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“relevant Scottish authority” has the meaning given by section 153B of that Act.

Commencement Information

I4 Sch. 6 para. 4 in force at 1.2.2017 by S.I. 2017/70, reg. 2(c)

PROSPECTIVE

Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356)

- 5 (1) In the Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356)—
- (a) in regulation 30 (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts without an actuarial reduction), at the end insert—
- “(13) This regulation is subject to regulation 68A (effect of restrictions on public sector exit payments).”, and
- (b) after regulation 68 insert—

Effect of restrictions on public sector exit payments

“68A(1) This regulation applies where the effect of the Exit Payment Regulations is to prevent all or part of a payment being required to be made under regulation 68(2) in respect of any extra charge on the fund resulting from retirement benefits which, in the absence of this regulation, would become immediately payable, without reduction, under regulation 30(7)(b) or as a result of a waiver under regulation 30(8).

(2) The member may elect to pay to the appropriate fund an amount in respect of all or part of that extra charge.

(3) Regulation 30(7) (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts) has effect as if for paragraph (b) there were substituted—

“(b) any other retirement pension relating to that employment payable under these Regulations, adjusted by so much of the amount shown as appropriate in actuarial guidance issued by the Secretary of State as does not represent an adjustment relating to an extra charge on the appropriate fund—

(i) in respect of which the Scheme employer may be required to make an additional payment under regulation 68(2), or

(ii) in respect of which the member has made a payment under regulation 68A(2).”

(4) Regulation 30(8) does not authorise the waiver of any reduction except to the extent that an additional payment may be required

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under regulation 68(2), or a payment has been made to the appropriate fund by the member under paragraph (2), in respect of any extra charge on the fund resulting from not making the reduction.

- (5) In determining the effect of the Exit Payment Regulations for the purposes of paragraph (1) account is to be taken of any provision made under section 153C of the Small Business, Enterprise and Employment Act 2015 (power to relax exit payment restrictions in certain cases).
 - (6) The restriction specified in paragraph (4) applies to Scheme employers which have power under section 1 of the Localism Act 2011 (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004 (powers of fire and rescue authorities) in the exercise of those powers.
 - (7) In this regulation “Exit Payment Regulations” means regulations under section 153A(1) of the Small Business, Enterprise and Employment Act 2015 (regulations to restrict public sector exit payments).”
- (2) The provision made by sub-paragraph (1) may be amended or revoked as if it had been made under section 1 of the Public Service Pensions Act 2013.
 - (3) The provision made by this paragraph is without prejudice to the generality of the powers conferred by paragraph 4.

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