



# Public Service Pensions and Judicial Offices Act 2022

## 2022 CHAPTER 7

### PART 1

#### PUBLIC SERVICE PENSION SCHEMES

#### CHAPTER 1

##### SCHEMES OTHER THAN JUDICIAL SCHEMES AND LOCAL GOVERNMENT SCHEMES

##### *Compensation*

#### **23 Power to pay compensation**

- (1) The scheme manager for a Chapter 1 legacy scheme may pay amounts by way of compensation in respect of compensatable losses incurred by members or, in the case of deceased members, their personal representatives.
- (2) Scheme regulations for a Chapter 1 legacy scheme may make provision under which an employer in relation to the scheme is required to reimburse the scheme manager for amounts paid under subsection (1).
- (3) For the purposes of this section a loss incurred by a member, or by a member's personal representatives, is "compensatable" if and to the extent that—
  - (a) any of the following three conditions is met, and
  - (b) the loss is of a description specified in Treasury directions.
- (4) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule.
- (5) The second condition is that the loss is attributable to the application of any provision of, or made under, this Chapter.

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*Changes to legislation: There are currently no known outstanding effects for the Public Service Pensions and Judicial Offices Act 2022, Cross Heading: Compensation. (See end of Document for details)*

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- (6) The third condition is that—
- (a) the member is a relevant member, and
  - (b) the loss is a Part 4 tax loss that is attributable to the value of rights in respect of remediable service which would, apart from section 2(1), be pensionable service under a Chapter 1 new scheme.
- (7) In subsection (6) “relevant member” means a member of the scheme—
- (a) who, immediately before the coming into force of section 2(1)—
    - (i) is a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, or
    - (ii) is deceased, and
  - (b) in respect of whom an election by virtue of section 6 (election for new scheme benefits) has been made.
- (8) In this section (subject to subsection (10)) “loss” includes a loss of any kind including, in particular, a Part 4 tax loss.
- (9) In this section “Part 4 tax loss”, in relation to a member, means a loss arising as a result of the member—
- (a) incurring a charge, or incurring an increased charge, under Part 4 of FA 2004, or
  - (b) not being entitled to a relief, or being entitled to less relief, under that Part of that Act.
- (10) In this section “loss” does not include an amount that is payable under this Chapter or under regulations made by virtue of this Chapter.
- (11) In this section “non-discrimination rule” means a rule that is, or at any time was, included in a Chapter 1 scheme by virtue of—
- (a) section 61 of EA 2010, or
  - (b) paragraph 2 of Schedule 1 to EEAR(NI) 2006.
- (12) For the purposes of this section a breach of a non-discrimination rule is “relevant” if it arises from the application of—
- (a) an exception to section 18(1) of PSPA 2013 made under section 18(5) to (7) of that Act, or
  - (b) an exception to section 18(1) of PSPA(NI) 2014 made under section 18(5) to (8) of that Act.
- (13) Subsection (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—
- (a) any person has already received amounts by way of compensation in respect of them, or
  - (b) amounts that any person has paid the scheme have been reduced by amounts in respect of them,
- whether pursuant to an order of a court or tribunal or otherwise.

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**Modifications etc. (not altering text)**

- C1** Pt. 1 Ch. 1 applied (1.10.2023) by S.I. 2005/438, **Sch. 3 para. 40(4)** (as inserted by [The Armed Forces Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/998\)](#), reg. 1(b), **Sch. 2**)

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- C2** Pt. 1 Ch. 1 applied (E.W.) (1.10.2023) by The National Health Service Pension Schemes (Remediable Service) Regulations 2023 (S.I. 2023/985), regs. 1(2), **76(5)**
- C3** Pt. 1 Ch. 1 applied (N.I.) (1.10.2023) by The Health and Social Care Pension Schemes (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/132), regs. 1, **74(5)**
- C4** Pt. 1 Ch. 1 applied (S.) (1.10.2023) by The Teachers' Pensions (Remediable Service) (Scotland) Regulations 2023 (S.S.I. 2023/241), regs. 1(b), **63**
- C5** Pt. 1 Ch. 1 applied (E.W.) (1.10.2023) by The Teachers' Pension Scheme (Remediable Service) Regulations 2023 (S.I. 2023/871), regs. 1(b), **63(7)**
- C6** Ss. 2-30 applied (N.I.) (1.10.2023) by The Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/133), regs. 1, **55(1)**
- C7** Ss. 2-30 applied (E.W.) (1.10.2023) by The Firefighters' Pensions (Remediable Service) Regulations 2023 (S.I. 2023/843), regs. 1(b), **56(2)**
- C8** S. 23 restricted (N.I.) (1.10.2023) by The Teachers' Pension Scheme (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/131), regs. 1, **70(2)**
- C9** S. 23 applied (E.W.) (1.10.2023) by The National Health Service Pension Schemes (Remediable Service) Regulations 2023 (S.I. 2023/985), reg. 1(2), **Sch. 1 para. 2**
- C10** S. 23 restricted (E.W.) (1.10.2023) by The Police Pensions (Remediable Service) Regulations 2023 (S.I. 2023/831), regs. 1(b), **59(2)**
- C11** S. 23 restricted (E.W.) (1.10.2023) by The Firefighters' Pensions (Remediable Service) Regulations 2023 (S.I. 2023/843), regs. 1(b), **59(2)**
- C12** S. 23 restricted (N.I.) (1.10.2023) by The Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/133), regs. 1, **58(2)**
- C13** Ss. 2-30 applied (N.I.) (1.10.2023) by The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/141), regs. 1(b), **63(2)**
- C14** Ss. 2-30 applied (E.W.) (1.10.2023) by The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023 (S.I. 2023/961), regs. 1(3), **57(2)**
- C15** Ss. 2-30 applied (E.W.) (1.10.2023) by The Police Pensions (Remediable Service) Regulations 2023 (S.I. 2023/831), regs. 1(b), **56(2)**
- C16** S. 23 restricted (E.W.) (1.10.2023) by The Teachers' Pension Scheme (Remediable Service) Regulations 2023 (S.I. 2023/871), regs. 1(b), **71(2)**
- C17** Ss. 2-30 applied (1.10.2023) by The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023 (S.I. 2023/942), regs. 1(b), **63(2)**
- C18** Ss. 2-30 applied (N.I.) (1.10.2023) by The Police Pensions (Remediable Service) Regulations (Northern Ireland) 2023 (S.R. 2023/122), regs. 1(b), **55(2)**

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#### Commencement Information

- I1** S. 23 in force at Royal Assent for specified purposes, see **s. 131(1)**
- I2** S. 23 in force at 1.10.2023 in force in so far as not already in force (or on such earlier day as may be appointed), see **s. 131(2)(a)(b)**

## 24 Indirect compensation

- (1) Scheme regulations for a Chapter 1 legacy scheme may make provision under which, where a member has incurred a compensatable loss that is a Part 4 tax loss—
  - (a) the member is not paid an amount under section 23 by way of compensation in respect of the loss, and
  - (b) the member is instead paid such additional benefits under the scheme as may be determined in accordance with the regulations.
- (2) In this section “compensatable loss” and “Part 4 tax loss” have the same meaning as in section 23.

*Changes to legislation: There are currently no known outstanding effects for the Public Service Pensions and Judicial Offices Act 2022, Cross Heading: Compensation. (See end of Document for details)*

#### **Modifications etc. (not altering text)**

- C6** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/133\)](#), regs. 1, **55(1)**
- C7** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/843\)](#), regs. 1(b), **56(2)**
- C13** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Public Service \(Civil Servants and Others\) Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/141\)](#), regs. 1(b), **63(2)**
- C14** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) \(Wales\) Regulations 2023 \(S.I. 2023/961\)](#), regs. 1(3), **57(2)**
- C15** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Police Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/831\)](#), regs. 1(b), **56(2)**
- C17** Ss. 2-30 applied (1.10.2023) by [The Public Service \(Civil Servants and Others\) Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/942\)](#), regs. 1(b), **63(2)**
- C18** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Police Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/122\)](#), regs. 1(b), **55(2)**
- C19** S. 24 excluded (N.I.) (1.10.2023) by [The Police Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/122\)](#), regs. 1(b), **58(2)**
- C20** S. 24 applied (E.W.) (1.10.2023) by [The National Health Service Pension Schemes \(Remediable Service\) Regulations 2023 \(S.I. 2023/985\)](#), reg. 1(2), **Sch. 1 para. 2**

#### **Commencement Information**

- I3** S. 24 in force at Royal Assent for specified purposes, see [s. 131\(1\)](#)
- I4** S. 24 in force at 1.10.2023 in force in so far as not already in force (or on such earlier day as may be appointed), see [s. 131\(2\)\(a\)\(b\)](#)

## **25 Remedial arrangements to pay voluntary contributions to legacy schemes**

- (1) Scheme regulations for a Chapter 1 legacy scheme may make provision so as to secure that a relevant member may enter into remedial voluntary contributions arrangements.
- (2) In subsection (1)—
- “relevant member”, in relation to a Chapter 1 legacy scheme, means a member (other than a deceased member) who has remediable service in an employment or office which, after the coming into force of section 2(1), is pensionable service under the scheme (whether or not by virtue of that provision);
- “remedial voluntary contributions arrangements” means arrangements—
- (a) which are entered into by a member after the coming into force of section 2(1), and
- (b) under which the member pays voluntary contributions to the scheme.
- (3) Provision by virtue of subsection (1) may permit a member (“M”) to enter into arrangements only if the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of a non-discrimination rule, M would, during the period of M’s remediable service in the employment or office, have entered into the same or similar arrangements.
- (4) The provision that may be made by virtue of subsection (1) includes, in particular, provision under which liabilities to pay voluntary contributions that would otherwise arise under the arrangements are reduced by tax relief amounts.

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- (5) In subsection (4) “tax relief amounts” means amounts determined by reference to the tax relief under section 188 of FA 2004 (relief for members’ contributions) that would have been available in respect of the amounts owed if they were paid in a different tax year.
- (6) Provision by virtue of subsection (1) may not permit a member (“M”) to enter into arrangements after—
- (a) the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of M, or
  - (b) such later time as the scheme manager considers reasonable in all the circumstances.
- (7) Subsection (6) does not affect the continued operation after the time mentioned in that subsection of any remedial arrangements entered into before that time.
- (8) In this section “non-discrimination rule” means a rule that is, or at any time was, included in a Chapter 1 scheme by virtue of—
- (a) section 61 of EA 2010, or
  - (b) paragraph 2 of Schedule 1 to EEAR(NI) 2006.
- (9) For the purposes of this section a breach of a non-discrimination rule is “relevant” if it arises from the application of—
- (a) an exception to section 18(1) of PSPA 2013 made under section 18(5) to (7) of that Act, or
  - (b) an exception to section 18(1) of PSPA(NI) 2014 made under section 18(5) to (8) of that Act.

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#### Modifications etc. (not altering text)

- C6** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/133\)](#), regs. 1, **55(1)**
- C7** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/843\)](#), regs. 1(b), **56(2)**
- C13** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Public Service \(Civil Servants and Others\) Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/141\)](#), regs. 1(b), **63(2)**
- C14** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Firefighters’ Pensions \(Remediable Service\) \(Wales\) Regulations 2023 \(S.I. 2023/961\)](#), regs. 1(3), **57(2)**
- C15** Ss. 2-30 applied (E.W.) (1.10.2023) by [The Police Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/831\)](#), regs. 1(b), **56(2)**
- C17** Ss. 2-30 applied (1.10.2023) by [The Public Service \(Civil Servants and Others\) Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/942\)](#), regs. 1(b), **63(2)**
- C18** Ss. 2-30 applied (N.I.) (1.10.2023) by [The Police Pensions \(Remediable Service\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/122\)](#), regs. 1(b), **55(2)**
- C21** S. 25 applied (E.W.) (1.10.2023) by [The National Health Service Pension Schemes \(Remediable Service\) Regulations 2023 \(S.I. 2023/985\)](#), reg. 1(2), **Sch. 1 para. 2**
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#### Commencement Information

- I5** S. 25 in force at Royal Assent for specified purposes, see [s. 131\(1\)](#)
- I6** S. 25 in force at 1.10.2023 in force in so far as not already in force (or on such earlier day as may be appointed), see [s. 131\(2\)\(a\)\(b\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Service Pensions and Judicial Offices Act 2022, Cross Heading: Compensation.