



# Public Service Pensions and Judicial Offices Act 2022

## 2022 CHAPTER 7

### PART 1 U.K.

#### PUBLIC SERVICE PENSION SCHEMES

### CHAPTER 4 U.K.

#### GENERAL

#### *Employer cost cap*

### 92 Amendments relating to employer cost cap U.K.

- (1) Section 12 of PSPA 2013 (employer cost cap) is amended in accordance with subsections (2) to (9).
- (2) After subsection (1) insert—
  - “(1A) Subsection (1) must be complied with before the end of the period of one year beginning with the day on which the scheme’s first valuation under section 11 is completed.”
- (3) For subsection (2) substitute—
  - “(2) A reference in this section to “the employer cost cap” of a scheme under section 1 is a reference to the rate set by virtue of subsection (1) in relation to the scheme.”
- (4) In subsection (3)—
  - (a) after “cap” insert “of a scheme under section 1”;

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- (b) after “set” insert “, and the changes in the cost of such a scheme are to be measured,”.
- (5) In subsection (4)—
- (a) in paragraph (a), for “the cap” substitute “the employer cost cap of the scheme”;
- (b) in paragraph (b)—
- (i) for “subsequent valuations” insert “the second or any subsequent valuation”;
- (ii) for “the cap” substitute “the employer cost cap of the scheme”;
- (c) in paragraph (c)—
- (i) for “the extent to which” substitute “whether and if so to what extent”;
- (ii) for “of this section” substitute “mentioned in paragraph (b)”;
- (d) after paragraph (c) insert—
- “(d) that the data, methodologies and assumptions that are to be used for the purposes mentioned in paragraph (b) are to relate, to any extent, to—
- (i) the growth in the economy, or any sector of the economy, of the United Kingdom or any part of the United Kingdom,
- (ii) the growth in earnings of any group of persons over any period, or
- (iii) the rate of inflation (however measured) over any period.”
- (6) After subsection (4) insert—
- “(4A) The power to give directions by virtue of subsection (4)(d) is not affected by any statement made before 27 May 2021 by the Treasury, or any Minister of the Crown, relating to the data, methodologies and assumptions that are, or are not, to be used for the purposes mentioned in subsection (4)(b).”
- (7) In subsection (5)(a) for “(and any connected scheme)” substitute “(determined, if and so far as provided for by virtue of subsection (4)(c), taking into account the costs of any connected scheme)”.
- (8) In subsection (6), in the opening words—
- (a) for “the scheme” substitute “a scheme under section 1”;
- (b) for “the margins” substitute “either of the margins specified under subsection (5)(a)”.
- (9) After subsection (7) insert—
- “(7A) Treasury directions may specify the time at which any increase or decrease of members’ benefits or contributions that is provided for under subsection (6) is to take effect.
- (7B) Treasury directions may require that provision contained in scheme regulations under subsection (6) permits steps to be—
- (a) agreed by virtue of paragraph (a) of that subsection, or
- (b) determined by virtue of paragraph (b) of that subsection,

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only after the scheme actuary has certified that the steps would, if taken, achieve the target cost for the scheme.

(7C) Treasury directions under subsection (7B) may specify—

- (a) the costs or changes in costs that are to be taken into account, or
  - (b) the data, methodologies and assumptions that are to be used,
- for the purposes of determining whether any steps would, if taken, achieve the target cost for the scheme.

(7D) In subsection (7B) “the scheme actuary”, in relation to a scheme under section 1, means the actuary who carried out, or is for the time being exercising actuarial functions in relation to, the valuation under section 11 by reference to which it has been determined that the costs of the scheme have gone, or may go, beyond either of the margins specified under subsection (5)(a).”

(10) Section 12 of PSPA(NI) 2014 (employer cost cap) is amended in accordance with subsections (11) to (19).

(11) After subsection (1) insert—

“(1A) Subsection (1) must be complied with before the end of the period of one year beginning with the day on which the scheme’s first valuation under section 11 is completed.”

(12) For subsection (2) substitute—

“(2) A reference in this section to “the employer cost cap” of a scheme under section 1 is a reference to the rate set by virtue of subsection (1) in relation to the scheme.”

(13) In subsection (3)—

- (a) after “cap” insert “of a scheme under section 1”;
- (b) after “set” insert “, and the changes in the cost of such a scheme are to be measured”.

(14) In subsection (4)—

- (a) in paragraph (a), for “the cap” substitute “the employer cost cap of the scheme”;
- (b) in paragraph (b)—
  - (i) for “subsequent valuations” insert “the second or any subsequent valuation”;
  - (ii) for “the cap” substitute “the employer cost cap of the scheme”;
- (c) in paragraph (c)—
  - (i) for “the extent to which” substitute “whether and if so to what extent”;
  - (ii) for “of this section” substitute “mentioned in paragraph (b)”;
- (d) after paragraph (c) insert—
  - “(d) that the data, methodologies and assumptions that are to be used for the purposes mentioned in paragraph (b) are to relate, to any extent, to—
    - (i) the growth in the economy, or any sector of the economy, of the United Kingdom or any part of the United Kingdom,

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- (ii) the growth in earnings of any group of persons over any period, or
- (iii) the rate of inflation (however measured) over any period.”

(15) After subsection (4) insert—

“(4A) The power to give directions by virtue of subsection (4)(d) is not affected by any statement made before 27 May 2021 by the Department of Finance, or any other department, relating to the data, methodologies and assumptions that are, or are not, to be used for the purposes mentioned in subsection (4)(b).”

(16) In subsection (5)(a), for “(and any connected scheme)” substitute “(determined, if and so far as provided for by virtue of subsection (4)(c), taking into account the costs of any connected scheme)”.

(17) In subsection (6), in the opening words—

- (a) for “the scheme” substitute “a scheme under section 1”;
- (b) for “the margins” substitute “either of the margins specified under subsection (5)(a)”.

(18) After subsection (7) insert—

“(7A) Directions given by the Department of Finance may specify the time at which any increase or decrease of members’ benefits or contributions that is provided for under subsection (6) is to take effect.

(7B) Directions given by the Department of Finance may require that provision contained in scheme regulations under subsection (6) permits steps to be—

- (a) agreed by virtue of paragraph (a) of that subsection, or
- (b) determined by virtue of paragraph (b) of that subsection,

only after the scheme actuary has certified that the steps would, if taken, achieve the target cost for the scheme.

(7C) Directions under subsection (7B) may specify—

- (a) the costs or changes in costs that are to be taken into account, or
- (b) the data, methodologies and assumptions that are to be used,

for the purposes of determining whether any steps would, if taken, achieve the target cost for the scheme.

(7D) In subsection (7B) “the scheme actuary”, in relation to a scheme under section 1, means the actuary who carried out, or is for the time being exercising actuarial functions in relation to, the valuation under section 11 by reference to which it has been determined that the costs of the scheme have gone, or may go, beyond either of the margins specified under subsection (5)(a).”

(19) In subsections (3), (4), (5), (8), (9) and (10) omit “and Personnel”.

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**Commencement Information**

**I1** S. 92 in force at Royal Assent for specified purposes, see **s. 131(1)**

**I2** S. 92 in force at 1.4.2022 in so far as not already in force, see **s. 131(2)(f)**

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### 93 Operation of employer cost cap in relation to 2016/17 valuation **U.K.**

- (1) The requirement in provision made under section 12(5)(a) of PSPA 2013 that the cost of a section 1 scheme must remain within a margin above the employer cost cap of the scheme does not apply, and is treated as never having applied, in relation to the cost of the scheme that is calculated by reference to the scheme’s 2016/17 valuation.
- (2) Accordingly, provision made under section 12(6) of that Act does not apply, and is treated as never having applied, in relation to a case in which the cost of a section 1 scheme that is calculated by reference to the scheme’s 2016/17 valuation goes beyond a margin above the employer cost cap of the scheme.
- (3) In subsections (1) and (2) and this subsection—
  - (a) “section 1 scheme” means a scheme under section 1 of PSPA 2013;
  - (b) “the employer cost cap”, in relation to a section 1 scheme, has the same meaning as in section 12 of PSPA 2013;
  - (c) a reference to a section 1 scheme’s “2016/17 valuation” is to the scheme’s valuation under section 11 of PSPA 2013 the effective date of which is a date in 2016 or 2017.
- (4) The requirement in provision made under section 12(5)(a) of PSPA(NI) 2014 that the cost of a section 1 scheme must remain within a margin above the employer cost cap of the scheme does not apply, and is treated as never having applied, in relation to the cost of the scheme that is calculated by reference to the scheme’s 2016/17 valuation.
- (5) Accordingly, provision made under section 12(6) of that Act does not apply, and is treated as never having applied, in relation to a case in which the cost of a section 1 scheme that is calculated by reference to the scheme’s 2016/17 valuation goes beyond a margin above the employer cost cap of the scheme.
- (6) In subsections (4) and (5) and this subsection—
  - (a) “section 1 scheme” means a scheme under section 1 of PSPA(NI) 2014;
  - (b) “the employer cost cap”, in relation to a section 1 scheme, has the same meaning as in section 12 of PSPA(NI) 2014;
  - (c) a reference to a section 1 scheme’s “2016/17 valuation” is to the scheme’s valuation under section 11 of PSPA(NI) 2014 the effective date of which is a date in 2016 or 2017.
- (7) The actuarial valuation with an effective date of 31 March 2016 that was signed on 18 December 2018 under regulation 123 of the Local Government Pension Scheme Regulations (Northern Ireland) 2014 (S.R. (N.I.) 2014 No. 188) is of no effect.

#### Commencement Information

**I3** S. 93 in force at Royal Assent for specified purposes, see [s. 131\(1\)](#)

**I4** S. 93 in force at 1.4.2022 in so far as not already in force, see [s. 131\(2\)\(f\)](#)

**Changes to legislation:**

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