



# Superannuation Act 2010

## 2010 CHAPTER 37

An Act to make provision for and in connection with limiting the value of the benefits which may be provided under so much of any scheme under section 1 of the Superannuation Act 1972 as provides by virtue of section 2(2) of that Act for benefits to be provided by way of compensation to or in respect of persons who suffer loss of office or employment; and to make provision about the procedure for modifying such a scheme. [16th December 2010]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Consents required for civil service compensation scheme modifications**

(1) Section 2 of the Superannuation Act 1972 is amended as follows.

(2) In subsection (3), at the beginning insert “Subject to subsection (3A) below,”.

(3) After subsection (3) insert—

“(3A) Subsection (3) above does not apply to a provision which would have the effect of reducing the amount of a compensation benefit except in so far as the compensation benefit is one provided in respect of a loss of office or employment which is the consequence of—

- (a) a notice of dismissal given before the coming into operation of the scheme which would have that effect, or
- (b) an agreement made before the coming into operation of that scheme.

(3B) In this section—

“compensation benefit” means so much of any pension, allowance or gratuity as is provided under the civil service compensation scheme by way of compensation to or in respect of a person by reason only of the person's having suffered loss of office or employment;

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*Status: This is the original version (as it was originally enacted).*

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“the civil service compensation scheme” means so much of any scheme under the said section 1 (whenever made) as provides by virtue of subsection (2) above for benefits to be provided by way of compensation to or in respect of persons who suffer loss of office or employment.

- (3C) In subsection (3B) above a reference to suffering loss of office or employment includes a reference to suffering loss or diminution of emoluments as a consequence of suffering loss of office or employment.”
- (4) The amendments made by this section apply in relation to reductions to which effect is given by a scheme made under section 1 of the 1972 Act after the coming into force of this section.
- (5) Subsection (6) applies if—
- (a) a scheme under section 1 of the 1972 Act is made after this section comes into force, and
  - (b) consultation on the proposed scheme took place to any extent before this section came into force.
- (6) The fact that the amendments made by this section were not in force when that consultation took place does not affect the question whether the consultation satisfied the requirements of section 1(3) of the 1972 Act.

## **2 Consultation in relation to civil service compensation scheme modifications**

- (1) Section 2 of the Superannuation Act 1972 is amended as follows.
- (2) After subsection (3C) insert—
- “(3D) So far as it relates to a provision of a scheme under the said section 1 which would have the effect of reducing the amount of a compensation benefit, the duty to consult in section 1(3) of this Act is a duty to consult with a view to reaching agreement with the persons consulted.”
- (3) After subsection (11) insert—
- “(11A) Subsection (11B) below applies if a scheme made under the said section 1 makes any provision which would have the effect of reducing the amount of a compensation benefit.
- (11B) Before the scheme comes into operation, the Minister must have laid before Parliament a report providing information about—
- (a) the consultation that took place for the purposes of section 1(3) of this Act, so far as relating to the provision,
  - (b) the steps taken in connection with that consultation with a view to reaching agreement in relation to the provision with the persons consulted, and
  - (c) whether such agreement has been reached.”
- (4) The amendments made by this section apply in relation to reductions to which effect is given by a scheme made under section 1 of the 1972 Act after the coming into force of this section.

### **3 Limits on value of benefits provided under civil service compensation scheme**

- (1) The civil service compensation scheme is to have effect subject to the following limitations.
- (2) The aggregate amount of compensation benefits provided to or in respect of a person under the scheme is not to exceed—
  - (a) in the case of a compulsory severance, an amount equal to that person’s pensionable earnings for 12 months;
  - (b) in the case of a voluntary severance, an amount equal to that person’s pensionable earnings for 15 months.
- (3) For the purposes of this section, the amount of a compensation benefit is equal to the cost of providing it; and that cost is to be determined in accordance with guidance issued by the Minister, having regard to any advice given by the scheme actuary.
- (4) If—
  - (a) the aggregate amount of compensation benefits provided to or in respect of a person under the scheme would (apart from this section) exceed the applicable limitation in subsection (2), and
  - (b) those benefits would (apart from this section) be provided otherwise than in the form of a single lump sum payment,all the compensation benefits to be provided in that case are to be provided (subject to the limitation in subsection (2)) in the form of a single lump sum payment.
- (5) The limitations in subsection (2) apply only in relation to—
  - (a) a compulsory severance which is the consequence of a notice of dismissal given after the time when this section comes into force;
  - (b) a voluntary severance which is the consequence of an agreement made after that time.
- (6) For the purposes of this section—
  - (a) “compulsory severance” means a loss of office or employment which is the consequence of a notice of dismissal, and
  - (b) “voluntary severance” means any other loss of office or employment.
- (7) In this section “pensionable earnings”, in relation to a person, means earnings at the rate which, immediately before the compulsory or voluntary severance in question, was the rate of earnings—
  - (a) on which the person was required to pay periodical pension contributions under a scheme under section 1 of the Superannuation Act 1972, or
  - (b) on which the person would have been required to pay such contributions if it were assumed that the person were then a member of such a scheme who was required to pay such contributions.
- (8) In determining for the purposes of subsection (7) the rate of earnings on which the person was, or would have been, required to pay such contributions—
  - (a) any limit on that rate which applies to persons who became civil servants or members of such a scheme on or after 1 June 1989 (or to any such persons and others) is to be ignored;
  - (b) a person who, immediately before the compulsory or voluntary severance in question, was unpaid or was being paid at a rate less than the normal rate, is to be treated as if the person were then being paid at the normal rate;

for this purpose “the normal rate” is the rate at which the person would normally have been paid.

(9) In this section—

“civil service compensation scheme” means so much of any scheme made under section 1 of the Superannuation Act 1972 (whether before or after the coming into force of this section) as provides by virtue of section 2(2) of that Act for benefits to be provided by way of compensation to or in respect of persons who suffer loss of office or employment;

“compensation benefit” means so much of any pension, allowance or gratuity as is provided by way of compensation to or in respect of a person by reason only of the person’s having suffered loss of office or employment;

“scheme actuary” means the actuary appointed by the Minister to provide a consulting service on a range of actuarial matters relating to civil service pension and compensation arrangements.

(10) In subsection (9) a reference to suffering loss of office or employment includes a reference to suffering loss or diminution of emoluments as a consequence of suffering loss of office or employment, but does not include—

- (a) a loss of remuneration which a person would have received but for the person’s having been dismissed—
  - (i) without notice, or
  - (ii) with notice that is shorter than the person would normally have been given, or
- (b) a loss of remuneration which a person with a fixed term appointment would have received but for the ending of that appointment before the expiry of the fixed term.

(11) The Minister may by order provide for paragraph (a) or (b) of subsection (2) to have effect as if for the number of months specified in that paragraph there were substituted a greater number of months.

#### **4 Final provisions**

- (1) This Act may be cited as the Superannuation Act 2010.
- (2) Subject to subsection (3), this Act comes into force on the day it is passed.
- (3) Section 2 comes into force at the end of the period of 2 months beginning with that day.
- (4) Except so far as otherwise provided under this section, section 3 expires at the end of the period of 12 months beginning with the day on which that section comes into force.
- (5) The Minister may by order—
  - (a) repeal section 3;
  - (b) provide that that section—
    - (i) is not to expire at the time when it would otherwise expire under subsection (4) or in accordance with the most recent order under this subsection, but
    - (ii) is to continue in force after that time for a period not exceeding 6 months;
  - (c) (subject to subsection (6)) at any time revive that section (following its expiry or repeal) for a period not exceeding 6 months.

- (6) An order under subsection (5)(c) may not be made after the end of the period of 3 years beginning with the day on which this Act is passed.
- (7) The expiry or repeal of section 3 does not affect the application of that section in relation to compensation benefits provided to or in respect of a person in connection with a loss of office or employment occurring before its expiry or repeal.
- (8) An order made by the Minister under this Act—
  - (a) is to be made by statutory instrument;
  - (b) may include supplementary, incidental, transitional or saving provision.
- (9) A statutory instrument containing an order under section 3(11) or subsection (5)(b) or (c) of this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (10) Any other statutory instrument containing an order under this Act is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) In this Act “the Minister” means the Minister for the Civil Service.