



# 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

##### *Remediable service*

#### **1 Meaning of “remediable service”**

- (1) For the purposes of this Chapter any continuous period of service of a person in an employment or office is “remediable service” in that employment or office if the following four conditions are met.
- (2) In this section “the service in question” means the service mentioned in subsection (1).
- (3) The first condition is that the service in question takes place in the period beginning with the day after the closing date and ending with 31 March 2022.
- (4) The second condition is that the service in question is—
  - (a) pensionable service under a Chapter 1 legacy scheme,
  - (b) pensionable service under a Chapter 1 new scheme that would have been pensionable service under a Chapter 1 legacy scheme but for the person’s failure to meet a condition relating to the person’s attainment of normal pension age, or another specified age, by a specified date, or
  - (c) excess teacher service.

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The second condition is met if all of the service in question falls within paragraphs (a) to (c) (even if it does not all fall within only one of those paragraphs).

- (5) The third condition is that the person—
- (a) was, on 31 March 2012 or any earlier day, in service in any employment or office that is pensionable service under—
    - (i) a Chapter 1 legacy scheme,
    - (ii) a judicial legacy scheme (within the meaning of Chapter 2), or
    - (iii) a local government legacy scheme (within the meaning of Chapter 3),
 or
  - (b) is not within paragraph (a) and was, on 31 March 2012, in service as a firefighter which entitled the person to be an active member of a relevant firefighters’ legacy scheme.
- (6) The fourth condition is that there is no disqualifying gap in service falling within the period—
- (a) beginning with—
    - (i) in a case in which the third condition is met by virtue of subsection (5) (a), the day after the most recent day in relation to which that condition is met;
    - (ii) in a case in which the third condition is met by virtue of subsection (5) (b), 1 April 2012, and
  - (b) ending with the day before the first day of the service in question.
- (7) In subsection (6) “disqualifying gap in service” means a period longer than 5 years at no time during which is the person in service in an employment or office which—
- (a) is pensionable service under—
    - (i) a Chapter 1 scheme,
    - (ii) a judicial scheme (within the meaning of Chapter 2), or
    - (iii) a local government scheme (within the meaning of Chapter 3),
  - (b) is, as a result of a Fair Deal transfer, pensionable service under a Fair Deal scheme, or
  - (c) is, as a result of a local government contracting-out transfer, pensionable service under a pension scheme that offers pension arrangements that are broadly comparable with those offered to the person before the transfer.
- (8) In this Chapter “the closing date” means—
- (a) 31 March 2015 in relation to service which is pensionable service under a Chapter 1 scheme that is not an Agency scheme;
  - (b) 31 March 2016 in relation to service which is pensionable service under an Agency scheme.
- (9) In determining for the purposes of this section whether any service is pensionable service under a particular scheme, sections 2(1), 42(2) to (5) and 45(2) (under which service may be treated as pensionable, or not pensionable, under particular schemes) are to be disregarded.
- See also section 30(1) (which requires section 61 of the Equality Act 2010 and paragraph 2 of Schedule 1 to EEAR(NI) 2006 to be disregarded).
- (10) For provision under which the second condition is treated as met in relation to a person’s service in an employment or office, despite the service not being pensionable

service under a Chapter 1 scheme or excess teacher service, see section 5(2) (opted-out service).

*Retrospective provision about remediable service*

## **2 Remediable service treated as pensionable under Chapter 1 legacy schemes**

- (1) A person’s remediable service in an employment or office that would, apart from this subsection, be pensionable service under a Chapter 1 new scheme—
- (a) is not, and is treated as never having been, pensionable service under that scheme, and
  - (b) is treated as being, and as always having been, pensionable service under the relevant Chapter 1 legacy scheme.

For the meaning of “the relevant Chapter 1 legacy scheme”, see section 4.

- (2) Where a person has remediable service in multiple employments or offices, subsection (1) applies separately in relation to the person’s remediable service in each of them.
- (3) Subsection (1) has effect—
- (a) for the purposes of determining which Chapter 1 scheme is (or at any time was) required to pay benefits to or in respect of a member,
  - (b) for the purposes of determining the amount of any benefits that are (or at any time were) payable under a Chapter 1 scheme to or in respect of a member, and
  - (c) subject to subsection (4), and to any other provision of this Chapter to the contrary, for all other purposes.
- (4) Subsection (1) does not have effect for the purposes of determining the existence or amount of any liability that any member of a Chapter 1 scheme, or any employer in relation to such a scheme, has (or at any time had) to pay pension contributions in respect of a person’s remediable service.
- (5) Subsection (1) does not affect—
- (a) any arrangements under a Chapter 1 scheme under which a member pays contributions to the scheme on a voluntary basis so as to secure additional benefits, or the earlier payment of benefits, under the scheme, or
  - (b) any rights under a Chapter 1 scheme in respect of a transfer in to the scheme of an amount in respect of rights accrued under another pension scheme.
- (6) For provision disapplying subsection (3)(b), or affecting the time at which that provision applies, in relation to pensioner and deceased members, see section 6 (immediate choice to receive new scheme benefits).
- (7) For further provision under which benefits determined by reference to a member’s remediable service may be new scheme benefits, see section 10 (deferred choice to receive new scheme benefits).

## **3 Benefits already paid**

- (1) Subsection (2) applies in relation to any benefits (“the paid benefits”) that a Chapter 1 new scheme has at any time paid to a person (“P”) so far as—

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- (a) they are calculated by reference to P’s, or any other person’s, remediable service in an employment or office, and
  - (b) they are benefits that, as a result of section 2(1)(a), P was not entitled to receive from the scheme.
- (2) The paid benefits are to be treated for all purposes—
- (a) as not having been paid to P by the Chapter 1 new scheme, but
  - (b) as having been paid to P instead by the relevant Chapter 1 legacy scheme.

#### **4 Meaning of “the relevant Chapter 1 legacy scheme” etc**

- (1) In this Chapter “the relevant Chapter 1 legacy scheme”, in relation to a person’s remediable service in an employment or office, means the Chapter 1 legacy scheme for people in that employment, or holders of that office, under which (disregarding section 2(1)) the person most recently accrued pensionable service.

This is subject to subsections (2) to (8).

- (2) In a case in which—
- (a) on or before the closing date, the person opted that their service in the employment or office in question should no longer be pensionable service under the Chapter 1 legacy scheme mentioned in subsection (1),
  - (b) on the closing date, the rules of that scheme prohibited a person from becoming an active member of the scheme, and
  - (c) on that date, the rules of another Chapter 1 legacy scheme for people in the employment, or holders of the office, in question did not include such a prohibition,

“the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office, means the Chapter 1 legacy scheme mentioned in paragraph (c).

- (3) In a case in which—
- (a) at any time after the closing date, the person—
    - (i) opted that their service in the employment or office in question should no longer be pensionable service under a Chapter 1 scheme, or
    - (ii) ceased to be in service in the employment or office in question,
  - (b) at any later time before 1 April 2022, the person—
    - (i) opted that their service in the employment or office in question should again be pensionable service under a Chapter 1 scheme, or
    - (ii) resumed service in the employment or office in question,
  - (c) at that time, the rules of the Chapter 1 legacy scheme mentioned in subsection (1) prohibited a person from becoming an active member of the scheme, and
  - (d) at that time, the rules of another Chapter 1 legacy scheme for people in the employment, or holders of the office, in question did not include such a prohibition,

“the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office that takes place after the time mentioned in paragraph (b), means the Chapter 1 legacy scheme mentioned in paragraph (d).

- (4) In a case in which any of the person’s remediable service in the employment or office in question is excess teacher service, “the relevant Chapter 1 legacy scheme”, in relation to so much of the person’s remediable service as is excess teacher service, means the local government new scheme mentioned in section 110(2).
- (5) Subsection (6) applies in a case in which—
- (a) the person never accrued pensionable service as mentioned in subsection (1), or
  - (b) paragraphs (a) and (b) of subsection (2) apply, but no Chapter 1 legacy scheme falls within paragraph (c) of that subsection.
- (6) Where this subsection applies, “the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office, means the Chapter 1 legacy scheme for people in the employment, or holders of the office, in question that the person would have been eligible to join on 31 March 2012 if, on that date, the person—
- (a) had been in that employment or a holder of that office, and
  - (b) had met all other conditions as to eligibility (if any).
- (7) Subsection (8) applies in a case in which paragraphs (a) to (c) of subsection (3) apply, but no Chapter 1 legacy scheme falls within paragraph (d) of that subsection.
- (8) Where this subsection applies, “the relevant Chapter 1 legacy scheme”, in relation to the person’s remediable service in the employment or office that takes place after the time mentioned in subsection (3)(b), means the Chapter 1 legacy scheme for people in the employment, or holders of the office, in question that the person would have been eligible to join on 31 March 2012 if, on that date, the person—
- (a) had been in that employment or a holder of that office, and
  - (b) had met all other conditions as to eligibility (if any).
- (9) Remediable service that is treated under section 2(1) as pensionable service under a Chapter 1 legacy scheme is, if the scheme has different sections or otherwise makes different provision in relation to different people, treated as pensionable service under—
- (a) the section or provision of the scheme under which the person most recently accrued pensionable service (disregarding section 2(1)), or
  - (b) if the person has not (disregarding section 2(1)) accrued pensionable service under the scheme, the section or provision under which the person would have accrued service if on 31 March 2012 the person had been in service in the employment or in the office in question, and had joined the scheme on that date.

## **5 Election for retrospective provision to apply to opted-out service**

- (1) Scheme regulations for a Chapter 1 legacy scheme must make provision so as to secure that an election may be made in relation to relevant opted-out service in an employment or office.
- (2) Where an election by virtue of this section is made in relation to relevant opted-out service in an employment or office—
- (a) the second condition in section 1 is treated as met in relation to the service (so that the service becomes “remediable service”), and

- (b) section 2(1)(b) applies to the service (so that the service is treated as pensionable service under the relevant Chapter 1 legacy scheme).
- (3) An election by virtue of this section—
  - (a) must be made before the end of the election period,
  - (b) takes effect when it is made, and
  - (c) is irrevocable.
- (4) In subsection (3) “the end of the election period” means—
  - (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 the member, or
  - (b) such later time as the scheme manager considers reasonable in all the circumstances.
- (5) Scheme regulations made by virtue of subsection (1) may, in particular, include provision—
  - (a) under which an election may be made in relation to a person’s relevant opted-out service only on the making of an application by or on behalf of the person;
  - (b) under which an application by virtue of paragraph (a) may be refused unless a condition specified in the regulations is met;
  - (c) requiring information to be provided before an election is made;
  - (d) about the form and manner in which an election is to be made;
  - (e) about who may make an election in relation to the service of a deceased member.
- (6) The conditions that may be specified by virtue of subsection (5)(b) include in particular—
  - (a) a condition relating to the reason why the person opted that the service to which the application relates should not be pensionable service (or did not opt that it should be pensionable service) under a Chapter 1 scheme;
  - (b) a condition requiring—
    - (i) the transfer to the scheme of any assets and liabilities held for the purposes of a partnership pension account that are referable to pension contributions made by or on behalf of the person in respect of the person’s relevant opted-out service, and
    - (ii) the surrender of any entitlement to a pension under the scheme, and any right to a future pension under the scheme, that would otherwise arise under the rules of the scheme in respect of the value of the assets and liabilities transferred;
  - (c) in cases in which any assets and liabilities that are referable to pension contributions made by or on behalf of the person have been transferred out of a partnership pension account, a condition requiring the payment to the scheme of an amount in respect of the transfer.
- (7) For the purposes of this section a person’s opted-out service is “relevant” in relation to a Chapter 1 legacy scheme if the scheme is the relevant Chapter 1 legacy scheme (within the meaning given by section 4) in relation to that service (reading any reference in that provision to remediable service as a reference to opted-out service).

*Pensioner and deceased members: immediate choice of new scheme benefits*

## **6 Immediate choice to receive new scheme benefits**

- (1) Scheme regulations for a Chapter 1 legacy scheme must make provision so as to secure that an election for new scheme benefits may be made in relation to the remediable service in an employment or office of a relevant member of the scheme that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—
  - (a) is a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, or
  - (b) is deceased.
- (3) Where a member has remediable service in multiple employments or offices that is pensionable service under the scheme, provision made under subsection (1) must include provision for separate elections in relation to the member’s remediable service in each of them.
- (4) Section 2(1)—
  - (a) has effect in relation to a relevant member’s remediable service in an employment or office for the purposes mentioned in section 2(3)(b) (effect of section 2(1) on amount of benefits payable) only if no election by virtue of this section is made before the end of the section 6 election period, and
  - (b) in such a case, applies for those purposes in relation to the relevant member’s remediable service from the end of the section 6 election period.
- (5) Where an election by virtue of this section is made in relation to a member’s remediable service in an employment or office, the benefits payable under the scheme to or in respect of the member, so far as they are determined by reference to the member’s legacy scheme remediable service in the employment or office, are new scheme benefits.
- (6) For the purposes of subsection (5) a member’s remediable service in an employment or office is “legacy scheme remediable service” in that employment or office if and to the extent that it is pensionable service under a Chapter 1 legacy scheme otherwise than by virtue of section 2(1).
- (7) An election by virtue of this section has effect in relation to all of the member’s remediable service in the employment or office in question that is pensionable service under the scheme.

## **7 Elections by virtue of section 6: timing and procedure**

- (1) An election—
  - (a) must be made before the end of the section 6 election period,
  - (b) is treated as having taken effect—
    - (i) immediately before the member became a pensioner member of the scheme, or (if earlier) became a pensioner member of a Chapter 1 new scheme, in relation to the employment or office, or

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- (ii) if the member died without having become a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, immediately before the member’s death, and
  - (c) is irrevocable.
- (2) In this Chapter “the end of the section 6 election period” means—
- (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 the member, or
  - (b) such later time as the scheme manager considers reasonable in all the circumstances.
- (3) Scheme regulations made by virtue of section 6(1) may, in particular, include provision—
- (a) requiring information to be provided before an election is made;
  - (b) about the form and manner in which an election is to be made;
  - (c) about who may make an election in relation to the remediable service of a deceased member.
- (4) References in this section to “an election” are to an election by virtue of section 6.

## **8 Power to deem election by virtue of section 6 to have been made**

- (1) Scheme regulations made by virtue of section 6(1) may include provision under which an election by virtue of section 6 is treated as having been made immediately before the end of the section 6 election period.
- (2) Provision by virtue of subsection (1) may be made only in relation to cases in which—
- (a) the end of the section 6 election period in relation to a member has passed, and
  - (b) no decision as to whether an election is to be made in relation to the member’s remediable service has been communicated to the scheme.
- (3) Provision by virtue of subsection (1) may, in particular, include provision specifying conditions that are to be met if an election is to be treated as having been made, including conditions relating to the value of benefits payable under the scheme if an election is or is not made.

## **9 Persons with remediable service in more than one Chapter 1 legacy scheme**

- (1) This section applies where—
- (a) an election is made by virtue of section 6 (immediate choice to receive new scheme benefits) in relation to the remediable service in an employment or office of a member (“M”) of a Chapter 1 legacy scheme that is pensionable service under the scheme, and
  - (b) M has any remediable service in that employment or office that is pensionable service under another Chapter 1 legacy scheme.
- (2) If M is a relevant member within the meaning of section 6 in relation to the scheme mentioned in subsection (1)(b), the election has effect as an election by virtue of section 6 in relation to M’s remediable service that is pensionable service under that scheme (as well as having effect as such an election in relation to M’s remediable service that is pensionable service under the scheme mentioned in subsection (1)(a)).



- (3) If M is a relevant member within the meaning of section 10 (deferred choice to receive new scheme benefits) in relation to the scheme mentioned in subsection (1)(b), the election has effect as an election by virtue of section 10 in relation to M's remediable service that is pensionable service under that scheme (as well as having effect as an election by virtue of section 6 in relation to M's remediable service that is pensionable service under the scheme mentioned in subsection (1)(a)).

*Active and deferred members: deferred choice of new scheme benefits*

## **10 Deferred choice to receive new scheme benefits**

- (1) Scheme regulations for a Chapter 1 legacy scheme must make provision so as to secure that an election for new scheme benefits may be made in relation to the remediable service in an employment or office of a relevant member of the scheme that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—
- (a) is an active or deferred member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, and
  - (b) is not a pensioner member of a Chapter 1 scheme in relation to the employment or office.
- (3) Where a member has remediable service in multiple employments or offices that is pensionable service under the scheme, provision made under subsection (1) must make provision for separate elections in relation to the member's remediable service in each of them.
- (4) Where an election by virtue of this section is made in relation to a member's remediable service in an employment or office, the benefits payable under the scheme to or in respect of the member, so far as they are determined by reference to the member's remediable service in that employment or office are new scheme benefits.
- (5) An election by virtue of this section has effect in relation to all of the member's remediable service in the employment or office in question that is pensionable service under the scheme.

## **11 Elections by virtue of section 10: timing and procedure**

- (1) Scheme regulations made by virtue of section 10(1) must specify a time (“the end of the section 10 election period”) in relation to a member.
- (2) The end of the section 10 election period must not be more than one year before the day on which it is reasonably expected that, if an election were made, new scheme benefits would become payable under the scheme to or in respect of the member.
- (3) An election—
- (a) must be made before the end of the section 10 election period, and
  - (b) (subject to subsection (4)) takes effect immediately before the member becomes a pensioner member of the scheme in relation to the employment or office.

- (4) Where an election is made on behalf of a deceased member, the election is treated as having taken effect immediately before the member's death.
- (5) Scheme regulations made by virtue of section 10(1) may, in particular, include provision—
  - (a) requiring information to be provided before an election is made;
  - (b) about the form and manner in which an election is to be made;
  - (c) about who may make an election in relation to the remediable service of a deceased member;
  - (d) subject to subsection (6), about how and when an election lapses or may be revoked.
- (6) Scheme regulations made by virtue of section 10(1) may not provide for an election made in relation to a member's remediable service in an employment or office to lapse or be revoked after any benefits have become payable to or in respect of the member after the end of the section 10 election period.
- (7) Where an election lapses or is revoked, the election is treated as never having had effect.
- (8) References in this section to "an election" are to an election by virtue of section 10.

## **12 Power to deem election by virtue of section 10 to have been made**

- (1) Scheme regulations made by virtue of section 10(1) may include provision under which an election by virtue of section 10 is treated as having been made immediately before the end of the section 10 election period.
- (2) Provision by virtue of subsection (1) may be made only in relation to cases in which—
  - (a) the end of the section 10 election period in relation to a member has passed, and
  - (b) no decision as to whether an election is to be made in relation to the member's remediable service has been communicated to the scheme.
- (3) Provision by virtue of subsection (1) may, in particular, include provision specifying conditions that are to be met if an election is to be treated as having been made, including conditions relating to the value of benefits payable under the scheme if an election is or is not made.

## **13 Persons with remediable service in more than one Chapter 1 legacy scheme**

- (1) This section applies where—
  - (a) an election is made by virtue of section 10 (deferred choice to receive new scheme benefits) in relation to the remediable service in an employment or office of a member ("M") of a Chapter 1 legacy scheme that is pensionable service under the scheme, and
  - (b) M has any remediable service in that employment or office that is pensionable service under another Chapter 1 legacy scheme.
- (2) If M is a relevant member within the meaning of section 10 in relation to the scheme mentioned in subsection (1)(b), the election has effect as an election by virtue of section 10 in relation to M's remediable service that is pensionable service under that

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scheme (as well as having effect as such an election in relation to M’s remediable service that is pensionable service under the scheme mentioned in subsection (1)(a)).

- (3) If M is a relevant member within the meaning of section 6 (immediate choice to receive new scheme benefits) in relation to the scheme mentioned in subsection (1)(b), the election has effect as an election by virtue of section 6 in relation to M’s remediable service that is pensionable service under that scheme (as well as having effect as an election by virtue of section 10 in relation to M’s remediable service that is pensionable service under the scheme mentioned in subsection (1)(a)).

*Pension benefits and contributions: corrections*

**14 Pension benefits and lump sum benefits: pensioner and deceased members**

- (1) This section applies in relation to a relevant member (“M”) of a Chapter 1 legacy scheme who has remediable service in an employment or office that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—
- (a) is a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, or
  - (b) is deceased.
- (3) Where, at the operative time—
- (a) the aggregate of the pension benefits that (after taking into account the effect, if any, of section 3(2)) have been paid under the scheme to any person (“the beneficiary”) in respect of M’s remediable service in the employment or office, exceeds
  - (b) the aggregate of the pension benefits to which (after taking into account the effect, if any, of sections 2(1) and 6(4) and (5) in relation to the service) the beneficiary is entitled under the scheme in respect of the service,
- the beneficiary must pay an amount equal to the difference to the scheme.
- (4) Where, at the operative time—
- (a) the amount mentioned in subsection (3)(a), is less than
  - (b) the amount mentioned in subsection (3)(b),
- the scheme manager must pay an amount equal to the difference to the beneficiary.
- (5) Where, at the operative time—
- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any of section 3(2)) have been paid under the scheme to any person (“the beneficiary”) in respect of M’s remediable service in the employment or office, exceeds
  - (b) the aggregate of the lump sum benefits to which (after taking into account the effect, if any, of sections 2(1) and 6(4) and (5) in relation to the service) the beneficiary is entitled under the scheme in respect of the service,
- the beneficiary must pay an amount equal to the difference to the scheme.
- (6) Where, at the operative time—
- (a) the amount mentioned in subsection (5)(a), is less than

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(b) the amount mentioned in subsection (5)(b),  
the scheme manager must pay an amount equal to the difference to the beneficiary.

(7) In this section “the operative time” means—

- (a) if an election by virtue of section 6 (immediate choice to receive new scheme benefits) is made in relation to M’s remediable service—
- (i) the time the election is made, or
  - (ii) if later, the coming into force of section 2(1);
- (b) otherwise, the end of the section 6 election period in relation to M.

(8) In this section—

“lump sum benefit” means any benefit payable under a pension scheme by way of a lump sum;

“pension benefit” means any benefit payable under a pension scheme otherwise than by way of a lump sum.

## 15 Pension contributions: pensioner and deceased members

(1) This section applies in relation to a relevant member (“M”) of a Chapter 1 legacy scheme who has remediable service in an employment or office that is pensionable service under the scheme (whether or not by virtue of section 2(1)).

(2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—

- (a) is a pensioner member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, or
- (b) is deceased.

(3) Where, at the operative time—

- (a) the paid contributions amount in relation to M, exceeds
- (b) the adjusted contributions amount in relation to M,

the scheme manager must pay an amount of compensation equal to the difference to the appropriate person.

(4) Where, at the operative time—

- (a) the paid contributions amount in relation to M, is less than
- (b) the adjusted contributions amount in relation to M,

the appropriate person must pay pension contributions equal to the difference to the scheme.

(5) In this section “the operative time” means—

- (a) if an election by virtue of section 6 (immediate choice to receive new scheme benefits) is made in relation to M’s remediable service—
- (i) the time the election is made, or
  - (ii) if later, the coming into force of section 2(1);
- (b) otherwise, the end of the section 6 election period in relation to M.

(6) In this section “the paid contributions amount” means the aggregate of the pension contributions paid by M in the relevant tax years in respect of M’s remediable service in the employment or office under—

- (a) any Chapter 1 scheme, and
  - (b) where M has made an election by virtue of section 5 (election for retrospective provision to apply: opted-out service), any partnership pension account.
- (7) A reference in subsection (6) to pension contributions paid by M includes, in relation to any pension contributions paid under a partnership pension account, such sums as are deducted by M under section 192 of FA 2004 (relief at source).
- (8) In this section “the adjusted contributions amount” means—
- (a) if an election by virtue of section 6 (immediate choice to receive new scheme benefits) has been made in relation to the remediable service, the aggregate of M’s new scheme contributions for the relevant tax years;
  - (b) otherwise, the aggregate of M’s legacy scheme contributions for the relevant tax years.
- (9) In this section “the relevant tax years” means—
- (a) in relation to pensionable service under a Chapter 1 legacy scheme that is not an Agency scheme, the tax years from 2015-16 to 2021-22 inclusive;
  - (b) in relation to pensionable service under a Chapter 1 legacy scheme that is an Agency scheme, the tax years from 2016-17 to 2021-22 inclusive.
- (10) In this section “the appropriate person” means—
- (a) M, or
  - (b) if M is deceased, M’s personal representatives.

## **16 Pension contributions: active and deferred members (immediate correction)**

- (1) This section applies in relation to a relevant member (“M”) of a Chapter 1 legacy scheme who has remediable service in an employment or office that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—
- (a) is an active or deferred member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, and
  - (b) is not a pensioner member of a Chapter 1 scheme in relation to the employment or office.
- (3) Where, on the coming into force of section 2(1)—
- (a) the paid contributions amount in relation to M, exceeds
  - (b) the adjusted contributions amount in relation to M,
- the scheme manager must pay an amount of compensation equal to the difference to the appropriate person.
- (4) Where, on the coming into force of section 2(1)—
- (a) the paid contributions amount in relation to M, is less than
  - (b) the adjusted contributions amount in relation to M,
- the appropriate person must pay pension contributions equal to the difference to the scheme.

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- (5) In this section “the paid contributions amount” means the aggregate of the pension contributions paid by M in the relevant tax years in respect of M’s remediable service in the employment or office under—
  - (a) any Chapter 1 scheme, and
  - (b) where M has made an election by virtue of section 5 (opting in: persons with opted-out service), any partnership pension account.
- (6) A reference in subsection (5) to pension contributions paid by M includes, in relation to any pension contributions paid under a partnership pension account, such sums as are deducted by M under section 192 of FA 2004 (relief at source).
- (7) In this section “the adjusted contributions amount” means the aggregate of M’s legacy scheme contributions for the relevant tax years.
- (8) In this section “the appropriate person” means—
  - (a) M, or
  - (b) if M is deceased, M’s personal representatives.
- (9) In this section “the relevant tax years” means—
  - (a) in relation to pensionable service under a Chapter 1 legacy scheme that is not an Agency scheme, the tax years from 2015-16 to 2021-22 inclusive;
  - (b) in relation to pensionable service under a Chapter 1 legacy scheme that is an Agency scheme, the tax years from 2016-17 to 2021-22 inclusive.

## **17 Pension contributions: active and deferred members (deferred correction)**

- (1) This section applies in relation to a relevant member (“M”) of a Chapter 1 legacy scheme—
  - (a) who has remediable service in an employment or office that is pensionable service under the scheme (whether or not by virtue of section 2(1)), and
  - (b) in respect of whom an election by virtue of section 10 (deferred choice to receive new scheme benefits) has been made.
- (2) In this section “relevant member”, in relation to a Chapter 1 legacy scheme, means a member of the scheme who, immediately before the coming into force of section 2(1)—
  - (a) is an active or deferred member of the scheme, or of a Chapter 1 new scheme, in relation to the employment or office, and
  - (b) is not a pensioner member of a Chapter 1 scheme in relation to the employment or office.
- (3) Where—
  - (a) the paid contributions amount in relation to M, exceeds
  - (b) the adjusted contributions amount in relation to M,
 the scheme manager must pay an amount of compensation equal to the difference to the appropriate person.
- (4) Where—
  - (a) the paid contributions amount in relation to M, is less than
  - (b) the adjusted contributions amount in relation to M,

the appropriate person must pay pension contributions equal to the difference to the scheme.

- (5) In this section “the paid contributions amount” means (subject to subsection (7)) the aggregate of the pension contributions paid by M in the relevant tax years in respect of M’s remediable service in the employment or office under—
- (a) any Chapter 1 scheme, and
  - (b) where M has made an election by virtue of section 5 (opting in: persons with opted-out service), any partnership pension account.
- (6) A reference in subsection (5) to pension contributions paid by M includes, in relation to any pension contributions paid under a partnership pension account, such sums as are deducted by M under section 192 of FA 2004 (relief at source).
- (7) The “paid contributions amount” determined under subsection (5) is to be adjusted by—
- (a) deducting any amounts of compensation paid to M in respect of the remediable service in question under section 16(3), and
  - (b) adding any pension contributions paid by M in respect the remediable service in question under section 16(4).
- (8) In this section “the adjusted contributions amount” means the aggregate of M’s new scheme contributions for the relevant tax years.
- (9) In this section “the appropriate person” means—
- (a) M, or
  - (b) if M is deceased, M’s personal representatives.
- (10) In this section “the relevant tax years” means—
- (a) in relation to pensionable service under a Chapter 1 legacy scheme that is not an Agency scheme, the tax years from 2015-16 to 2021-22 inclusive;
  - (b) in relation to pensionable service under a Chapter 1 legacy scheme that is an Agency scheme, the tax years from 2016-17 to 2021-22 inclusive.

## **18 Powers to reduce or waive liabilities**

- (1) Scheme regulations for a Chapter 1 legacy scheme may make provision under which a liability owed by a person to the scheme under section 14 (corrections for pension benefits and lump sum benefits) is reduced or waived.
- (2) Scheme regulations for a Chapter 1 legacy scheme may make provision under which a liability to pay pension contributions owed by a member to the scheme under section 15, 16 or 17 (corrections for pension contributions) in relation to the member’s remediable service in an employment or office is reduced or waived.
- (3) The provision that may be made under subsection (2) includes, in particular, provision under which a liability to pay pension contributions is reduced by tax relief amounts.
- (4) In subsection (3) “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.

- (5) Scheme regulations for a Chapter 1 legacy scheme may make provision under which a liability to pay compensation owed by the scheme to a member under section 15, 16 or 17 (corrections for pension contributions) in relation to the member’s remediable service in an employment or office is reduced or waived.
- (6) The provision that may be made under subsection (5) includes, in particular, provision under which a liability is reduced by tax relief amounts.
- (7) In subsection (6) “tax relief amounts” means amounts determined by reference to the tax relief under section 188 of FA 2004 (relief for members’ contributions) that was received by the member in respect of pension contributions paid in a tax year in respect of the member’s remediable service in the employment or office.
- (8) Scheme regulations for a Chapter 1 legacy scheme may make provision under which a liability owed by the scheme to a person under section 16 (pension contributions: active and deferred members (immediate correction)) may, by agreement, be reduced or waived.

*Powers to make provision in relation to special cases*

**19 Pension credit members**

- (1) Scheme regulations for a Chapter 1 scheme may make provision about the benefits payable to or in respect of a relevant pension credit member and the corresponding pension debit member.
- (2) In this section “relevant pension credit member”, in relation to a Chapter 1 scheme, means a member of the scheme who has rights under the scheme—
  - (a) which are attributable (directly or indirectly) to a pension credit, and
  - (b) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service in an employment or office of another member.
- (3) In this section “the corresponding pension debit member”, in relation to a relevant pension credit member, means the member mentioned in subsection (2)(b).
- (4) The provision that may be made under subsection (1) includes provision under which—
  - (a) the pension debit of the corresponding pension debit member is adjusted where an election under section 6 (immediate choice) or section 10 (deferred choice) is made in relation to the member’s remediable service;
  - (b) the pension credit of a relevant pension credit member is adjusted on the assumption that an election under section 6 or 10 is made in relation to the remediable service of the corresponding pension debit member (regardless of whether it in fact is).
- (5) Provision made under subsection (1) must include provision under which, in a case in which the corresponding pension debit member in relation to a relevant pension credit member has mixed service, any pension credit retained by the relevant pension credit member under the scheme is of a value determined by reference to the value of benefits payable under only one Chapter 1 scheme.



- (6) For the purposes of this Chapter a member's remediable service in an employment or office is "mixed service" if, disregarding section 2(1)—
- (a) some of the service is pensionable service under a Chapter 1 legacy scheme, and
  - (b) some of the service is pensionable service under a Chapter 1 new scheme.
- (7) In this section—
- "pension debit" means a debit under section 29(1)(a) of WPRA 1999 or Article 26(1)(a) of WRP(NI)O 1999;
  - "pension credit" means a credit under section 29(1)(b) of WPRA 1999 or Article 26(1)(b) of WRP(NI)O 1999.

## 20 Voluntary contributions

- (1) Scheme regulations for a Chapter 1 scheme may make provision about cases in which a member has paid voluntary contributions to the scheme during any period of remediable service.
- (2) The provision that may be made under subsection (1) includes, in particular, provision under which the rights to additional benefits, or earlier payment of benefits, that would otherwise have been secured by the payment of the voluntary contributions are varied, in a case in which an election by virtue of section 6 or 10 is made in respect of any remediable service of the member in question.
- (3) The rights may, in particular, be varied so that they are of an equivalent value to rights the member would have secured under the Chapter 1 new scheme that is connected with the scheme if the voluntary contributions had been paid to that scheme.
- (4) The provision that may be made under subsection (1) in scheme regulations for a Chapter 1 new scheme includes, in particular, provision under which the rights to additional benefits, or earlier payment of benefits, that would otherwise have been secured by the payment of the voluntary contributions are extinguished.
- (5) Where scheme regulations made by virtue of subsection (1) make provision as mentioned in subsection (4), scheme regulations by virtue of subsection (1) must be made that include provision under which—
- (a) the person whose rights are extinguished receives rights under a Chapter 1 scheme that are of an equivalent value to the extinguished rights,
  - (b) rights are conferred under a Chapter 1 scheme that would have been secured under that scheme if the voluntary contributions had been paid to that scheme, or
  - (c) the scheme manager is required to pay the member who paid the contributions or, if that member is deceased, that member's personal representatives an amount by way of compensation equal to—
    - (i) the aggregate of the voluntary contributions paid, less
    - (ii) an amount in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which the member was entitled in respect of the voluntary contributions.

## **21 Transfers**

- (1) Scheme regulations for a Chapter 1 scheme may make provision about cases in which—
  - (a) a member transfers out of the scheme rights in respect of remediable service in an employment or office that is pensionable service under the scheme;
  - (b) a member transfers in to the scheme rights in respect of remediable service in an employment or office that is pensionable service under another Chapter 1 scheme;
  - (c) a member transfers in to the scheme rights in respect of remediable service in a judicial office (within the meaning of Chapter 2) that is pensionable service under a judicial scheme (within the meaning of that Chapter);
  - (d) a member transfers in to the scheme rights in respect of remediable service in an employment or office (within the meaning of Chapter 3) that is pensionable service under a local government scheme (within the meaning of that Chapter);
  - (e) a person, within the period beginning with the closing date and ending with 31 March 2022, transfers in to the scheme, or to any other Chapter 1 scheme, rights in respect of service in any employment or office.
- (2) The provision that may be made under subsection (1)(b) to (e) includes, in particular, provision under which the rights to benefits that would otherwise have been secured by the transfer are varied, in a case in which an election by virtue of section 6 or 10 is made in respect of any remediable service of the member in question.
- (3) The rights may, in particular, be varied so that they are of an equivalent value to rights the member would have secured under another Chapter 1 scheme if the rights had been transferred in to that scheme.
- (4) The provision that may be made under subsection (1)(b) to (e) includes, in particular, provision under which the rights to benefits that would otherwise have been secured by the transfer are extinguished.
- (5) Where scheme regulations made by virtue of subsection (1) make provision as mentioned in subsection (4), scheme regulations by virtue of subsection (1) must be made that include provision under which—
  - (a) the person in question receives rights under a Chapter 1 scheme that are of an equivalent value to the extinguished rights, or
  - (b) the person in question is given rights under a Chapter 1 scheme that the member would have secured under that scheme if the transfer had been made in to that scheme.

## **22 Further powers to make provision about special cases**

- (1) Scheme regulations for a Chapter 1 scheme may make further provision relating to a member who has remediable service in an employment or office.
- (2) The provision that may be made under subsection (1) includes, in particular—
  - (a) provision about the benefits payable to or in respect of a member who has remediable service in an employment or office that is mixed service;
  - (b) provision about the benefits payable to or in respect of a member who has remediable service in an employment or office where—

- (i) there is another Chapter 1 scheme that provides benefits for persons in that employment or office, and
  - (ii) the two schemes provide (or in any circumstances might provide) benefits to or in respect of a person in relation to the same period of service;
- (c) provision about the benefits payable to or in respect of a member where, disregarding section 2(1), the member—
- (i) has remediable service in an employment or office that is pensionable service under a Chapter 1 new scheme, and
  - (ii) has a right under that scheme, if they retire before normal pension age, on the making of a payment to the scheme, to the reduction or elimination of the actuarial reduction that would otherwise have been made to the benefits payable to or in respect of the member in respect of that remediable service;
- (d) provision about the benefits payable to or in respect of a person who has partially retired;
- (e) provision about the benefits payable in respect of a child of a deceased member where—
- (i) the member has remediable service in an employment or office, and
  - (ii) the child is not living in the same household as an adult survivor of the member;
- (f) provision about cases in which a person has remediable service in an employment or office any of which is excess teacher service;
- (g) provision about cases in which a person has remediable service in an employment or office and also has service in an employment or office as a teacher which—
- (i) takes place in the period beginning with the day after the closing date and ending with 31 March 2022,
  - (ii) is pensionable service under a Chapter 1 new scheme, and
  - (iii) is not remediable service;
- (h) provision about cases in which a person has a partnership pension account;
- (i) provision about cases in which a person is made redundant;
- (j) provision about cases in which the scheme administrator of a Chapter 1 scheme pays a liability under section 217 or 237B of FA 2004 (joint liability of scheme administrator to lifetime allowance charge or annual allowance charge);
- (k) provision about cases in which remuneration is or was payable to a person on the satisfaction of a condition relating to whether any remediable service of the person is or was, or is or was eligible to be, pensionable service under a particular Chapter 1 scheme (including provision requiring any such remuneration that has been paid to be repaid);
- (l) provision about cases in which a former member of the armed forces—
- (i) is, disregarding section 2(1), entitled under regulation 19 of AFEDP 2014 (lump sum awards: incapacity for armed forces service) to a payment determined (to any extent) by reference to the person's remediable service in an employment or office, or
  - (ii) would be entitled under that regulation to such a payment if the benefits payable to the person, so far as determined by reference the

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person’s remediable service in the employment or office, were new scheme benefits.

- (3) Scheme regulations for a Chapter 1 new scheme may make provision about injury and compensation benefits payable under a relevant injury and compensation scheme to or in respect of a member who has remediable service in an employment or office.
- (4) Provision made under subsection (3) may in particular be made by amending the relevant injury and compensation scheme.
- (5) In subsections (3) and (4) and this subsection—
- (a) “injury and compensation scheme” means a pension scheme that is listed in Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 (existing injury and compensation schemes);
  - (b) an injury and compensation scheme is “relevant”, in relation to a Chapter 1 new scheme, if it is connected with the Chapter 1 new scheme;
  - (c) a reference to “injury and compensation benefits” payable under an injury and compensation scheme is a reference to—
    - (i) in the case of an injury and compensation scheme in relation to which Schedule 6 to PSPA 2013 or Schedule 6 to PSPA(NI) 2014 specifies particular benefits, those benefits;
    - (ii) in the case of any other injury and compensation scheme, any benefits payable under the scheme.
- (6) The provision that may be made by scheme regulations under this section, or under section 19, 20 or 21, includes, in particular—
- (a) provision modifying any provision of this Chapter in its application to persons of a description specified in the regulations;
  - (b) provision corresponding to, or applying, any provision of this Chapter, with or without modifications.
- (7) In this section—
- “adult survivor”, in relation to a member of a Chapter 1 scheme who has remediable service, means a surviving spouse, civil partner or other adult who is entitled under the scheme to a pension determined (to any extent) by reference to the member’s remediable service;
- “AFEDP 2014” means the Armed Forces Early Departure Payments Scheme Regulations 2014 ([S.I. 2014/2328](#));
- “child”, in relation to a member of a Chapter 1 scheme, means any individual who—
- (a) is entitled to receive benefits under the scheme in their capacity as a child of the member, or
  - (b) would have been entitled to receive benefits under the scheme in that capacity on the assumption that any election under this Chapter was, or was not, made in respect of the member;
- “made redundant”: a reference to a person being “made redundant” includes, in relation to a member of the armed forces, a person becoming entitled to a redundancy payment under—
- (a) Part 2 of the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No 2) Order 2010 ([S.I. 2010/832](#)),
  - (b) the Armed Forces Redundancy Scheme Order 2006 ([S.I. 2006/55](#)), or
  - (c) the Armed Forces Redundancy Scheme Order 2020 ([S.I. 2020/1298](#));

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“modifying” includes disapplying or supplementing (and cognate expressions are to be construed accordingly);

“scheme administrator” has the same meaning as in Part 4 of FA 2004 (see section 270 of that Act);

“the armed forces” has the same meaning as in PSPA 2013 (see paragraph 8 of Schedule 1 to that Act).

### *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.
- (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.

## **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.

## **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.
- (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.

*Further provision about corrections, special cases and compensation*

## 26 Interest and process

- (1) Scheme regulations for a Chapter 1 scheme may make provision—
- (a) under which interest is required to be calculated and paid on relevant amounts;
  - (b) about the process by which relevant amounts (and any interest on them) are to be paid.
- (2) Scheme regulations made by virtue of subsection (1)(b) may, in particular, include provision—
- (a) about when relevant amounts (and any interest on them) are to be paid (including provision under which they are paid in instalments);
  - (b) under which relevant amounts (and any interest on them) owed by the scheme to a person may be paid only on the making of an application;

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- (c) for the netting off of relevant amounts (and any interest on them) owed to a person by the scheme against relevant amounts (and any interest on them) owed by the person to the scheme;
  - (d) conferring rights of appeal against decisions taken under the regulations.
- (3) In this section “relevant amounts” means any amounts that are payable by a person to the scheme, or by the scheme to a person, under or by virtue of this Chapter.

## 27 Treasury directions

- (1) The powers mentioned in subsection (2) must be exercised in accordance with Treasury directions.
- (2) The powers are—
- (a) the powers to make scheme regulations by virtue of section 18 (powers to reduce or waive liabilities) and any powers exercisable by virtue of such regulations;
  - (b) the power to make scheme regulations by virtue of section 19 (pension credit members) and any powers exercisable by virtue of such regulations;
  - (c) the power to make scheme regulations by virtue of section 20 (voluntary contributions) and any powers exercisable by virtue of such regulations;
  - (d) the power to make scheme regulations by virtue of section 21 (transfers) and any powers exercisable by virtue of such regulations;
  - (e) the power to make scheme regulations by virtue of section 22 (further powers to make provision about special cases) and any powers exercisable by virtue of such regulations;
  - (f) the power of a scheme manager under section 23(1) (power to pay compensation);
  - (g) the power to make scheme regulations by virtue of section 23(2) (power to require employer to reimburse compensation paid by scheme manager) and any powers exercisable by virtue of such regulations;
  - (h) the power to make scheme regulations by virtue of section 24 (indirect compensation) and any powers exercisable by virtue of such regulations;
  - (i) the power to make scheme regulations by virtue of section 25 (remedial arrangements to pay voluntary contributions to legacy schemes) and any powers exercisable by virtue of such regulations;
  - (j) the power to make scheme regulations by virtue of section 26 (interest and process) and any powers exercisable by virtue of such regulations.
- (3) Treasury directions under this section may provide for amounts that are to be paid by or to a scheme in relation to a member, or any reduction or waiver of a liability to pay such amounts, to be determined—
- (a) taking into account the particular circumstances of the member and (if different) the person to whom or by whom the amount is to be paid or the liability is owed, or
  - (b) without taking into account any or all of the particular circumstances of that person or those persons.
- (4) Treasury directions under this section that relate to the calculation and payment of interest, and variations and revocations of such directions, may only be made after consultation with the Government Actuary.



- (5) For the definition of “Treasury directions”, see section 38(1).

### *Miscellaneous*

## **28 Scheme rules that prohibit unauthorised payments**

- (1) Subsection (2) applies where—
- (a) a payment from a Chapter 1 scheme is permitted or required to be made under or by virtue of this Chapter,
  - (b) the payment, if made, would be an unauthorised payment, and
  - (c) a rule of the scheme prohibits the scheme from making unauthorised payments.
- (2) The payment may be made only if it falls within a description of payments specified for the purposes of this section in Treasury directions.
- (3) In this section “unauthorised payment” means a payment that is an unauthorised payment for the purposes of Part 4 of FA 2004 (see section 160(5) of that Act).

## **29 Remediable service statements**

- (1) Scheme regulations for a Chapter 1 legacy scheme must make provision requiring the scheme manager to provide a statement (a “remediable service statement”) in respect of each member of the scheme who has relevant service in an employment or office.
- (2) For the purposes of this section, service in an employment or office of a member of a Chapter 1 legacy scheme is “relevant service” if either of the following conditions is met in relation to the service.
- (3) The first condition is that the service—
- (a) is opted-out service, and
  - (b) is service in respect of which—
    - (i) an application by virtue of subsection (5)(a) of section 5 (election for retrospective provision to apply) has been made, but
    - (ii) no election by virtue of that section has been made.
- (4) The second condition is that the service is remediable service—
- (a) that is pensionable service under the scheme (whether by virtue of section 2(1) or otherwise), and
  - (b) in relation to which an election by virtue of section 6 or 10 (election for new scheme benefits) has not been made.
- (5) A remediable service statement must include—
- (a) a description of the benefits currently available under the scheme in respect of the relevant service (if any),
  - (b) a description of the benefits that would be available under the scheme in respect of the relevant service if any election under section 5, 6 or 10 that could be made in relation to the service were made,
  - (c) a description of when and how any election that could be made in relation to the service may be made, and
  - (d) a description of—

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- (i) the arrangements (if any) that, by virtue of section 25 (remedial arrangements to pay voluntary contributions to legacy schemes), may be entered into under the scheme, and
  - (ii) the circumstances in which, and the process by which, such arrangements may be entered into.
- (6) Treasury directions may require—
- (a) specified information (in addition to that specified in subsection (5)) to be included in a remediable service statement;
  - (b) information that is included in a remediable service statement to be in a specified form;
  - (c) a remediable service statement to be provided to a specified person or in a specified manner;
  - (d) that a remediable service statement should accompany, or be combined with, a benefit information statement provided under section 14 of PSPA 2013 or section 14 of PSPA(NI) 2014 (benefit information statements).
- In this subsection “specified” means specified in Treasury directions.
- (7) Provision made under subsection (1) must require a remediable service statement in respect of a member of the scheme to be provided on or before the relevant date.
- (8) Provision made under subsection (1) must also—
- (a) in the case of a member of the scheme who has remediable service in an employment or office in relation to which the member is for the time being an active member, require a remediable service statement in respect of the member to be provided at least once in each year ending with the anniversary of the relevant date;
  - (b) in the case of a member of the scheme who has remediable service in an employment or office in relation to which the member is for the time being a deferred member, require a remediable service statement in respect of the member to be provided on request.
- (9) Only one request under subsection (8)(b) may be made during any period of 12 months.
- (10) In this section “the relevant date” means—
- (a) the day after the final day of the period of 18 months beginning with the day on which section 2(1) comes into force in relation to the Chapter 1 legacy scheme, or
  - (b) such later day as the scheme manager considers reasonable in all the circumstances in the case of a particular member or a particular class of member.
- (11) A requirement by virtue of this section to provide a remediable service statement may be satisfied by providing it before this section or any other provision of this Chapter comes into force (and for the purposes of any such statement, references in this section to any provision of this Chapter are to be read as if the provision were in force).

**30 Section 61 of the Equality Act 2010 etc**

- (1) In determining for the purposes of this Chapter whether any service is pensionable service under a particular pension scheme, section 61 of EA 2010 and paragraph 2 of Schedule 1 to EEAR(NI) 2006 (non-discrimination rule) are to be disregarded.
- (2) To the extent that section 61 of EA 2010 or paragraph 2 of Schedule 1 to EEAR(NI) 2006 has the effect (apart from this subsection) that any remediable service of a person—
  - (a) is not pensionable service under a Chapter 1 new scheme, or
  - (b) is pensionable service under a Chapter 1 legacy scheme,
 it ceases to have effect (to that extent) immediately before the coming into force of section 2(1).

*Immediate detriment cases***31 Application of Chapter to immediate detriment cases**

- (1) Subject as follows, nothing in sections 2 to 30 applies in relation to a person's remediable service in an employment or office if an immediate detriment remedy has been obtained in relation to the service.
- (2) Scheme regulations for a Chapter 1 scheme may make provision for the purpose of putting persons who have rights in respect of remediable service in relation to which an immediate detriment remedy has been obtained, so far as possible, in the position that they would have been in if there had been no relevant breach of a non-discrimination rule in relation to the service.
- (3) The provision that may be made under subsection (2) includes, in particular—
  - (a) provision corresponding to any provision of sections 2 to 30, or
  - (b) provision applying any provision of this Chapter in its application to persons of a description specified in the regulations,
 with or without modifications.
- (4) 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.
- (5) 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.

**32 Whether an “immediate detriment remedy” has been obtained**

- (1) For the purposes of section 31 an “immediate detriment remedy” has been obtained in relation to a person's remediable service in an employment or office if either of the following conditions is met.

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- (2) The first condition is that—
- (a) a court or tribunal has determined that, as a result of a non-discrimination rule, any person has any rights under a Chapter 1 scheme in respect of the remediable service, and
  - (b) the scheme manager of the scheme has—
    - (i) paid any benefits or compensation in accordance with the determination, or
    - (ii) taken any other step (for example, altering records) to implement the determination.
- (3) The second condition is that—
- (a) the scheme manager of a Chapter 1 scheme and any person have agreed that, as a result of a non-discrimination rule, the person has any rights under a Chapter 1 scheme in respect of the remediable service, and
  - (b) the scheme manager of the scheme has—
    - (i) paid any benefits or compensation in accordance with the agreement, or
    - (ii) taken any other step (for example, altering records) to implement the agreement.
- (4) 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.

### *Interpretation*

## **33 Meaning of “Chapter 1 scheme” etc**

- (1) “A Chapter 1 scheme” means—
- (a) a Chapter 1 new scheme, or
  - (b) a Chapter 1 legacy scheme.
- (2) “A Chapter 1 new scheme” means—
- (a) a scheme under section 1 of PSPA 2013 (schemes for persons in public service) which—
    - (i) is a defined benefits scheme,
    - (ii) is not a scheme for holders of a judicial office, and
    - (iii) is not a scheme for local government workers (within the meaning of that Act), or
  - (b) a scheme under section 1 of PSPA(NI) 2014 (schemes for persons in public service) which—
    - (i) is a defined benefits scheme,
    - (ii) is not a scheme for holders of a judicial office, and
    - (iii) is not a scheme for local government workers (within the meaning of that Act).
- (3) “A Chapter 1 legacy scheme” means—
- (a) an existing scheme (within the meaning of PSPA 2013), other than—

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- (i) a scheme mentioned in any of paragraphs 2 to 15 of Schedule 5 to that Act (judicial schemes), or
    - (ii) a scheme mentioned in paragraph 16 or 17 of that Schedule (local government workers), or
  - (b) an existing scheme (within the meaning of PSPA(NI) 2014), other than—
    - (i) a scheme mentioned in paragraph 2 of Schedule 5 to that Act (judicial schemes), or
    - (ii) a scheme mentioned in paragraph 3 of that Schedule (local government workers).
- (4) In this section “judicial office” has the same meaning as in Chapter 2 (see section 71).
- (5) This section has effect for the purposes of this Chapter.

### **34 Meaning of “new scheme benefits”**

- (1) Subsection (2) defines “new scheme benefits” in relation to the remediable service in an employment or office of a member of a Chapter 1 legacy scheme that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) “New scheme benefits” means the benefits that would be payable to or in respect of the member if the remediable service were pensionable service under the relevant Chapter 1 new scheme.
- (3) Where—
- (a) by virtue of section 6 or 10, the benefits payable to or in respect of a member of a Chapter 1 legacy scheme, so far as they are determined by reference to the member’s remediable service, are new scheme benefits, and
  - (b) the corresponding benefits, if payable under the relevant Chapter 1 new scheme, would have been payable only on the meeting of a condition (for example that the member attains a particular age or makes a particular election),
- the new scheme benefits are payable under the Chapter 1 legacy scheme to or in respect of the member only on the meeting of that condition.
- (4) In this section “the relevant Chapter 1 new scheme”, in relation to a Chapter 1 legacy scheme, means the Chapter 1 new scheme that is connected with the Chapter 1 legacy scheme.
- (5) This section has effect for the purposes of this Chapter.

### **35 Meaning of “legacy scheme contributions” and “new scheme contributions”**

- (1) Subsections (2) and (3) apply in relation to a member of a Chapter 1 legacy scheme who has remediable service in an employment or office that is pensionable service under the scheme (whether or not by virtue of section 2(1)).
- (2) The member’s “legacy scheme contributions” for a tax year are the pension contributions that would have been payable by the member under the scheme in the tax year in respect of the remediable service if the service had, at the time it took place, been pensionable service under the scheme.
- (3) The member’s “new scheme contributions” for a tax year are the pension contributions that would have been payable by the member under the relevant Chapter 1 new scheme

in the tax year in respect of the remediable service if the service had, at the time it took place, been pensionable service under that scheme.

- (4) In this section “the relevant Chapter 1 new scheme”, in relation to a Chapter 1 legacy scheme, means the Chapter 1 new scheme that is connected with the Chapter 1 legacy scheme.
- (5) This section has effect for the purposes of this Chapter.

### **36 Meaning of “opted-out service”**

- (1) Any continuous period of service of a person in an employment or office is “opted-out service” in that employment or office if—
- (a) the first, third, and fourth conditions in section 1 are met in relation to the person and the service, and
  - (b) the second condition in that section is not met in relation to the service, but would have been met if the person had not opted that the service should not be (or had opted that the service should be) pensionable service under a Chapter 1 scheme.
- (2) For the purposes of subsection (1)(b) a person is treated as having opted that service should not be pensionable service under a Chapter 1 scheme if the service would have been pensionable service under that scheme (or would have been if the person had opted that it should be) but for the fact that the person had a partnership pension account.
- (3) This section has effect for the purposes of this Chapter.

### **37 Scheme regulations**

- (1) In this Chapter “scheme regulations”—
- (a) in relation to a Chapter 1 scheme within section 33(2)(a) or (3)(a), has the same meaning as in PSPA 2013 (see section 1(4) of that Act);
  - (b) in relation to a Chapter 1 scheme within section 33(2)(b) or (3)(b), has the same meaning as in PSPA(NI) 2014 (see section 1(4) of that Act).
- (2) A power under this Chapter to make provision by means of scheme regulations for a Chapter 1 legacy scheme—
- (a) is to be exercised by the responsible authority for the Chapter 1 new scheme that is connected with the Chapter 1 legacy scheme, and
  - (b) may be exercised by amending the Chapter 1 legacy scheme.
- (3) In subsection (2) “responsible authority”—
- (a) in relation to a Chapter 1 scheme within section 33(2)(a) or (3)(a), has the same meaning as in PSPA 2013 (see section 2 of that Act);
  - (b) in relation to a Chapter 1 scheme within section 33(2)(b) or (3)(b), has the same meaning as in PSPA(NI) 2014 (see section 2 of that Act).

### **38 Interpretation of Chapter**

- (1) In this Chapter—
- “Agency scheme” means—

- (a) a scheme under section 1 of PSPA 2013 which is a defined benefits scheme for staff of the Secret Intelligence Service or Security Service, or
  - (b) a scheme under section 1 of SA 1972 which is a defined benefits scheme and relates to staff of the Secret Intelligence Service or Security Service;
- “Chapter 1 legacy scheme” has the meaning given by section 33(3);
- “Chapter 1 new scheme” has the meaning given by section 33(2);
- “Chapter 1 scheme” has the meaning given by section 33(1);
- “the closing date” has the meaning given by section 1(8);
- “compensation benefits” means benefits by way of compensation for loss of office or employment;
- “defined benefits scheme”: a pension scheme is a “defined benefits scheme” if or to the extent that the benefits that may be provided under the scheme are not—
- (a) money purchase benefits (within the meaning of PSA 1993 or PS(NI)A 1993), or
  - (b) injury and compensation benefits;
- “the end of the section 6 election period”, in relation to a member of a Chapter 1 legacy scheme, has the meaning given by section 7(2);
- “the end of the section 10 election period”, in relation to a member of a Chapter 1 legacy scheme, has the meaning given by section 11(1);
- “injury benefits” means benefits by way of compensation for incapacity or death as a result of injury or illness;
- “judicial legacy scheme” has the same meaning as in Chapter 2 (see section 70);
- “legacy scheme contributions” has the meaning given by section 35;
- “mixed service” has the meaning given by section 19;
- “new scheme benefits” has the meaning given by section 34;
- “new scheme contributions” has the meaning given by section 35;
- “opted-out service” has the meaning given by section 36;
- “the relevant Chapter 1 legacy scheme”, in relation to a person’s remediable service in an employment or office, has the meaning given by section 4;
- “a relevant firefighters’ legacy scheme” means—
- (a) Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006 (S.I. 2006/3432) (new firefighters’ scheme),
  - (b) Schedule 1 to the Firefighters’ Pension Scheme (Wales) Order 2007 (S.I. 2007/1072) (new firefighters’ scheme),
  - (c) Schedule 1 to the Firefighters’ Pension Scheme (Scotland) Order 2007 (S.S.I. 2007/199) (new firefighters’ scheme), or
  - (d) the Annex to the New Firefighters’ Pension Scheme Order (Northern Ireland) 2007 (S.R. (N.I.) 2007 No. 215) (new firefighters’ scheme);
- “remediable service” has the meaning given by section 1;
- “remediable service statement” has the meaning given by section 29;
- “scheme regulations” has the meaning given by section 37;
- “Treasury directions” means—
- (a) in relation to a Chapter 1 scheme within section 33(2)(a) or (3)(a), directions given by the Treasury;
  - (b) in relation to a Chapter 1 scheme within section 33(2)(b) or (3)(b), directions given by the Department of Finance in Northern Ireland.

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(2) Where—

- (a) a member of a pension scheme has service in multiple employments or offices that is pensionable service under the scheme, and
- (b) the service is aggregated for the purpose of determining the amount of any benefit under the scheme,

the service is treated for the purposes of this Chapter as service in a single employment or office (and references to the employment or office in relation to the service are to be read accordingly).