



# Public Service Pensions Act (Northern Ireland) 2014

CHAPTER 2

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## CHAPTER 2

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## Public Service Pensions Act (Northern Ireland) 2014

### 2014 CHAPTER 2

An Act to make provision for public service pension schemes; and for connected purposes. [11th March 2014]

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

#### *Establishment of new schemes*

#### **Schemes for persons in public service**

**1.**—(1) Regulations may establish schemes for the payment of pensions and other benefits to or in respect of persons specified in subsection (2).

(2) Those persons are—

- (a) civil servants;
- (b) holders of judicial office;
- (c) local government workers;
- (d) teachers;
- (e) health service workers;
- (f) fire and rescue workers;
- (g) members of the police service.

(3) These terms are defined in Schedule 1.

(4) In this Act, regulations under this section are called “scheme regulations”.

#### **Responsible authority for schemes**

**2.**—(1) The persons who may make scheme regulations are set out in Schedule 2.

(2) In this Act, the person who may make scheme regulations for any description of persons specified in section 1(2) is called the “responsible authority” for the scheme for those persons.

### **Scheme regulations**

**3.**—(1) Scheme regulations may, subject to this Act, make such provision in relation to a scheme under section 1 as the responsible authority considers appropriate.

(2) That includes in particular—

- (a) provision as to any of the matters specified in Schedule 3;
- (b) consequential, supplementary, incidental or transitional provision in relation to the scheme or any provision of this Act.

(3) Scheme regulations may—

- (a) make different provision for different purposes or cases (including different provision for different descriptions of persons);
- (b) make retrospective provision (but see section 23);
- (c) allow any person to exercise a discretion.

(4) The consequential provision referred to in subsection (2)(b) includes consequential provision amending any primary legislation made or passed before or within the period of 12 months from the date on which this Act receives Royal Assent (as well as consequential provision amending any secondary legislation).

(5) Scheme regulations require the consent of the Department of Finance and Personnel before being made, unless they are to be made by that Department.

### *Governance*

### **Scheme manager**

**4.**—(1) Scheme regulations for a scheme under section 1 must provide for a person to be responsible for managing or administering—

- (a) the scheme, and
- (b) any statutory pension scheme that is connected with it.

(2) In this Act, that person is called the “scheme manager” for the scheme (or schemes).

(3) The scheme manager may in particular be the responsible authority.

(4) Subsection (1) does not apply to a scheme under section 1 which is an injury or compensation scheme.

(5) Scheme regulations may comply with the requirement in subsection (1)(a) or (b) by providing for different persons to be responsible for managing or administering different parts of a scheme (and references in this Act to the “scheme manager”, in such a case, are to be construed accordingly).

(6) For the purposes of this Act, a scheme under section 1 and another statutory pension scheme are connected if and to the extent that the schemes make provision in relation to persons of the same description.

(7) Scheme regulations may specify exceptions to subsection (6).

### **Pension board**

5.—(1) Subject to subsection (2), scheme regulations for a scheme under section 1 must provide for the establishment of a pension board for the scheme.

(2) Scheme regulations for a scheme under section 1, which is a scheme made by virtue of section 1(2)(c), may make the provision required under subsection (1) above by providing for the appointment of the Northern Ireland Local Government Officers' Superannuation Committee as the pension board for that scheme.

(3) It is the responsibility of the pension board for a scheme to assist the scheme manager (or each scheme manager) in relation to the following matters—

- (a) securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that is connected with it;
- (b) securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator;
- (c) such other matters as the scheme regulations may specify.

(4) In making the regulations the responsible authority must have regard to the desirability of securing the effective and efficient governance and administration of the scheme and any connected scheme.

(5) The regulations must include provision—

- (a) requiring the scheme manager—
  - (i) to be satisfied that a person to be appointed as a member of the board does not have a conflict of interest, and
  - (ii) to be satisfied from time to time that none of the members of the board has a conflict of interest;
- (b) requiring a member of the board, or a person proposed to be appointed as a member of the board, to provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of provision under paragraph (a);
- (c) requiring the board to include employer representatives and member representatives in equal numbers.

(6) In subsection (5)(a) “conflict of interest”, in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).

(7) In subsection (5)(c)—

- (a) “employer representatives” means persons appointed to the board for the purpose of representing employers for the scheme and any connected scheme;
- (b) “member representatives” means persons appointed to the board for the purpose of representing members of the scheme and any connected scheme.

(8) In this Act, “pension board” means a board established or appointed under this section.

(9) This section does not apply to a scheme under section 1 which is an injury or compensation scheme.

#### **Pension board: information**

6.—(1) The scheme manager for a scheme under section 1 and any statutory pension scheme that is connected with it must publish information about the pension board for the scheme or schemes (and keep that information up-to-date).

(2) That information must include information about—

- (a) who the members of the board are,
- (b) representation on the board of members of the scheme or schemes, and
- (c) the matters falling within the board’s responsibility.

(3) This section does not apply to a scheme under section 1 which is an injury or compensation scheme.

#### **Scheme advisory board**

7.—(1) Scheme regulations for a scheme under section 1 which is a defined benefits scheme must provide for the establishment of a board with responsibility for providing advice to the responsible authority, at the authority’s request, on the desirability of changes to the scheme.

(2) Where by virtue of section 4(5), there is more than one scheme manager for a scheme mentioned in subsection (1) (and accordingly there is more than one pension board for the scheme), the regulations may also provide for the board to provide advice (on request or otherwise) to the scheme managers or the scheme’s pension boards in relation to the effective and efficient administration and management of—

- (a) the scheme and any statutory pension scheme that is connected with it, or
- (b) any pension fund of the scheme and any connected scheme.

(3) A person to whom advice is given by virtue of subsection (1) or (2) must have regard to the advice.

(4) The regulations must include provision—

- (a) requiring the responsible authority—
  - (i) to be satisfied that a person to be appointed as a member of the board does not have a conflict of interest, and
  - (ii) to be satisfied from time to time that none of the members of the board has a conflict of interest;
- (b) requiring a member of the board, or a person proposed to be appointed as a member of the board, to provide the responsible authority with such information as the authority reasonably requires for the purposes of provision under paragraph (a).

(5) In subsection (4)(a) “conflict of interest”, in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other

interest arising merely by virtue of membership of the scheme or any connected scheme).

(6) In this Act, a board established under this section is called a “scheme advisory board”.

### *Design*

#### **Types of scheme**

- 8.**—(1) Scheme regulations may establish a scheme under section 1 as—
- (a) a defined benefits scheme,
  - (b) a defined contributions scheme, or
  - (c) a scheme of any other description.
- (2) A scheme under section 1 which is a defined benefits scheme must be—
- (a) a career average revalued earnings scheme, or
  - (b) a defined benefits scheme of such other description as regulations made by the Department of Finance and Personnel may specify.
- (3) Such regulations may not specify a final salary scheme under subsection (2)(b).
- (4) A scheme under section 1 is a “career average revalued earnings scheme” if—
- (a) the pension payable to or in respect of a person, so far as it is based on the person’s pensionable service, is determined by reference to the person’s pensionable earnings in each year of pensionable service, and
  - (b) those earnings, or a proportion of those earnings accrued as a pension, are under the scheme revalued each year until the person leaves pensionable service.
- (5) Regulations made by the Department of Finance and Personnel under subsection (2)(b) are subject to negative resolution.

#### **Revaluation**

- 9.**—(1) This section applies in relation to a scheme under section 1 which—
- (a) requires a revaluation of pensionable earnings of a person, or a proportion of those earnings accrued as a pension, until the person leaves pensionable service, and
  - (b) requires such a revaluation to be by reference to a change in prices or earnings (or both) in a given period.
- (2) The change in prices or earnings to be applied for the purposes of such a revaluation is to be such percentage increase or decrease as an order made by the Department of Finance and Personnel may specify in relation to the period.
- (3) For the purposes of making such an order the Department of Finance and Personnel may determine the change in prices or earnings in any period by reference to the general level of prices or earnings estimated in such manner as the Department considers appropriate.

(4) An order made by the Department of Finance and Personnel under this section—

- (a) must be made in each year;
- (b) may make different provision for different purposes.

(5) An order made by the Department of Finance and Personnel under this section is subject to—

- (a) the affirmative procedure, if the order specifies a percentage decrease for the purposes of subsection (2), and
- (b) negative resolution, in any other case.

(6) For the purposes of subsection (1) any gap in the person's pensionable service which does not exceed 5 years is to be disregarded.

### **Pension age**

**10.**—(1) The normal pension age of a person under a scheme under section 1 must be—

- (a) the same as the person's state pension age, or
- (b) 65, if that is higher.

(2) Subsection (1) does not apply in relation to fire and rescue workers who are firefighters.

The normal pension age for such persons under a scheme under section 1 must be the age specified by the scheme regulations for the scheme; and such regulations may specify any age not exceeding 60, but not less than 55.

(3) Subsection (1) does not apply in relation to members of the police service.

The normal pension age for such persons under a scheme under section 1 must be 60.

(4) The deferred pension age of a person under a scheme under section 1 must be—

- (a) the same as the person's state pension age, or
- (b) 65, if that is higher.

(5) Where—

- (a) a person's state pension age changes, and
- (b) the person's normal or deferred pension age under a scheme under section 1 changes as a result of subsection (1) or (4),

the change to the person's normal or deferred pension age must under the scheme apply in relation to all the benefits (including benefits already accrued under the scheme) which may be paid to or in respect of the person under the scheme and to which the normal or deferred pension age is relevant.

(6) The Department of Finance and Personnel may by order, made in relation to persons under a scheme under section 1 who are persons of such description as is specified in the order, provide—

- (a) that subsections (1) and (4) do not apply in relation to such persons, and
- (b) that the normal pension age and the deferred pension age in relation to such persons is such age as the order may provide.

(7) Before making an order under subsection (6), the Department must consult such persons (or representatives of such persons) as appear to the Department likely to be affected by the order.

(8) An order under subsection (6) is subject to the affirmative procedure.

(9) The Department of Finance and Personnel must conduct a review at intervals of not less than every two years following commencement of section 10 as to how the provisions of this Act affect the persons set out in section 1(2) and shall lay a report of the review before the Assembly on or before six months following the commencement of the review.

(10) In this Act—

- (a) “normal pension age”, in relation to a person and a scheme, means the earliest age at which the person is entitled to receive benefits under the scheme (without actuarial adjustment) on leaving the service to which the scheme relates (and disregarding any special provision as to early payment of benefits on the grounds of ill-health or otherwise);
- (b) “deferred pension age”, in relation to a person and a scheme, means the earliest age at which the person is entitled to receive benefits under the scheme (without actuarial adjustment) after leaving the service to which the scheme relates at a time before normal pension age (and disregarding any special provision as to early payment of benefits on the grounds of ill-health or otherwise);
- (c) “state pension age”, in relation to a person, means the pensionable age of the person as specified from time to time in Part 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995.

#### *Cost control*

### **Valuations**

**11.**—(1) Scheme regulations for a scheme under section 1 which is a defined benefits scheme must provide for actuarial valuations to be made of—

- (a) the scheme, and
- (b) any statutory pension scheme that is connected with it.

(2) Such a valuation is to be carried out in accordance with directions given by the Department of Finance and Personnel.

(3) Directions under subsection (2) may in particular specify—

- (a) how and when a valuation is to be carried out;
- (b) the time in relation to which a valuation is to be carried out;
- (c) the data, methodology and assumptions to be used in a valuation;
- (d) the matters to be covered by a valuation;
- (e) where a scheme under section 1 and another statutory pension scheme are connected, whether the schemes are to be valued separately or together (and if together, how);
- (f) the period within which any changes to the employer contribution rate under a scheme under section 1 must take effect following a valuation.

(4) Directions under subsection (2) may only be given, and variations and revocations of such directions may only be made, after the Department of Finance and Personnel has consulted the Government Actuary.

(5) Before giving directions under this section the Department of Finance and Personnel must consult such persons (or representatives of such persons) as appear to the Department likely to be affected by the directions.

(6) Scheme regulations for a scheme under section 1 which is not a defined benefits scheme may provide for actuarial valuations to be made of the scheme and any statutory pension scheme which is connected with it; and if they do, subsections (2) to (5) apply.

### **Employer cost cap**

**12.**—(1) Scheme regulations for a scheme under section 1 which is a defined benefits scheme must set a rate, expressed as a percentage of pensionable earnings of members of the scheme, to be used for the purpose of measuring changes in the cost of the scheme.

(2) In this section, the rate set under subsection (1) is called the “employer cost cap”.

(3) The employer cost cap is to be set in accordance with directions given by the Department of Finance and Personnel.

(4) Directions given by the Department of Finance and Personnel may in particular specify—

- (a) how the first valuation under section 11 of a scheme under section 1 is to be taken into account in setting the cap;
- (b) the costs, or changes in costs, that are to be taken into account on subsequent valuations of a scheme under section 1 for the purposes of measuring changes in the cost of the scheme against the cap;
- (c) the extent to which costs or changes in the costs of any statutory pension scheme which is connected with a scheme under section 1 are to be taken into account for the purposes of this section.

(5) Regulations made by the Department of Finance and Personnel must make—

- (a) provision requiring the cost of a scheme (and any connected scheme) to remain within specified margins either side of the employer cost cap; and
- (b) for cases where the cost of a scheme would otherwise go beyond either of those margins, provision specifying a target cost within the margins.

(6) For cases where the cost of the scheme would otherwise go beyond the margins, scheme regulations may provide for—

- (a) a procedure for the responsible authority, the scheme manager (if different), employers and members (or representatives of employers and members) to reach agreement on the steps required to achieve the target cost for the scheme, and
- (b) the steps to be taken for that purpose if agreement is not reached under that procedure.

(7) The steps referred to in subsection (6) may include the increase or decrease of members' benefits or contributions.

(8) Regulations made by the Department of Finance and Personnel under this section may—

- (a) include consequential or supplementary provision;
- (b) make different provision for different schemes.

(9) Regulations made by the Department of Finance and Personnel under this section are subject to negative resolution.

(10) Before giving directions or making regulations under this section the Department of Finance and Personnel must consult such persons (or representatives of such persons) as appear to the Department likely to be affected by the directions or regulations.

### **Employer contributions in funded schemes**

**13.**—(1) This section applies in relation to a scheme under section 1 which is a defined benefits scheme with a pension fund.

(2) Scheme regulations must provide for the rate of employer contributions to be set at an appropriate level to ensure—

- (a) the solvency of the pension fund, and
- (b) the long-term cost-efficiency of the scheme, so far as relating to the pension fund.

(3) For that purpose, scheme regulations must require actuarial valuations of the pension fund.

(4) Where an actuarial valuation under subsection (3) has taken place, a person appointed by the responsible authority is to report on whether the following aims are achieved—

- (a) the valuation is in accordance with the scheme regulations;
- (b) the valuation has been carried out in a way which is not inconsistent with other valuations under subsection (3);
- (c) the rate of employer contributions is set as specified in subsection (2).

(5) A report under subsection (4) must be published; and a copy must be sent to the scheme manager and (if different) the responsible authority.

(6) If a report under subsection (4) states that, in the view of the person making the report, any of the aims in that subsection has not been achieved—

- (a) the report may recommend remedial steps;
- (b) the scheme manager must—
  - (i) take such remedial steps as the scheme manager considers appropriate, and
  - (ii) publish details of those steps and the reasons for taking them;
- (c) the responsible authority may—
  - (i) require the scheme manager to report on progress in taking remedial steps;

- (ii) direct the scheme manager to take such remedial steps as the responsible authority considers appropriate.
- (7) The person appointed under subsection (4) must, in the view of the responsible authority, be appropriately qualified and must not be—
- (a) an employee of the responsible authority;
  - (b) the scheme manager;
  - (c) a scheme member; or
  - (d) an employee of the Department of Finance and Personnel.

#### *Administration*

#### **Information about benefits**

**14.**—(1) Scheme regulations must require the scheme manager for a scheme under section 1 which is a defined benefits scheme to provide benefit information statements to each person in pensionable service under the scheme in accordance with this section.

- (2) A benefit information statement must include—
- (a) a description of the benefits earned by the person in respect of his or her pensionable service, and
  - (b) such other information as directions given by the Department of Finance and Personnel may specify.
- (3) The information included in a benefit information statement must comply with such requirements as directions given by the Department of Finance and Personnel may specify.
- (4) A benefit information statement must be provided—
- (a) no later than the relevant date, and
  - (b) at least once in each year ending with the anniversary of that date.
- (5) The relevant date is the last day of the period of 17 months beginning with the day on which scheme regulations establishing the scheme come into force.
- (6) A benefit information statement must be provided in such manner as directions given by the Department of Finance and Personnel may specify.

#### **Information about schemes**

**15.**—(1) Directions given by the Department of Finance and Personnel may require the scheme manager or responsible authority of a scheme under section 1 to—

- (a) publish scheme information, or
  - (b) provide scheme information to the Department of Finance and Personnel.
- (2) In subsection (1), “scheme information” means information about the scheme and any statutory pension scheme that is connected with it.
- (3) The information to which directions given by the Department of Finance and Personnel under this section may relate includes in particular—
- (a) scheme accounts;

- (b) information about any scheme funding, assets and liabilities;
- (c) information about scheme membership;
- (d) information about employer and member contributions;
- (e) information about scheme administration and governance.

(4) Directions given by the Department of Finance and Personnel under this section may specify how and when information is to be published or provided.

(5) Directions given by the Department of Finance and Personnel under this section may not require publication or provision of anything that the scheme manager or responsible authority could not otherwise lawfully publish or provide.

### **Records**

**16.—**(1) The scheme manager for a scheme under section 1 and any statutory pension scheme that is connected with it must keep such records as may be specified in regulations made by the Department for Social Development.

(2) Regulations under this section are subject to negative resolution.

### **Regulatory oversight**

**17.—**(1) Schedule 4 (regulatory oversight) contains provision relating to the regulation of schemes under section 1, new public body pension schemes and connected schemes.

(2) The Department for Social Development may by order make—

- (a) provision consequential on Schedule 4, and
- (b) further provision for, or in connection with, the regulation of public service pension schemes within the meaning of the Pensions (Northern Ireland) Order 2005 (as amended by that Schedule).

(3) The provision referred to in subsection (2) includes provision made by amending any legislation (including this Act).

(4) An order under this section may make different provision for different purposes.

(5) An order under this section is subject to the confirmatory procedure, that is to say, the order—

- (a) must be laid before the Assembly after being made; and
- (b) takes effect on such date as may be specified in the order, but (without prejudice to the validity of anything done thereunder or to the making of a new order) ceases to have effect upon the expiration of a period of 6 months from that date unless at some time before the expiration of that period the order is approved by a resolution of the Assembly.

### *Transitional*

### **Restriction of existing pension schemes**

**18.—**(1) No benefits are to be provided under an existing scheme to or in respect of a person in relation to the person's service after the closing date.

(2) In this Act "existing scheme" means a scheme listed in Schedule 5 (whether made before or after this section comes into force).

- (3) Subsection (1) does not apply—
- (a) in relation to an existing scheme which is a defined contributions scheme;
  - (b) to benefits excepted by Schedule 5 (injury and compensation benefits).
- (4) The closing date is 31 March 2015. This is subject to subsection (8).
- (5) Scheme regulations may provide for exceptions to subsection (1) in the case of—
- (a) persons who were members of an existing scheme, or who were eligible to be members of such a scheme, immediately before 1 April 2012, and
  - (b) such other persons as the regulations may specify, being persons who before that date had ceased to be members of an existing scheme or to be eligible for membership of such a scheme.
- (6) Scheme regulations may also provide for exceptions to subsection (1) in the case of—
- (a) persons who were members of a public body pension scheme specified in the regulations, or who were eligible to be members of such a scheme, immediately before 1 April 2012, and
  - (b) such other persons as the regulations may specify, being persons who before that date had ceased to be members of a scheme referred to in paragraph (a) or to be eligible for membership of such a scheme.
- (7) Exceptions under subsection (5) or (6) may, in particular, be framed by reference to the satisfaction of a specified condition (for example, the attainment of normal pension age under the existing scheme or another specified age) before a specified date.
- (8) Where an exception to subsection (1) is framed by reference to the satisfaction of a specified condition before a specified date, scheme regulations may also provide for a different closing date for persons in whose case the condition—
- (a) is not satisfied before the specified date, but
  - (b) is satisfied no more than 4 years after that date.
- (9) Provision made under subsection (5), (6) or (8) may in particular be made by amending the relevant existing scheme.
- (10) In subsection (1), the reference to benefits in relation to a person's service includes benefits relating to the person's death in service.
- (11) In subsection (4), "the relevant local government scheme" means regulations under Article 9 of the Superannuation Order.

### **Closure of existing injury and compensation schemes**

**19.**—(1) Scheme regulations for a scheme under section 1 may secure that no benefits are to be provided under a scheme listed in Schedule 6 that is connected with it.

(2) Where Schedule 6 specifies particular benefits in relation to a scheme, the power under subsection (1) is exercisable only in relation to those benefits.

(3) Scheme regulations may provide for exceptions to subsection (1).

(4) Provision made under this section may in particular be made by amending the connected scheme.

### **Final salary link**

**20.** Schedule 7 contains provision for a “final salary link” in relation to schemes to which section 18(1) applies (and see section 32(13)).

### *Procedure for scheme regulations*

### **Consultation**

**21.—**(1) Before making scheme regulations the responsible authority must consult such persons (or representatives of such persons) as appear to the authority likely to be affected by them.

(2) The responsible authority must publish a statement indicating the persons that the authority would normally expect to consult under subsection (1) (and keep the statement up-to-date).

(3) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the coming into force of this section.

### **Procedure for protected elements**

**22.—**(1) This section applies where, after the coming into force of scheme regulations establishing a scheme under section 1, the responsible authority proposes to make further scheme regulations containing provision changing the protected elements of the scheme within the protected period.

(2) The responsible authority must—

(a) consult the persons specified in subsection (3) with a view to reaching agreement with them, and

(b) lay a report before the Assembly.

(3) The persons referred to in subsection (2)(a) are the persons (or representatives of the persons) who appear to the responsible authority to be likely to be affected by the regulations if they were made.

(4) The report under subsection (2)(b) must set out why the responsible authority proposes to make the regulations, having regard to the desirability of not making a change to the protected elements of a scheme under section 1 within the protected period.

(5) In this section—

“protected period” means the period beginning with the coming into force of this section and ending with 31 March 2040;

“protected elements”, in relation to a scheme under section 1, means—

(a) the extent to which the scheme is a career average revalued earnings scheme;

(b) members’ contribution rates under the scheme;

(c) benefit accrual rates under the scheme.

(6) In this section, references to a change to the protected elements do not include a change appearing to the responsible authority to be required by or consequential upon section 12 (employer cost cap).

(7) In a case where this section applies, there is no requirement to consult under section 21(1).

### **Procedure for retrospective provision**

**23.**—(1) Where the responsible authority proposes to make scheme regulations containing retrospective provision which appears to the authority to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme, the authority must first obtain the consent of the persons referred to in subsection (3).

(2) Where the responsible authority proposes to make scheme regulations containing retrospective provision which appears to the authority—

- (a) not to have significant adverse effects as specified in subsection (1), but
- (b) to have significant adverse effects in any other way in relation to members of the scheme (for example, in relation to injury or compensation benefits),

the authority must first consult the persons specified in subsection (3) with a view to reaching agreement with them.

(3) The persons referred to in subsections (1) and (2) are the persons (or representatives of the persons) who appear to the responsible authority to be likely to be affected by the provision if it were made.

(4) The responsible authority must, in a case falling within subsection (1) or (2), lay a report before the Assembly.

(5) In a case falling within subsection (1) or (2) there is no requirement to consult under section 21(1).

### **Other procedure**

**24.**—(1) Scheme regulations are subject to the affirmative procedure (see section 35(1)) if—

- (a) they amend primary legislation,
- (b) section 23(1) or (2) (procedure for retrospective provision having significant adverse effects) applies, or
- (c) they are scheme regulations for a scheme relating to holders of judicial office, unless the pension board for that scheme has stated that it considers the regulations to be minor or wholly beneficial.

(2) Scheme regulations are subject to negative resolution in any other case.

(3) If scheme regulations otherwise subject to negative resolution are combined with scheme regulations subject to the affirmative procedure, the combined regulations are subject to the affirmative procedure.

*New schemes: supplementary*

**Extension of schemes**

**25.**—(1) Scheme regulations for a scheme under section 1 may make provision for the payment of pensions and other benefits to or in respect of—

- (a) persons specified in section 1(2), but
- (b) in relation to whom the responsible authority could not otherwise make a scheme under section 1.

(2) Scheme regulations for a scheme under section 1 may make provision to deem persons of any description to fall within a given description of persons specified in section 1(2).

(3) Scheme regulations for a scheme under section 1 may specify persons, not being persons specified in section 1(2), as persons to whom the scheme may potentially relate.

(4) The persons specified under subsection (3) may be any persons (other than persons specified in section 1(2)) that the responsible authority considers appropriate.

(5) The responsible authority may then at any time determine that the scheme is to relate to some or all of those persons.

(6) By virtue of a determination under subsection (5) the scheme regulations then apply to the persons to whom the determination relates as they apply to other persons to or in respect of whom pensions and other benefits are provided under the scheme (or such class of other persons as may be specified in the determination).

(7) Subsection (6) is subject to—

- (a) any special provision made in the scheme regulations, and
- (b) a direction under subsection (8).

(8) Scheme regulations made under subsection (2) or (3) in relation to any persons may include provision authorising the responsible authority by direction to modify provisions of the regulations in their application to those persons for the purpose of—

- (a) securing appropriate protection against additional costs to the scheme that might result from the application of the scheme regulations to those persons,
- (b) obtaining information about those persons, their employers and other relevant persons, or
- (c) taking appropriate account of—
  - (i) the arrangements under which those persons are employed, and
  - (ii) the organisational structures of their employers.

(9) The responsible authority for a scheme under section 1 must publish a list of the persons to whom the scheme relates by virtue of determinations under subsection (5) (and keep the published list up-to-date).

(10) A determination under subsection (5) may have retrospective effect.

(11) Where, by virtue of section 4(5), there is more than one scheme manager for a scheme under section 1, the responsible authority may delegate its functions under subsection (5) or (9) to the scheme managers, subject to such conditions as the responsible authority considers appropriate.

### **Non-scheme benefits**

**26.**—(1) The scheme manager or employer for a scheme under section 1 may make such payments as the scheme manager or employer considers appropriate towards the provision, otherwise than by virtue of the scheme, of pensions and other benefits to or in respect of;

- (a) persons within the description of persons specified in section 1(2) for which the responsible authority may make the scheme, and
- (b) any other persons to whom a scheme relates by virtue of section 25.

(2) Subsection (1) is subject to any provision made in the scheme regulations for the scheme that restricts or otherwise affects the power to make payments under that subsection.

### **Consequential and minor amendments**

**27.** Schedule 8 contains consequential and minor amendments.

*Existing schemes: supplementary*

### **Existing local government scheme**

**28.**—(1) This section applies in relation to regulations under Article 9 of the Superannuation Order, which are in force immediately before the coming into force of this section.

(2) To the extent that—

- (a) such regulations make provision for the payment of pensions and other benefits to or in respect of a person in relation to the person's service on or after 1 April 2015, and
- (b) that provision could be made under scheme regulations, the regulations are to have effect as if they were scheme regulations relating to local government workers.

(3) Accordingly, to that extent a scheme under such regulations is to have effect as a scheme under section 1.

### **Existing schemes for civil servants: extension of access**

**29.** Schedule 9 amends the Superannuation Order so as to extend access to schemes under Article 3 of that Order (schemes as respects civil servants, etc.).

### **Police pensions**

**30.**—(1) Regulations C9 and C9A of the Royal Ulster Constabulary Pension Regulations (Northern Ireland) 1988 (S.R. 1988 No. 374), as substituted by Schedule 1 to the Police Service of Northern Ireland Pensions (Amendment No. 2) Regulations (Northern Ireland) 2006, (S.R. 2006 No. 152) (widow's, etc. pension or gratuity to terminate on re-marriage or other event) shall cease to have effect as from the reinstatement date.

(2) Where any person's entitlement to receive payment on account of a pension or a gratuity under the Regulations of 1988 was terminated by virtue of regulation C9 or C9A, the pension or gratuity shall be reinstated and become payable as from the reinstatement date.

(3) Nothing in this section authorises or requires any payment on account of a pension in respect of any period before the reinstatement date.

(4) For the purposes of this section the reinstatement date is 1 July 2014.

*Public body pension schemes*

**New public body pension schemes**

**31.**—(1) The following provisions of this Act apply in relation to a new public body pension scheme (and any statutory pension scheme that is connected with it) as to a scheme under section 1 (and any connected scheme)—

- (a) section 3(1) and (2) and Schedule 3 (scheme regulations);
- (b) section 4 (scheme manager);
- (c) sections 5 and 6 (pension board), if the scheme has more than one member;
- (d) sections 8 to 10 (scheme design);
- (e) sections 11 and 12 (cost control);
- (f) sections 14 to 16 (information and records).

(2) For the purposes of subsection (1), the provisions referred to in that subsection are to be read with the following modifications—

- (a) references to scheme regulations are to be read as references to the rules of the scheme;
- (b) references to the responsible authority are to be read as references to the public authority which established the scheme.

(3) A new public body pension scheme, and any variation to the rules of the scheme, requires the consent of the Department of Finance and Personnel.

(4) In this Act—

“public body pension scheme” means a scheme (other than an existing scheme) established by a public authority for the payment of pensions and other benefits to or in respect of members or staff of a statutory body or the holder of a statutory office;

“new public body pension scheme” means a public body pension scheme established after the coming into force of this section.

**Power to restrict other existing public body pension schemes**

**32.**—(1) This section applies to any public body pension scheme specified in an order made by the Department of Finance and Personnel and which relates to members or staff of a body, or the holder of an office, so specified (by name or description).

(2) The public authority responsible for the scheme must make provision to secure that no benefits are provided under the scheme to or in respect of a person in relation to the person's service after a date determined by the authority.

(3) An order under subsection (1)—

- (a) must not specify a public body pension scheme which is a defined contributions scheme, and
- (b) must except injury or compensation benefits provided under a scheme which is specified.

(4) The public authority responsible for a scheme to which subsection (2) applies may provide for other exceptions to the provision made under subsection (2) and section 18 (7) and (8) apply in relation to any such exceptions (reading references to scheme regulations as references to rules of the scheme).

(5) Provision made under subsection (2) or (4) may in particular be made by amending the public body pension scheme.

(6) In subsection (2), the reference to benefits in relation to a person's service includes benefits relating to the person's death in service.

(7) If—

- (a) subsection (2) applies to a scheme, and
- (b) any of the persons to whom the scheme relates are not eligible for membership of a scheme under section 1,

the public authority responsible for the scheme may establish a new scheme for the payment of pensions or other benefits to or in respect of those persons (and see section 31).

(8) Where a scheme to which subsection (2) applies was established in exercise of a statutory function or other power, the function or power may not be exercised again so as to establish a new defined benefits scheme in relation to the body or office.

(9) In the case of a scheme established by deed of trust, subsections (2) and (4) apply irrespective of the provisions of the deed or the law relating to trusts.

(10) An order under subsection (1) may make consequential or supplementary provision, including in particular provision made by amending any legislation.

(11) An order under subsection (1) is subject to negative resolution.

(12) It is immaterial for the purposes of subsection (1) whether a scheme is made before or after the coming into force of this section.

(13) Schedule 7 contains provision for a "final salary link" in relation to schemes to which subsection (2) applies.

#### **Existing public body pension schemes: pension age**

**33.—**(1) A public body pension scheme established before the coming into force of this section may include—

- (a) provision securing that the normal and deferred pension age of a person under the scheme is—
  - (i) the same as the person's state pension age, or
  - (ii) 65, if that is higher, and

(b) provision securing that changes in the person's normal or deferred pension age occurring in consequence of provision under paragraph (a) apply in relation to relevant accrued benefits (as well as other benefits).

(2) In subsection (1)(b) "relevant accrued benefits", in relation to a person and a scheme, means benefits accrued after the coming into force of the provision under subsection (1) which may be paid to or in respect of the person under the scheme and to which the normal or deferred pension age is relevant.

### *General*

#### **General interpretation**

**34.** In this Act—

"the affirmative procedure" has the meaning given in section 35;

"body" includes an unincorporated body or organisation of persons (for example, a committee or board of trustees);

"career average revalued earnings scheme" has the meaning given in section 8(4);

"civil servants" has the meaning given in Schedule 1;

"compensation benefits" means benefits by way of compensation for loss of office or employment;

"connected", in relation to a scheme under section 1 and another statutory pension scheme, or a new public body pension scheme and another statutory pension scheme, has the meaning given by section 4(6);

"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 money purchase benefits (within the meaning of the Pension Schemes (Northern Ireland) Act 1993) or injury and compensation benefits;

"defined contributions scheme": a pension scheme is a "defined contributions scheme" if or to the extent that the benefits that may be provided under the scheme are money purchase benefits (within the meaning of the Pension Schemes (Northern Ireland) Act 1993);

"deferred pension age" has the meaning given in section 10(10);

"earnings" includes any remuneration or profit derived from an employment;

"employer", in relation to a pension scheme, means—

(a) any employer of persons to whom the scheme relates,

(b) the person responsible for the remuneration of an office-holder to whom the scheme relates, or

(c) such other persons (in addition to, or instead of, any person falling within paragraph (a) or (b)) as scheme regulations or (in the case of a public body pension scheme) the rules of the scheme may provide;

"existing scheme" has the meaning given in section 18(2);

"final salary", in relation to a person to or in respect of whom a pension under a pension scheme is payable, means the person's pensionable earnings, or highest, average or representative pensionable earnings, in a specified

- period ending at, or defined by reference to, the time when the person's pensionable service in relation to that scheme terminates;
- “final salary scheme”: a pension scheme is a “final salary scheme” if entitlement to the pension payable to or in respect of a person which is based on the pensionable service of that person is or may be determined to any extent by reference to the person's final salary;
- “fire and rescue workers” has the meaning given in Schedule 1;
- “holders of judicial office” has the meaning given in Schedule 1;
- “injury benefits” means benefits by way of compensation for incapacity or death as a result of injury or illness;
- “injury or compensation scheme”: a pension scheme is an “injury or compensation scheme” if it provides only for injury or compensation benefits (or both);
- “health service workers” has the meaning given in Schedule 1;
- “legislation” means primary or secondary legislation;
- “local government workers” has the meaning given in Schedule 1;
- “members of the police service” has the meaning given in Schedule 1;
- “normal pension age” has the meaning given in section 10(10);
- “pension board” has the meaning given in section 5(8);
- “pension scheme” means a scheme for the payment of pensions or other benefits to or in respect of persons with service of a particular description;
- “pensionable earnings”, in relation to a pension scheme and a member of it, means earnings by reference to which a pension or other benefits under the scheme are calculated;
- “pensionable service”, in relation to a pension scheme, means service which qualifies a person to a pension or other benefits under that scheme;
- “primary legislation” means Northern Ireland legislation or any provision of an Act of Parliament of the United Kingdom that would be within the legislative competence of the Assembly were that provision contained in an Act of the Assembly;
- “public authority” means—
- (a) a statutory body or the holder of a statutory office, or
  - (b) a person exercising a statutory function;
- “public body pension scheme” and “new public body pension scheme” have the meanings given in section 31(4);
- “responsible authority”, in relation to a scheme under section 1, has the meaning given by section 2(2);
- “scheme” includes arrangements of any description;
- “scheme advisory board” has the meaning given in section 7(6);
- “scheme manager”, in relation to a scheme under section 1, has the meaning given in section 4(2);
- “scheme regulations” has the meaning given in section 1(4);
- “secondary legislation” means an instrument made under primary legislation;
- “staff”, in relation to a body, includes any employee or officer of the body;

- “state pension age” has the meaning given in section 10(10);
- “statutory body” and “statutory office” mean a body or office established under any legislation;
- “statutory function” means a function conferred by any legislation;
- “statutory pension scheme” means—
- (a) a pension scheme which is established by or under any legislation, and
  - (b) a public body pension scheme which is not so established;
- “the Superannuation Order” means the Superannuation (Northern Ireland) Order 1972;
- “teachers” has the meaning given in Schedule 1.

### **Regulations, orders and directions**

**35.**—(1) In this Act, “the affirmative procedure” means, in relation to regulations or an order, that the regulations or order may not be made unless a draft of the statutory rule containing them or it has been laid before, and approved by resolution of, the Assembly.

(2) Directions given under this Act by the Department of Finance and Personnel may be varied or revoked.

### *Final*

### **Financial provision**

**36.** There shall be paid out of money provided by the Assembly—

- (a) any expenditure incurred for the provision, under scheme regulations made by the Department of Justice, of any pension or other sum payable to or in respect of persons who have been holders of judicial office, and
- (b) any increase attributable to such provision in the sums payable under or by virtue of any other statutory provision out of money so provided.

### **Commencement**

**37.**—(1) The following provisions of this Act come into force on the day on which this Act is passed—

- (a) section 29 and Schedule 9 (existing schemes for civil servants: extension of access);
- (b) section 30;
- (c) sections 34 to 36, this section and section 38.

(2) The other provisions of this Act come into force on such day or days as the Department of Finance and Personnel may by order appoint.

(3) An order under subsection (2) may—

- (a) appoint different days for different purposes;
- (b) make transitional, transitory or saving provision.

### **Short title**

**38.** This Act may be cited as the Public Service Pensions Act (Northern Ireland) 2014.

## SCHEDULES

Section 1(3).

### SCHEDULE 1

#### PERSONS IN PUBLIC SERVICE: DEFINITIONS

##### *Civil servants*

1. In this Act, “civil servants” means persons employed in the civil service of Northern Ireland.

##### *Holders of judicial office*

2.—(1) In this Act, “holders of judicial office” means holders of an office specified in an order made by the Department of Justice.

(2) An order under this paragraph is subject to negative resolution.

##### *Local government workers*

3.—(1) In this Act, “local government workers” means persons employed in local government service and specified in scheme regulations.

(2) In this paragraph, “local government service” means service specified in scheme regulations.

##### *Teachers*

4. In this Act, “teachers” includes persons who are employed otherwise than as teachers—

(a) in a capacity connected with education which to a substantial extent involves the control or supervision of teachers, or

(b) in employment which involves the performance of duties in connection with the provision of education or services ancillary to education,

and who are specified in scheme regulations.

##### *Health service workers*

5.—(1) In this Act, “health service workers” means persons engaged in health services and specified in scheme regulations.

(2) In this paragraph, “health services” means services specified in scheme regulations.

##### *Fire and rescue workers*

6. In this Act, “fire and rescue workers” means persons employed by the Northern Ireland Fire and Rescue Service Board.

##### *Members of the police service*

7. In this Act “members of the police service” means—

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- (a) police officers, police trainees and police reserve trainees within the meaning of section 77 of the Police (Northern Ireland) Act 2000, and
  - (b) police cadets appointed under section 42 of that Act.

SCHEDULE 2

Section 2(1).

RESPONSIBLE AUTHORITIES

*Civil servants*

1. Scheme regulations for civil servants may be made by the Department of Finance and Personnel.

*Holders of judicial office*

2. Scheme regulations for holders of judicial office may be made by the Department of Justice.

*Local government workers*

3. Scheme regulations for local government workers may be made by the Department of the Environment.

*Teachers*

4. Scheme regulations for teachers may be made by the Department of Education.

*Health service workers*

5. Scheme regulations for health service workers may be made by the Department of Health, Social Services and Public Safety.

*Fire and rescue workers*

6. Scheme regulations for fire and rescue workers may be made by the Department of Health, Social Services and Public Safety.

*Members of the police service*

7. Scheme regulations for members of the police service may be made by the Department of Justice.

SCHEDULE 3

Section 3(2)(a).

SCOPE OF SCHEME REGULATIONS: SUPPLEMENTARY MATTERS

1. Eligibility and admission to membership.

This includes—

- (a) specifying who, of the persons in relation to whom the scheme regulations may be made, is eligible for membership;
- (b) conditions of eligibility.

2. The benefits which must or may be paid under the scheme.

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Those benefits may include—

- (a) pensions and other benefits on leaving service to which the scheme relates (whether before, at or after normal pension age);
- (b) benefits payable on death (in service or otherwise);
- (c) compensation payments (including for death, injury or redundancy);
- (d) discretionary payments and concessions.

3. The persons to whom benefits under the scheme are payable.

Those persons may include—

- (a) active, deferred and pensioner members of the scheme;
- (b) pension credit members of the scheme;
- (c) widows, widowers, surviving civil partners and surviving dependants.

4. The conditions subject to which benefits are payable.

5. The assignment of benefits, including restrictions on assignment.

6. The forfeiture or suspension of benefits.

7. The recovery of overpaid benefits.

8. The exclusion of double recovery of compensation or damages.

This includes—

- (a) exclusion or modification of rights to compensation or damages in respect of any matter in a case where benefits are paid under the scheme in respect of the same matter;
- (b) exclusion or modification of rights to benefits under the scheme where compensation or damages are received in respect of the same matter from another source.

9. Contributions, including—

- (a) the making of contributions by employers and members;
- (b) contribution rates;
- (c) interest on late payment of contributions;
- (d) the return of contributions (with or without interest).

10. The payment or receipt of transfer values or other lump sum payments for the purpose of creating or restoring rights to benefits (under the scheme or otherwise).

11. Pension funds (for schemes which have them).

This includes the administration, management and winding-up of any pension funds.

12. The administration and management of the scheme, including—

- (a) the giving of guidance or directions by the responsible authority to the scheme manager (where those persons are different);
- (b) the person by whom benefits under the scheme are to be provided;
- (c) the provision or publication of information about the scheme.

13. The delegation of functions under scheme regulations, including—

- (a) delegation of functions by the scheme manager or responsible authority;
  - (b) further delegation of functions by any delegatee.
14. The payment by an employer of—
- (a) any costs relating to the administration of the scheme;
  - (b) any costs incurred because of a failure by the employer to comply with the employer’s obligations under the scheme;
  - (c) interest relating to payments to be made by virtue of this paragraph.
15. The resolution of disputes and appeals (including the referral to a court of law of questions of law which under the scheme fall to be determined by the responsible authority).

SCHEDULE 4

REGULATORY OVERSIGHT

1. The Pensions (Northern Ireland) Order 2005 is amended as follows.
- 2.—(1) Article 2 (general interpretation) is amended as follows.
- (2) In paragraph (2), after the definition of “occupational pension scheme” insert—
- ““pension board” has the same meaning as in the Public Service Pensions Act (Northern Ireland) 2014 (see section 5 of that Act);”.
- (3) After the definition of “professional adviser” in that paragraph insert—
- ““public service pension scheme” means, subject to paragraph (6A)—
- (a) a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (new public service schemes);
  - (b) a new public body pension scheme (within the meaning of that Act);
  - (c) any statutory pension scheme which is connected with a scheme referred to in paragraph (a) or (b) (and for this purpose “statutory pension scheme” and “connected” have the meanings given in that Act);”.
- (4) After the definition of “the Regulator” in that paragraph insert—
- ““scheme manager”, in relation to a public service pension scheme, has the same meaning as in the Public Service Pensions Act (Northern Ireland) 2014 (see section 4 of that Act);”.
- (5) After paragraph (6) insert—
- “(6A) A scheme which would otherwise fall within the definition of “public service pension scheme” in paragraph (2) does not fall within that definition if—
- (a) it is an injury or compensation scheme (within the meaning of the Public Service Pensions Act (Northern Ireland) 2014), or
  - (b) it is specified in an order made by the Department after consulting the Department of Finance and Personnel.”.
- 3.—(1) Article 9 (improvement notices) is amended as follows.

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- (2) In paragraph (3)(a), after “85” insert “or 85A”.
- (3) In paragraph (7)—
  - (a) in sub-paragraph (c), the final “or” is repealed;
  - (b) at the end insert “or
  - (e) section 5(5) (pension board: conflicts of interest), 6 (pension board: information), 14 (information about benefits) or 16 (records) of the Public Service Pensions Act (Northern Ireland) 2014.”.

4. After Article 10 insert—

**“Appointment of skilled person to assist public service pension scheme**

10A.—(1) The Regulator may, if it considers it desirable for the purpose of ensuring compliance with pensions legislation, appoint a person to assist the pension board of a public service pension scheme in the discharge of its functions.

(2) A person appointed under this Article may be any person appearing to the Regulator to have the necessary skills.

(3) The pension board of a public service pension scheme must have regard to the advice of a person appointed under this Article.

(4) The costs of a person appointed under this Article are to be met by the scheme manager of the scheme.

(5) In paragraph (1) “pensions legislation” has the same meaning as in Article 9.”.

5.—(1) In Article 13 (power of the Regulator to recover unpaid contributions), paragraph (3) is amended as follows.

- (2) In the definition of “due date”—
  - (a) in paragraph (b), the final “and” is repealed;
  - (b) after paragraph (c) insert “and
  - (d) in relation to employer contributions payable under a public service pension scheme, the date on which the contributions are due under the scheme;”.

- (3) In the definition of “employer contribution”—
  - (a) in paragraph (a)—
    - (i) after “occupational pension scheme” insert “other than a public service pension scheme”;
    - (ii) the final “and” is repealed;
  - (b) after paragraph (b) insert “and
  - (c) in relation to a public service pension scheme, means any contributions payable under the scheme by the employer.”.

6. In Article 65 (duty to report breaches of the law), in paragraph (1)—

- (a) after sub-paragraph (a) insert—

“(aa) a member of the pension board of a public service pension scheme;”;

(b) in sub-paragraph (b), for “such a scheme” substitute “an occupational or personal pension scheme”.

7. After Article 65 insert—

*“Reporting late payment of employer contributions*

**Duty to report late payment of employer contributions**

65A.—(1) Where—

(a) any amount payable under a public service pension scheme by or on behalf of an employer in relation to the scheme by way of contributions is not paid on or before the date on which it is due under the scheme, and

(b) the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the Regulator in the exercise of any of its functions,

the scheme manager must give a written report of the matter to the Regulator as soon as reasonably practicable.

(2) Subject to Article 283 (protected items), no duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this Article.

(3) Article 10 of the 1995 Order (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this Article.”.

8.—(1) Article 66 (reports by skilled persons) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (b), the final “or” is repealed;

(b) after sub-paragraph (b) insert—

“(ba) in the case of a work-based scheme which is a public service pension scheme, a member of the pension board of the scheme, or”;

(c) in sub-paragraph (c), for “such a scheme” substitute “a work-based pension scheme”.

9. In Article 67 (provision of information), in paragraph (2), after sub-paragraph (a) insert—

“(aa) a member of the pension board of a public service pension scheme,”.

10. In Article 68 (inspection of premises), in paragraph (2)—

(a) after sub-paragraph (d) insert—

“(da) section 16 of the Public Service Pensions Act (Northern Ireland) 2014;”.

(b) in sub-paragraph (e), for “(d)” substitute “(da)”.

11. In Article 84 (reports), at the end insert—

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“(4) Before making a report under this Article which relates to a public service pension scheme, the Regulator must notify the scheme manager.”.

12. After Article 84 insert—

**“Reports about misappropriation, etc. in public service pension schemes**

84A.—(1) If the Regulator has reasonable grounds to suspect or believe that a member of the pension board of a public service pension scheme—

- (a) has misappropriated any assets of the scheme or is likely to do so, or
- (b) has a conflict of interest in relation to investment of assets of the scheme,

the Regulator must report the matter to the scheme manager.

(2) For the purposes of the law of defamation, the reporting of any matter by the Regulator under paragraph (1) is privileged unless the reporting is shown to be made with malice.

(3) For the purposes of paragraph (1)(b) a person does not have a conflict of interest in relation to investment of assets merely by virtue of membership of the scheme.”.

13.—(1) Article 85 (codes of practice) is amended as follows.

(2) In paragraph (4), after “provision of a code of practice” insert “issued under this Article”.

(3) In paragraph (7), at the end insert “under this Article”.

(4) At the end of the Article insert—

“(8) The Regulator may not issue codes of practice under this Article in relation to a public service pension scheme (but see Article 85A).”.

14. After Article 85 insert—

**“Codes of practice: public service pension schemes**

85A.—(1) The Regulator may, in relation to public service pension schemes, issue codes of practice—

- (a) containing practical guidance in relation to the exercise of functions under relevant pensions legislation, and
- (b) regarding the standards of conduct and practice expected from those who exercise such functions.

(2) The Regulator must issue one or more such codes of practice relating to the following matters—

- (a) the discharge of the duties imposed by Articles 65 and 65A (duties to report breaches of the law and late payment of employer contributions);
- (b) the obligations imposed by Article 225A (requirements for knowledge and understanding: pension boards of public service pension schemes);

- (c) the discharge of the duty imposed by Article 226B (internal controls);
- (d) the discharge of duties imposed under section 109 of the Pension Schemes Act (disclosure of information to members);
- (e) the discharge of the duty imposed by Article 49(9)(b) of the 1995 Order (duty of trustees or managers of occupational pension schemes to report material failures by employers to pay contributions deducted from employee's earnings timeously);
- (f) the discharge of the duty imposed by Article 50 of the 1995 Order (internal dispute resolution);
- (g) the discharge of duties imposed under section 5(5) of the Public Service Pensions Act (Northern Ireland) 2014 (pension board: conflicts of interest and representation) and other duties relating to conflicts of interest;
- (h) the discharge of duties imposed by virtue of section 6 (pension board: information) of that Act and other duties relating to the publication of information about governance and administration;
- (i) the discharge of duties imposed under section 14 of that Act (information about benefits);
- (j) the discharge of duties imposed under section 16 (records) of that Act and other duties relating to record-keeping;
- (k) such other matters as may be prescribed for the purposes of this Article.

(3) The Regulator may from time to time revise the whole or any part of a code of practice issued under this Article and issue that revised code.

(4) Subject to Article 9(3)(a) and (8) (power for improvement notice to direct that person complies with code of practice and civil penalties for failure to comply), a failure on the part of any person to observe any provision of a code of practice issued under this Article does not of itself render that person liable to any legal proceedings.

(5) A code of practice issued under this Article is admissible in evidence in any legal proceedings (within the meaning of Article 85) and, if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings, it must be taken into account in determining that question.

(6) A code of practice issued under this Article may be—

- (a) combined with a code of practice issued under Article 85;
- (b) combined with one or more other codes of practice issued under this Article.

(7) A code of practice issued under this Article may relate to all public service pension schemes or any one or more of them.

(8) In this Article, “relevant pensions legislation” means—

- (a) the statutory provisions constituting “pensions legislation” within the meaning of Article 85, and

(b) sections 5(5) (pension board: conflicts of interest and representation), 6 (pension board: information), 14 (information about benefits) and 16 (records) of the Public Service Pensions Act (Northern Ireland) 2014.

(9) Articles 86 and 87 make provision about the procedure to be followed when a code of practice is issued or revoked under this Article.”.

15.—(1) Article 86 (procedure for codes) is amended as follows.

(2) In paragraph (1), after “code of practice” insert “under Article 85 or 85A”.

(3) In paragraphs (4)(a) and (9), after “85” insert “or 85A”.

16. In Article 87 (revocation of codes), in paragraph (1), after “code of practice” insert “under Article 85 or 85A”.

17. In Article 88 (procedure for regulatory functions), in paragraph (2), after sub-paragraph (b) insert—

“(ba) the power to appoint a skilled person in relation to a public service pension scheme under Article 10A.”.

18. In Article 138 (requirement to wind up schemes with sufficient assets), in paragraph (14), after “public service pension scheme” insert “(within the meaning of the Pension Schemes Act)”.

19. After Article 225 insert—

**“Requirement for knowledge and understanding: pension boards of public service pension schemes**

225A.—(1) This Article applies to every individual who is a member of the pension board of a public service pension scheme.

(2) An individual to whom this Article applies must be conversant with—

(a) the rules of the scheme, and

(b) any document recording policy about the administration of the scheme which is for the time being adopted in relation to the scheme.

(3) An individual to whom this Article applies must have knowledge and understanding of—

(a) the law relating to pensions, and

(b) such other matters as may be prescribed.

(4) The degree of knowledge and understanding required by paragraph (3) is that appropriate for the purposes of enabling the individual properly to exercise the functions of a member of the pension board.”.

20. In Article 226A (requirement for internal controls), in paragraph (3)—

(a) before sub-paragraph (a) insert—

“(za) a public service pension scheme;”;

(b) in sub-paragraph (a) for “a scheme” substitute “any other scheme”.

21. After Article 226A insert—

**“Requirement for internal controls: public service pension schemes**

226B.—(1) The scheme manager of a public service pension scheme must establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed—

- (a) in accordance with the scheme rules, and
- (b) in accordance with the requirements of the law.

(2) Nothing in this Article affects any other obligations of the scheme manager to establish or operate internal controls, whether imposed by or by virtue of any statutory provision, the scheme rules or otherwise.

(3) In this Article “internal controls” has the same meaning as in Article 226A.”.

## SCHEDULE 5

Section 18.

## EXISTING PENSION SCHEMES

*Civil servants*

1. A scheme under Article 3 of the Superannuation Order.

*Exceptions:* injury benefits and compensation benefits

*Holders of judicial office*

2. A scheme constituted by or made under any provision of Part 1 or section 19 of the Judicial Pensions and Retirement Act 1993 so far as relating to payment of pension benefits to or in respect of—

- (a) the President of appeals tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order, or a member of a panel constituted under Article 7(1) of that Order who is appointed to serve as a member of that panel and is a barrister or solicitor;
- (b) the President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, appointed under Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998;
- (c) the President or other member of the Lands Tribunal.

*Local government workers*

3. Regulations under Article 9 of the Superannuation Order.

*Exception:* injury benefits

*Teachers*

4. Regulations under Article 11 of the Superannuation Order.

*Exception:* injury benefits

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*Health service workers*

5. Regulations under Article 12 of the Superannuation Order.

*Exception:* injury benefits

*Fire and rescue workers*

6. An order under Article 10 of the Fire Services (Northern Ireland) Order 1984 (continued by Article 60 of the Fire and Rescue Services (Northern Ireland) Order 2006).

*Exceptions:* injury benefits and compensation benefits

*Members of the police service*

7. A scheme under section 25(2)(k) or 26(2)(g) of the Police (Northern Ireland) Act 1998.

*Exception:* injury benefits

Section 19.

SCHEDULE 6

EXISTING INJURY AND COMPENSATION SCHEMES

*Civil servants*

1. A scheme under Article 3 of the Superannuation Order.

*Specified benefits:* injury benefits and compensation benefits

*Local government workers*

2. Regulations under Article 9 of the Superannuation Order.

*Specified benefits:* injury benefits

*Teachers*

3. Regulations under Article 11 of the Superannuation Order.

*Specified benefits:* injury benefits

*Health service workers*

4. Regulations under Article 12 of the Superannuation Order.

*Specified benefits:* injury benefits

*Fire and rescue workers*

5. Article 10 of the Fire Services (Northern Ireland) Order 1984.

*Specified benefits:* injury benefits and compensation benefits

*Members of the police service*

6. A scheme under section 25(2) or 26(2) of the Police (Northern Ireland) Act 1998.

*Specified benefits:* injury benefits

*Compensation schemes for loss of office, etc.*

7. Regulations under Article 19 of the Superannuation Order.

SCHEDULE 7

Sections 20 and 32.

FINAL SALARY LINK

*Persons who remain in an old scheme for past service*

1.—(1) This paragraph applies in a case where—

- (a) a person is a member of an existing scheme to which section 18(1) applies or a scheme to which section 32(2) applies (the “old scheme”) by virtue of his or her pensionable service for that scheme (“the old scheme service”), and
- (b) the person is also a member of a scheme under section 1 or a new public body pension scheme (“the new scheme”) by virtue of his or her pensionable service for that scheme (“the new scheme service”).

(2) If, in a case where this paragraph applies—

- (a) the old scheme service and the new scheme service are continuous, and
- (b) the person’s employer in relation to the old scheme service is the person’s employer in relation to the new scheme service (or any other employer in relation to the new scheme),

then, in determining the person’s final salary for any purpose of the old scheme—

- (i) the old scheme service is to be regarded as having ended when the new scheme service ended, and
- (ii) such earnings as scheme regulations for the new scheme may specify, being earnings derived by the person from the new scheme, are to be regarded as derived from the old scheme service (subject to subparagraph (3)).

(3) The amount of the earnings that are to be regarded as derived from the old scheme service must not be materially less than the amount of the earnings that would have been the person’s pensionable earnings derived from that service had the new scheme service been old scheme service.

*Persons whose benefits under an old scheme are transferred to another closed scheme*

2.—(1) This paragraph applies in a case where—

- (a) a person has been a member of an existing scheme to which section 18(1) applies or a scheme to which section 32(2) applies (“the old scheme”) by virtue of his or her pensionable service for that scheme (“the old scheme service”),
- (b) the person is also a member of a scheme under section 1 or a new public body pension scheme (“the new scheme”) by virtue of his or her pensionable service for that scheme (“the new scheme service”),
- (c) the person’s rights to benefit under the old scheme have been transferred after the date referred to in section 18(1) or section 32(2) to an existing

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scheme to which section 18(1) applies or a scheme to which section 32(2) applies (“the transfer scheme”), and

- (d) the old scheme service is treated, by virtue of that transfer, as pensionable service of the person for the transfer scheme (“the deemed transfer scheme service”).

(2) If, in a case where this paragraph applies—

- (a) the deemed transfer scheme service and the new scheme service are continuous, and  
(b) the person’s employer in relation to the new scheme service is an employer in relation to the transfer scheme,

then, in determining the person’s final salary for any purpose of the transfer scheme—

- (i) the deemed transfer scheme service is to be regarded as having ended when the new scheme service ended, and  
(ii) such earnings as scheme regulations for the new scheme may specify, being earnings derived by the person from the new scheme service, are to be regarded as derived from the deemed transfer scheme service (subject to sub-paragraph (3)).

(3) The amount of the earnings that are to be regarded as derived from the deemed transfer scheme service must not be materially less than the amount of the earnings that would have been the person’s pensionable earnings derived from that service had the new scheme service been deemed transfer scheme service.

(4) In sub-paragraph (1)(c), the reference to a transfer of rights to benefit includes the making of a transfer payment in respect of such rights.

#### *Continuity of employment*

3.—(1) For the purposes of paragraphs 1(2)(a) and 2(2)(a), there are to be disregarded—

- (a) any gap in service where the person was in pensionable public service;  
(b) a single gap of service where the person was not in pensionable public service, if that gap does not exceed 5 years;  
(c) two or more gaps in service where the person was not in pensionable public service, if none of the gaps exceeds 5 years.

(2) In this paragraph, “pensionable public service” means service which is pensionable service in relation to—

- (a) a scheme under section 1, or  
(b) a new public body pension scheme.

#### *Movement between new schemes*

4. Where the condition in sub-paragraph (1)(b) of paragraph 1 or 2 applies by virtue of periods of pensionable service for two or more different schemes—

- (a) identify the last period of pensionable service by virtue of which that paragraph applies and the scheme to which that service relates, and  
(b) disregard, for the purposes of that sub-paragraph, periods of pensionable service relating to other schemes.

*Final salary link not to apply again to a pension in payment*

5.—(1) Scheme regulations may provide that where a pension in payment under a scheme to which section 18(1) or 32(2) applies has been calculated by reference to this Schedule, the pension cannot be recalculated by reference to this Schedule where there is a subsequent period of pensionable public service (within the meaning of paragraph 3).

(2) Provision made under sub-paragraph (1) may in particular be made by amending the scheme under which the pension is in payment.

## SCHEDULE 8

Section 27.

## CONSEQUENTIAL AND MINOR AMENDMENTS

*Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29)*

1. In section 2 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (terms of appointment and remuneration, etc., of members), for subsection (5A) substitute—

“(5A) Subsection (5), so far as relating to allowances and gratuities by way of superannuation, shall not have effect in relation to persons—

- (a) to whom Part 1 of the Judicial Pensions and Retirement Act 1993 applies, or
- (b) to whom a pension is payable under a scheme made by the Department of Justice under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1 (2)(b) (holders of judicial office),

except to the extent provided by or under those Acts.”.

*Pensions (Increase) Act (Northern Ireland) 1971 (c. 35)*

2. After section 8 of the Pensions (Increase) Act (Northern Ireland) 1971 insert—

**“Section 8(2): references to “service”**

8A.—(1) In a case where—

- (a) paragraph 1 or 2 of Schedule 7 to the 2014 Act (final salary link for persons who remain in old scheme for past service) applies in relation to a person, and
- (b) the person’s final salary falls to be determined by reference to that paragraph,

references in section 8(2) above to the service in respect of which a pension is payable include the person’s new scheme service (within the meaning of Schedule 7 to the 2014 Act).

(2) In a case where—

- (a) a person is a member of a relevant old scheme by virtue of pensionable service for that scheme (“the relevant old scheme service”),

- (b) the person is also a member of a scheme under section 1 of the 2014 Act or a new public body pension scheme (“the new scheme”) by virtue of pensionable service for that scheme (“the new scheme service”),
- (c) the relevant old scheme service and the new scheme service are continuous, and
- (d) the person’s employer in relation to the relevant old scheme service is the person’s employer in relation to the new scheme service (or any other employer in relation to the new scheme),

references in section 8(2) above to the service in respect of which a pension is payable include the person’s new scheme service.

(3) In this section—

- (a) “relevant old scheme” means a career average revalued earnings scheme (within the meaning of the 2014 Act) to which section 18(1) or 32(2) of that Act applies (restriction of benefits under existing schemes);
- (b) “employer”, “new public body pension scheme” and “pensionable service” have the same meanings as in that Act.

(4) For the purposes of subsection (2)—

- (a) paragraphs 3 and 4 of Schedule 7 to the 2014 Act (continuity of employment, etc.) apply as they apply for the purposes of paragraphs 1(2) and 2(2) of that Schedule;
- (b) regulations under section 1 of the 2014 Act (in the case of a new scheme under that section) or rules (in the case of a new public body pension scheme) may provide that where a pension is in payment under a relevant old scheme, references in section 8(2) above to the service in respect of which a pension is payable do not include any subsequent period of pensionable service in relation to a scheme under section 1 of the 2014 Act or a new public body pension scheme.

(5) Provision made under subsection (4)(b) may in particular be made by amending the relevant old scheme.

(6) In this section, “the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014.”.

3. Schedule 2 to the Pensions (Increase) Act (Northern Ireland) 1971 (official pensions) is amended as follows.

4. After paragraph 2 insert—

“2A. A pension payable under a scheme made by the Department of Finance and Personnel under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(a) of that Act (civil servants).”.

5. After paragraph 3A insert—

“3B. A pension payable by the Department of Education under a scheme made by the Department under section 1 of the Public Service

Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(d) of that Act (teachers).”.

6. Before paragraph 6 insert—

“5A. A pension payable by the Department of Justice under a scheme made by the Department under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(g) of that Act (members of police service).

5B. A pension payable under a scheme made by the Department of Justice under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(b) of that Act (holders of judicial office).”.

7. After paragraph 7A there is inserted—

“7B. A pension payable by the Department of Health, Social Services and Public Safety under a scheme made by the Department under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(e) of that Act (health service workers).”.

8. After paragraph 14A insert—

“14B. A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act (Northern Ireland) 2014, made by the Department of the Environment under section 1 of that Act by virtue of section 1(2)(c) of that Act (local government workers).”.

9. After paragraph 16 insert—

“16A. A pension payable under a defined benefits scheme, within the meaning of the Public Service Pensions Act (Northern Ireland) 2014, made by the Department of Health, Social Services and Public Safety under section 1 of that Act by virtue of section 1(2)(f) of that Act (fire and rescue workers).”.

*Superannuation (Northern Ireland) Order 1972 (NI 10)*

10. The Superannuation Order is amended as follows.

11. In Article 3 (superannuation schemes as respects civil servants, etc.), after paragraph (1A) insert—

“(1B) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

12. In Article 9 (superannuation of persons employed in local government service, etc.), after paragraph (1) insert—

“(1A) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

13. In Article 11 (superannuation of teachers), after paragraph (1) insert—

“(1A) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

14. In Article 12 (superannuation of persons engaged in health services, etc.), after paragraph (1) insert—

“(1A) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

15. In Article 19 (compensation for loss of office, etc.), after paragraph (1) insert—

“(1A) Paragraph (1) is subject to section 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

*Fire Services (Northern Ireland) Order 1984 (NI 11)*

16. In Article 10 of the Fire Services (Northern Ireland) Order 1984 (continued by Article 60 of the Fire and Rescue Services (Northern Ireland) Order 2006 (2006 NI 9)), after paragraph (3) insert—

“(3A) Paragraphs (1) to (3) are subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

*Judicial Pensions and Retirement Act 1993 (c. 8)*

17. In section 1 of the Judicial Pensions and Retirement Act 1993, after subsection (1A) (as inserted by Schedule 8 to the Public Service Pensions Act 2013), insert—

“(1B) This Part is subject to section 18 of the Public Service Pensions Act (Northern Ireland) 2014 (Northern Ireland provision restricting benefits provided under existing schemes).”.

18. In section 11 of that Act (provision against pensions under two or more judicial pension schemes), after subsection (5) (as inserted by Schedule 8 to the Public Service Pensions Act 2013), add—

“(6) This section does not prevent a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 having effect in relation to a person.”.

*Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

19. The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

20.—(1) Section 67 (short service benefit) is amended as follows.

(2) In subsection (3), for “subsection (4)” substitute “subsections (4) and (5A)”.

(3) After subsection (5) insert—

“(5A) Subsection (3) does not apply in relation to a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014.”.

21. In section 79 (scope of Chapter 2: revaluation of accrued benefits), after subsection (1A) insert—

“(1B) The reference in subsection (1)(a)(iii) to normal pension age is to be read, in relation to a person who is an active or deferred member of a

scheme under section 1 or section 32(7) of the Public Service Pensions Act (Northern Ireland) 2014, as—

- (a) the member’s normal pension age within the meaning of that Act, or
- (b) the member’s deferred pension age within the meaning of that Act, if that is later.

In this subsection “active member” and “deferred member”, in relation to such a scheme, have the meanings given by Article 121(1) of the Pensions (Northern Ireland) Order 1995.”.

*Police (Northern Ireland) Act 1998 (c. 32)*

22. The Police (Northern Ireland) Act 1998 is amended as follows.

23. In section 25 (regulations for Police Service of Northern Ireland), after subsection (2) insert—

“(2A) Subsection (2)(k) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

24. In section 26 (regulations for reserve constables in Northern Ireland), after subsection (2) insert—

“(2A) Subsection (2)(g) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).”.

*Social Security (Northern Ireland) Order 1998 (NI 10)*

25. In Schedule 1 to the Social Security (Northern Ireland) Order 1998 (appeals tribunals: supplementary provisions), after paragraph 3 insert—

“(3A) Paragraph 2 and 3, so far as relating to pensions and allowances by way of superannuation, shall not have effect in relation to persons to whom a pension is payable under a scheme made by the Department of Justice under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(b) (holders of judicial office), except to the extent provided by or under that Act.”.

SCHEDULE 9

EXISTING SCHEMES FOR CIVIL SERVANTS: EXTENSION OF ACCESS

1. The Superannuation Order is amended as follows.

2. In Article 3 (superannuation schemes as respects civil servants, etc.), after paragraph (3) insert—

“(3A) This Article also applies to persons serving in employment or in an office, not being service in employment or in an office of a kind mentioned in paragraph (3), where the employment or office is specified in a list produced for the purposes of this paragraph (see Article 3A).”.

3. After Article 3 insert—

**“List of employments and offices for purposes of Article 3**

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3A.—(1) The Department may specify an employment or office in a list produced for the purposes of Article 3(3A) if paragraph (2), (3) or (4) applies in relation to the employment or office.

(2) This paragraph applies to an employment or office if—

(a) at any time on or after the commencement of this Article, the employment or office ceases to be of a kind mentioned in Article 3(3), and

(b) immediately before that time persons serving in the employment or office are, or are eligible to be, members of a scheme under Article 3 by virtue of Article 3(3).

(3) This paragraph applies to an employment or office if—

(a) at any time before the commencement of this Article, the employment or office ceased to be of a kind mentioned in Article 3(3), and

(b) at that time persons serving in the employment or office ceased to be members of a scheme under Article 3 or to be eligible for membership of such a scheme.

(4) This paragraph applies to an employment or office if—

(a) it is of a description prescribed by regulations, and

(b) the Department determines that it is appropriate for it to be specified for the purposes of Article 3(3A).

(5) The power to specify an employment or office in reliance on paragraph (4) may be exercised so as to have retrospective effect.

(6) The Department—

(a) may at any time amend a list produced under this Article, and

(b) must publish the list (and any amendments to it).

(7) The published list must comply with such requirements, and contain such information, as may be prescribed by regulations.

(8) Regulations made under this Article are subject to negative resolution.”.







Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

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ISBN 978-0-10-595144-5

