These notes refer to the Superannuation Act 2010 (c.37)
which received Royal Assent on 16 December 2010

SUPERANNUATION ACT 2010

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Superannuation Act 2010 which received Royal Assent on 16 December 2010. They have been prepared by the Cabinet Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Act places upper limits on payments under the Civil Service Compensation Scheme (CSCS), a scheme made under the Superannuation Act 1972. The CSCS sets out the tariffs which may apply when the employment of civil servants is terminated prematurely. The terms of the CSCS were amended in February 2010, but those amendments were quashed in judicial review proceedings brought by the Public and Commercial Services Union, so that the former compensation terms were revived. For many civil servants, the former terms produced more generous outcomes than did the February 2010 terms.

4. The former CSCS terms generally provided a service and age-related payment for people aged under 50 and enhanced early retirement terms for people aged between 50 and 60. The amount of the payment varied depending on the tariff, with the tariff applying on compulsory redundancy providing payments of up to 3 years' pay and enhanced early retirement packages which could cost employers over 6 years' pay. Redundancy terms for certain employees who joined before 1987 could lead to higher costs for employers.

5. The Act caps compensation payable under the CSCS at a maximum of 12 months' pensionable earnings for compulsory exits, and 15 months' pensionable earnings for voluntary exits. The Act also contains a 'sunset' provision, whereby section 3 (which imposes the caps) will expire after 12 months, unless repealed earlier by order-making powers, or extended or revived using order-making powers. The Government's intention, stated throughout the Parliamentary passage of the Act, has been that a new scheme amending the CSCS would be made after Royal Assent, and that section 3 would be repealed prior to the operation of that new scheme. The trade unions will have been consulted before the new amending scheme is made.

6. The Act also amends the Superannuation Act 1972 so as to remove the requirement in section 2(3) of that Act for union consent to detrimental changes to the CSCS, and to insert new requirements about how consultation on such changes must be carried out and reported on. The Act makes no changes to the other protections provided by the 1972 Act and leaves in place the requirement for the Government not to make changes to the CSCS without having consulted the unions or other persons affected.

TERRITORIAL EXTENT AND APPLICATION

7. The Act applies throughout the United Kingdom.

COMMENTARY

Section 1: Consents required for civil service compensation scheme modifications

8. *Section 1* removes the requirement in section 2(3) of the Superannuation Act 1972 to obtain the consent of civil service trade unions for reductions in benefits provided under the CSCS. But the removal of this requirement does not apply to benefits provided in respect of an exit which is the consequence of a notice of dismissal given, or an agreement made, before the scheme making the reductions comes into effect. (See *subsections (1) to (3)*.)

9. *Subsection (4)* provides that the removal of the requirement for trade union consent applies to reductions given effect by a scheme made after the coming into force of section 1.

10. *Subsections (5) and (6)* provide that where a scheme under section 1 of the 1972 Act is made after the time when this section comes into force and consultation on the proposed scheme took place before that time, the fact that the amendments made by this section were not in force when the consultation took place does not affect whether the consultation met the requirements of section 1(3) of the 1972 Act. In other words, that consultation is not to be regarded as ineffective just because the amendments were not yet the law when the consultation took place.

Section 2: Consultation in relation to civil service compensation scheme modifications

11. *Section 2* reinforces the requirement on the Government to carry out meaningful consultation with the civil service trade unions, through amendment of section 2 of the Superannuation Act 1972.

12. *Subsection (2)* has the effect of requiring the Government to consult with a view to reaching agreement on any provision of a scheme made under section 1 of the 1972 Act that would reduce the amount of a compensation benefit. (‘Compensation benefit’ is defined in the new section 2(3B) of the 1972 Act inserted by section 1(3) of this Act.)

13. *Subsection (3)* introduces a requirement for the Government to lay before Parliament a report on the consultation relating to such a provision before the scheme comes into operation, and specifies what that report must include.

Section 3: Limits on value of benefits provided under civil service compensation scheme

14. *Section 3* imposes caps on the amounts payable to members of staff under the terms of the CSCS. *Subsection (2)* in effect imposes a cap of 12 months’ salary in cases of compulsory

severance, and 15 months' salary in cases of voluntary severance. The salary figure used is pensionable earnings. This is the rate of earnings immediately before severance on which a person was required to pay (or would have been required to pay) pension contributions under the Principal Civil Service Pension Scheme (PCSPS). *Paragraph (b)* of the definition of 'pensionable earnings' in *subsection (7)* is intended to cover cases such as where a person has opted out of the PCSPS. *Subsection (8)* covers the treatment of those whose pensionable earnings were restricted or, at the time of severance, were receiving earnings at a reduced rate.

15. The effect of section 3 will be to reduce the maximum amount payable under the CSCS. An individual currently entitled to 9 months' salary on departure will still receive a sum equivalent to 9 months' salary. However, an individual who under the current compulsory early severance terms might be entitled to (say) 27 months' salary would instead have their payment capped at only 12 months' salary if made compulsorily redundant.

16. *Subsection (4)* provides that, where the cost of providing an early retirement package (for example including an actuarially unreduced pension, or enhanced pension) exceeds the cap, benefits will be paid as a cash lump sum equivalent to the cap rather than as an early retirement package. In such cases pension benefits will be preserved for payment at normal pension age (or may be paid early on an actuarially-adjusted basis in accordance with pension scheme rules). *Subsection (3)* provides that that cost will be determined in accordance with guidance issued by the Minister for the Civil Service.

17. *Subsection (5)* provides that the cap applies where a person is issued with a notice of dismissal after the provision comes into force, or agrees to voluntary severance after that time.

18. *Subsection (10)* excludes from the capping provisions any compensation in lieu of notice and any payments made on early termination of fixed term contracts.

19. *Subsection (11)* confers an order-making power on the Minister for the Civil Service to relax the caps by increasing the number of months specified in subsection (2). That power is subject to affirmative resolution procedure in the House of Commons: see *section 4(8) and (9)*.

Section 4: Final provisions

20. *Section 4* provides for section 3 to expire 12 months after it comes into force. It also grants order-making powers to the Minister to repeal section 3 before it is due to expire, to extend the date on which section 3 will expire, and to revive section 3 (within three years of Royal Assent) after that section has expired or been repealed. The powers to extend the expiry date and to revive section 3 are subject to affirmative resolution procedure in the House of Commons. The power to repeal is subject to negative resolution procedure.

21. *Subsection (7)* provides that the expiry or repeal of section 3 will not affect the application of that section to any compensation benefits provided in connection with severance occurring before its expiry or repeal.

COMMENCEMENT DATES

22. The Act comes into force on 16 December 2010 (the date of Royal Assent), with the exception of section 2 which comes into force two months later: see *section 4(2) and (3)*.

HANSARD REFERENCES

23. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	**Date**	**Hansard reference**
House of Commons		
Introduction	15 July 2010	Vol. 513 Col 1105
Second Reading	7 September 2010	Vol. 515 Cols 209-289
Committee	14 and 16 September 2010	Hansard Public Bill Committee Cols 1-110
Report and Third Reading	13 October 2010	Vol. 516 Cols 339-373
House of Lords		
Introduction	14 October 2010	Vol. 721 Col 594
Second Reading	26 October 2010	Vol. 721 Cols 1128-1153
Grand Committee	10 November 2010	Vol. 722 Cols GC29-GC60
Report	1 December 2010	Vol. 722 Cols 1482-1506
Third Reading	7 December 2010	Vol. 723 Cols 125-128
Commons Consideration of Lords Amendments	14 December 2010	Vol. 520 Cols 838-858
Royal Assent	16 December 2010	House of Lords Hansard Vol. 723 Col 721 House of Commons Hansard Vol. 520 Col 1078

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