

*These notes refer to the Pension Schemes Act (Northern Ireland)
2016 (c.1) which received Royal Assent on 15 January 2016*

Pension Schemes Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – General Changes to Legislation about Pension Schemes

Section 45: Rules about modification of schemes

Article 67 of the 1995 Order contains provisions to protect members against detrimental modifications to their “subsisting rights” – that is, “any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules; or any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules”.

The section replaces the existing regulation-making power to disapply Article 67 for the exercise of a power in a prescribed manner and replaces it with a power to disapply in prescribed cases.

Modifications can only be made if the value of the benefits is the same before and after the change or if the member agrees. Some changes can only be made if the member agrees: these are called “protected modifications”. Article 67A sets out the circumstances in which a modification to members’ rights is a ‘protected modification’.

Currently, Article 67A states that a change is a “protected modification” where money purchase benefits would replace non-money purchase benefits, or where the change would result in a reduction to a pension in payment.

This section amends Article 67A to include a modification where a right to benefits that include a pensions promise is to be replaced by a right to benefits where there is no pensions promise, where a right to a retirement income in respect of which there is a pension promise becomes a right to benefits other than retirement income and where a right or entitlement to a benefit which is not a collective benefit is replaced with a right or entitlement to collective benefits.

This section also amends Article 67A to provide that a reduction to a collective benefit in payment is not a “protected modification”.

It also updates the list of relevant override provisions in Article 67A to include regulations made under Part 2 of this Act and regulations made under Schedules 17 and 18 to the 2015 Act. This means where these regulations override

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conflicting provision in the scheme rules, that the regulations are treated as part of the scheme rules for the purposes of the subsisting rights provisions.