



Pension Schemes Act 2015

2015 CHAPTER 8

An Act to make provision about pension schemes, including provision designed to encourage arrangements that offer people different levels of certainty in retirement or that involve different ways of sharing or pooling risk and provision designed to give people greater flexibility in accessing benefits and to help them make informed decisions about what to do with benefits. [3rd March 2015]

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

PART 1

CATEGORIES OF PENSION SCHEME

1 Introduction

- (1) This Part defines some key expressions used in pensions legislation—
- (a) defined benefits scheme - see section 2;
 - (b) shared risk scheme (sometimes known as “defined ambition”) - see section 3;
 - (c) defined contributions scheme - see section 4.
- (2) The definitions—
- (a) do not apply in any public service pensions legislation;
 - (b) apply in other legislation only where legislation expressly provides for the definitions to apply.

2 Defined benefits scheme

A pension scheme is a “defined benefits scheme” if—

Status: This is the original version (as it was originally enacted).

- (a) the scheme provides for all members to be paid retirement income beginning at normal pension age and continuing for life,
- (b) there is a full pensions promise in relation to the retirement income and any other retirement benefits that may be provided to members,
- (c) the normal pension age in relation to the retirement income and any other retirement benefits that may be provided to members is fixed, and
- (d) such other requirements as may be specified in regulations are met.

3 Shared risk scheme (sometimes known as “defined ambition”)

A pension scheme is a “shared risk scheme” if—

- (a) there is a pensions promise in relation to at least some of the retirement benefits that may be provided to each member, but
- (b) the scheme is not a defined benefits scheme.

4 Defined contributions scheme

A pension scheme is a “defined contributions scheme” if there is no pensions promise in relation to any of the retirement benefits that may be provided to the members.

5 Meaning of “pensions promise” etc

- (1) For the purposes of section 2 there is a “full pensions promise” in relation to a retirement benefit if—
 - (a) the scheme provides for there to be a promise, at all times before the benefit comes into payment, about the level of the benefit, and
 - (b) the level of the benefit is to be determined wholly by reference to that promise in all circumstances.
- (2) For the purposes of sections 3 and 4 there is a “pensions promise” in relation to a retirement benefit if the scheme provides for there to be a promise, at a time before the benefit comes into payment, about the level of the benefit.
- (3) A reference in this section to a promise about the level of a retirement benefit—
 - (a) includes a promise about factors, other than longevity, that will be used to calculate the level of the benefit,
 - (b) does not include a promise if, or to the extent that, it consists merely of a promise that the level of the benefit will be calculated by reference to an amount available for its provision, and
 - (c) in the case of a benefit the level of which depends on the amount available for the provision of benefits to or in respect of the member and one or more other members collectively, does not include a promise about the factors used to determine what proportion of that amount is available for the provision of the particular benefit.
- (4) A scheme provides for there to be a promise if the scheme—
 - (a) sets out the promise, or
 - (b) requires the promise to be obtained from a third party.
- (5) A scheme also provides for there to be a promise for the purposes of subsection (2) if the scheme provides for the member to be given—

- (a) the option of a promise from the scheme, or
 - (b) the option of requiring a promise to be obtained from a third party,
(whether or not the option is subject to conditions).
- (6) A benefit does not fail the test in subsection (1)(b) just because the scheme confers a discretion to vary the benefit so long as the discretion—
- (a) is capable of being used only for reasons related to a member’s individual circumstances and meets any other requirements that may be specified in regulations, or
 - (b) is of a description specified in regulations.
- (7) A promise about the level of retirement income is not to be treated as a pensions promise if—
- (a) the promise is conditional on the retirement income coming into payment by a particular date,
 - (b) the scheme provides for the member to be first given the promise during such period ending on that date as may be specified in regulations, and
 - (c) the promise is not of a description specified in regulations.
- (8) When working out for the purposes of sections 2 to 4 what benefits “may be provided” to a member, take into account—
- (a) benefits that may be provided only if the member has been a member for a certain length of time, and
 - (b) any other benefits that, at a future time, are benefits that may be provided to the member.

6 Treatment of a scheme as two or more separate schemes

- (1) Regulations must provide for a pension scheme that does not fit within any of the categories to be treated, for the purposes of this Part and any other specified legislation, as if it were two or more separate schemes each of which then fits within one of the categories.
- (2) Regulations may provide for other circumstances in which a scheme is to be treated, for the purposes of this Part and any other specified legislation, as two or more separate schemes each of which fits within one of the categories.
- (3) In this section “category” means a category of scheme defined by section 2, 3 or 4.

7 Interpretation of Part 1

In this Part—

“fixed”, in respect of normal pension age in relation to a benefit, means incapable of changing except by an amendment to the scheme rules;

“full pensions promise” has the meaning given by section 5;

“legislation” means—

- (a) an Act, or
- (b) subordinate legislation as defined by section 21(1) of the Interpretation Act 1978;

“level”, in relation to a retirement benefit, means—

- (a) in the case of retirement income, the rate of that income, and

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

- (b) in the case of a retirement lump sum, the amount of that lump sum;
“normal pension age”, in relation to a benefit for a member of a pension scheme, means—
- (a) the earliest age at which, or earliest occasion on which, the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill health or otherwise), or
- (b) if there is no such age or occasion, normal minimum pension age as defined by section 279(1) of the Finance Act 2004;
- “pensions promise” has the meaning given by section 5;
- “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;
- “public service pensions legislation” means—
- (a) the Public Service Pensions Act 2013,
- (b) the Superannuation Act 1972, and
- (c) any other provision by or under which a public service pension scheme is established;
- “public service pension scheme” has the meaning given by section 1(1) of the Pension Schemes Act 1993;
- “regulations” means regulations made by the Secretary of State;
- “retirement benefit”, in relation to a member of a pension scheme, means—
- (a) retirement income, or
- (b) a retirement lump sum;
- “retirement income”, in relation to a member of a pension scheme, means a pension or annuity payable to the member on reaching normal pension age;
- “retirement lump sum”, in relation to a member of a pension scheme, means a lump sum payable to the member on reaching normal pension age or available for the provision of other retirement benefits for the member on or after reaching normal pension age.

PART 2

COLLECTIVE BENEFITS

Introduction and nature of collective benefits

8 Introduction and definition

- (1) This Part is about pension schemes under which at least some of the benefits that may be provided are collective benefits.
- (2) A benefit is a “collective benefit” if in all circumstances the rate or amount of the benefit depends entirely on—
- (a) the amount available for the provision of benefits to or in respect of the member and one or more other members collectively, and
- (b) factors used to determine what proportion of that amount is available for the provision of the particular benefit.
- (3) But a benefit is not a collective benefit if—

- (a) it is a money purchase benefit, or
- (b) it is of a description specified in regulations.

9 Duty to set targets for collective benefits

- (1) Regulations may require the trustees or managers of a pension scheme to set targets in relation to any collective benefits that may be provided by the scheme.
- (2) The regulations may, in particular—
 - (a) impose requirements about the way that targets are expressed;
 - (b) impose requirements about the recording or publication of targets;
 - (c) require the trustees or managers to set initial targets at a level which ensures that the probability of meeting the targets falls within a range specified in the regulations;
 - (d) require the trustees or managers to obtain a certificate from an actuary certifying that, in the opinion of the actuary, the initial targets have been set at a level that complies with regulations under paragraph (c).
- (3) Regulations made in reliance on subsection (2)(d) may, in particular—
 - (a) require the trustees or managers to obtain the certificate from an actuary who has specified qualifications or meets other specified requirements;
 - (b) make provision about the content of the certificate;
 - (c) set out matters to which the actuary must have regard;
 - (d) require the trustees or managers to provide a copy of the actuary’s certificate to a specified person.
- (4) In this section “target” means a target, relating to the rate or amount of a benefit, that is unenforceable.

10 Policy about factors used to determine each benefit

- (1) Regulations may require the trustees or managers of a pension scheme—
 - (a) to have a policy as to the factors to be used to determine what proportion of the amount available for the provision of any collective benefits by the scheme is to be available for the provision of a particular collective benefit, and
 - (b) to follow that policy in calculating any collective benefit.
- (2) The regulations may, in particular—
 - (a) require the trustees or managers to consult about the policy;
 - (b) make provision about the content of the policy;
 - (c) set out matters that the trustees or managers must take into account, or principles they must follow, in formulating the policy;
 - (d) make provision about reviewing and revising the policy.

11 Power to impose requirements about factors used to determine each benefit

Regulations may make provision as to the factors to be used to determine what proportion of the amount available for the provision of any collective benefits by a pension scheme is to be available for the provision of a particular collective benefit.

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

Contributions

12 Payment schedule

- (1) Regulations may require the trustees or managers of a pension scheme to prepare a payment schedule showing—
 - (a) the contributions payable to the scheme in respect of any collective benefits under the scheme, and
 - (b) the dates on which the contributions are due.
- (2) The regulations may require the payment schedule to include other amounts payable to the scheme and the dates on which they are due.
- (3) The regulations may, in particular—
 - (a) make further provision about the content of the payment schedule;
 - (b) make provision about revising the payment schedule.
- (4) The regulations may, in particular, make provision corresponding or similar to any provision made by section 87 of the Pensions Act 1995 (payment schedules for certain kinds of scheme).

13 Overdue contributions and other payments

- (1) Regulations—
 - (a) may require the trustees or managers of a pension scheme to notify a specified person of any relevant payments that are overdue;
 - (b) may make provision for the recovery of those payments.
- (2) In subsection (1) “relevant payment” means a payment shown in a payment schedule required by regulations under section 12.
- (3) Regulations under subsection (1) may, in particular, make provision corresponding or similar to any provision made by section 88 of the Pensions Act 1995 (failure to comply with payment schedule for certain kinds of scheme).

Investment

14 Statement of investment strategy

- (1) Regulations may require the trustees or managers of a pension scheme to prepare a statement of their investment strategy in connection with any collective benefit investments.
- (2) The regulations may, in particular, make provision about—
 - (a) the content of the statement;
 - (b) reviewing and revising the statement.
- (3) The regulations may, in particular—
 - (a) make provision corresponding or similar to any provision made by section 35 of the Pensions Act 1995 (investment principles for occupational trust-based schemes);

- (b) disapply that section in relation to any investments to which the regulations apply.

15 Investment performance reports

- (1) Regulations may require the trustees or managers of a pension scheme to obtain reports about the performance of any collective benefit investments.
- (2) The regulations may, in particular, make provision about—
 - (a) the content of reports;
 - (b) how often reports must be obtained;
 - (c) the person from whom reports must be obtained.

16 Investment powers

- (1) Regulations may make provision about—
 - (a) the investment powers of the trustees or managers of a pension scheme in connection with collective benefit investments;
 - (b) their powers to delegate decisions in connection with collective benefit investments (including provision as to liability for delegated decisions);
 - (c) the investment powers of any person to whom they have delegated decisions in connection with collective benefit investments.
- (2) The regulations may, in particular—
 - (a) make provision corresponding or similar to any provision made by section 34 or 36 of the Pensions Act 1995 (powers of investment and delegation and choice of investments for occupational trust-based schemes);
 - (b) disapply those sections in relation to collective benefit investments.

17 Restriction on borrowing by trustees or managers

- (1) Regulations may prohibit a person to whom this section applies from borrowing money or acting as a guarantor except in specified cases.
- (2) This section applies to—
 - (a) the trustees or managers of a pension scheme under which any of the benefits that may be provided are collective benefits, and
 - (b) any person to whom they have delegated decisions in connection with collective benefit investments.

18 Investment powers: duty of care

- (1) Regulations may make provision to prevent any instrument or agreement from excluding or restricting any liability of the trustees or managers of a pension scheme, or any person to whom they have delegated decisions, in respect of the performance of investment functions involving collective benefit investments.
- (2) The regulations may, in particular—
 - (a) make provision corresponding or similar to any provision made by section 33 of the Pensions Act 1995 (duty of care in respect of investment powers for occupational trust-based schemes);

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

- (b) disapply that section in relation to collective benefit investments.

Valuation

19 Valuation reports

- (1) Regulations may require the trustees or managers of a pension scheme to obtain a report prepared by an actuary—
 - (a) valuing the assets held by the scheme for the purposes of providing collective benefits, and
 - (b) assessing the probability of the scheme meeting the targets in relation to those benefits.
- (2) A report required by regulations under this section is referred to in this Part as a “valuation report”.
- (3) The regulations may, in particular—
 - (a) require the trustees or managers to obtain the report from an actuary who has specified qualifications or meets other specified requirements;
 - (b) require the actuary to certify whether, in the opinion of the actuary, the probability of the scheme meeting the targets falls within the required range or is above or below it;
 - (c) make further provision about the content of valuation reports;
 - (d) make provision about how often valuation reports must be obtained.

20 Valuation process

- (1) Regulations may make provision about the methods or assumptions to be used by an actuary valuing assets, or assessing the probability of a scheme meeting a target in relation to a collective benefit, for the purposes of a valuation report.
- (2) Regulations under subsection (1) may, in particular—
 - (a) require the trustees or managers of the scheme to determine the methods or assumptions to be used by the actuary;
 - (b) set out matters that the trustees or managers must take into account, or principles they must follow, in determining methods or assumptions.
- (3) Regulations may—
 - (a) make provision about the assets to be taken into account for the purposes of a valuation report;
 - (b) require the value attributed to the assets to be reduced by the amount of any liabilities in respect of administrative expenses or other specified matters.
- (4) Regulations may require an actuary preparing a valuation report to certify that, in the opinion of the actuary, any specified requirements imposed by regulations under this section have been followed.
- (5) Regulations—
 - (a) may require an actuary to have regard to guidance issued from time to time by a specified person when preparing a valuation report;
 - (b) may impose other requirements on an actuary when preparing a valuation report.

Dealing with deficits and surpluses

21 Policy for dealing with a deficit or surplus

- (1) Regulations may require the trustees or managers of a pension scheme—
 - (a) to have a policy for dealing with a deficit or surplus in respect of any collective benefits that may be provided by the scheme, and
 - (b) to follow that policy if a valuation report shows a deficit or surplus.
- (2) For the purposes of this Part—
 - (a) there is a “deficit” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is below the required range, and
 - (b) there is a “surplus” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is above the required range.
- (3) Regulations under subsection (1)(a) may, in particular—
 - (a) require the trustees or managers to consult about the policy;
 - (b) make provision about the content of the policy;
 - (c) set out matters that the trustees or managers must take into account, or principles they must follow, in formulating the policy;
 - (d) make provision about reviewing and revising the policy.
- (4) The regulations may, in particular, require the policy—
 - (a) to be formulated with a view to achieving results described in the regulations within a period or periods described in the regulations;
 - (b) to contain provision for a deficit or surplus to be dealt with in one or more of a range of ways described in the regulations;
 - (c) to contain an explanation of the possible effect of the policy, or any requirements imposed by regulations under section 22, on members in different circumstances.

22 Power to impose requirements about dealing with a deficit or surplus

- (1) Regulations may specify circumstances in which a deficit or surplus in respect of any collective benefits that may be provided by a pension scheme must be dealt with in a particular way.
- (2) The regulations may, in particular, specify steps that must be taken by the trustees or managers and the period or periods within which any steps must be taken.

23 Deficits attributable to an offence or the imposition of a levy

- (1) Regulations may provide for an amount to be treated as a debt due from an employer to the trustees or managers of a pension scheme that provides collective benefits in cases where there is a deficit that is attributable to a specified offence or the imposition of a specified levy.
- (2) The regulations may, in particular, make provision corresponding or similar to any provision made by section 75 of the Pensions Act 1995 (amounts deemed to be debts due from an employer).

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

- (3) For the purposes of this section—
 “employer” has the meaning given by section 318 of the Pensions Act 2004;
 “deficit” has the meaning given by the regulations (and the meaning need not be the same as in section 21).

24 Payment of amounts out of collective benefit funds

- (1) Regulations must prohibit the making of payments out of funds held for the purposes of providing collective benefits except for—
 (a) payments made for the purpose of providing those benefits, or
 (b) other specified payments.
- (2) The regulations may, in particular, make provision corresponding or similar to any provision made by section 37 of the Pensions Act 1995 (payment of surplus to employer in the case of an occupational trust-based scheme).

Cash equivalents

25 Policy for calculating cash equivalent of benefits

- (1) Regulations may require the trustees or managers of a pension scheme—
 (a) to have a policy about the calculation and verification of the cash equivalent of any collective benefit that may be provided by the scheme;
 (b) to follow that policy in calculating or verifying any cash equivalent.
- (2) In this section “cash equivalent” means the cash equivalent mentioned in the following—
 (a) section 93A(3) of the Pension Schemes Act 1993;
 (b) section 101H(1) of that Act;
 (c) section 29(2) and (3) of the Welfare Reform and Pensions Act 1999;
 (d) any other provision specified in regulations.
- (3) Regulations under subsection (1) may, in particular—
 (a) require the trustees or managers to consult about the policy;
 (b) require the trustees or managers to ensure that the policy is consistent with any requirements imposed by regulations under section 97 or 101I of the Pension Schemes Act 1993 or section 30 of the Welfare Reform and Pensions Act 1999 or any other specified requirements;
 (c) make other provision about the content of the policy;
 (d) set out matters that the trustees or managers must take into account, or principles they must follow, in formulating the policy;
 (e) make provision about reviewing and revising the policy.

Winding up

26 Winding up

- (1) Regulations may make provision about the winding up of a pension scheme under which collective benefits may be provided or part of such a scheme.

- (2) The regulations may, in particular, make provision about—
 - (a) the distribution of assets (including any order of priority);
 - (b) the operation of the scheme during winding up;
 - (c) the discharge of liabilities;
 - (d) excess assets on winding up.
- (3) The regulations may, in particular—
 - (a) disapply or amend or otherwise modify the application of any of sections 38, 73, 73A, 73B, 74 and 76 of the Pensions Act 1995 (winding up);
 - (b) make provision corresponding or similar to any provision made by those sections.

27 Requirement to wind up scheme in specified circumstances

- (1) Regulations may require the trustees or managers of a pension scheme under which collective benefits may be provided to wind up the whole or part of the scheme in specified circumstances.
- (2) The regulations may, in particular—
 - (a) provide for the winding up of the scheme or part to be as effective in law as if it had been made under powers conferred by or under the scheme;
 - (b) require the scheme or part to be wound up in spite of any legislative provision, rule of law or provision of a scheme, which would otherwise operate to prevent the winding up;
 - (c) require the scheme or part to be wound up without regard to any legislative provision, rule of law or provision of a scheme that would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent with a view to the winding up.

28 Policies about winding up

- (1) Regulations may require the trustees or managers of a pension scheme under which collective benefits may be provided—
 - (a) to have a policy about the winding up of the scheme or part of it;
 - (b) to follow that policy.
- (2) The regulations may, in particular—
 - (a) require the trustees or managers to consult about the policy;
 - (b) make provision about the content of the policy;
 - (c) set out matters that the trustees or managers must take into account, or principles they must follow, in formulating the policy;
 - (d) make provision about reviewing and revising the policy.
- (3) The regulations may, in particular, require the policy—
 - (a) to contain an explanation of the circumstances in which the trustees or managers are permitted or required to wind up the scheme or part and any requirements about the distribution of assets (including any order of priority);
 - (b) to contain an explanation of how the trustees or managers intend to use any powers to wind up the scheme or part and how they intend to use any powers in relation to the distribution of assets (including any order of priority);

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

- (c) to contain an explanation of how the costs of winding up are required to be met or how the trustees or managers will use any powers to decide how those costs are to be met.

Identifying assets

29 Working out which assets are available for the provision of which benefits

Regulations may make provision, in relation to a pension scheme under which any of the benefits that may be provided are collective benefits, about how to work out—

- (a) which assets held by the scheme are held for the purposes of providing collective benefits;
- (b) which assets held by the scheme are held for the purposes of providing which collective benefits;
- (c) which assets held by the scheme are held for the purposes of providing any benefits other than collective benefits.

Regulations under Part 2: general

30 Requirement to obtain actuarial advice

- (1) Regulations may require the trustees or managers of a pension scheme to obtain advice from an actuary before making a specified decision or taking other specified steps.
- (2) The regulations may, in particular, require the trustees or managers to obtain the advice from an actuary who has specified qualifications or meets other specified requirements.
- (3) The regulations—
 - (a) may require an actuary to have regard to guidance issued from time to time by a specified person when advising on matters in accordance with the regulations;
 - (b) may impose other requirements on an actuary when advising on matters in accordance with the regulations.

31 Sub-delegation

Regulations under this Part may confer a discretion on a person.

32 Publication of documents etc

Regulations under this Part requiring the trustees or managers of a pension scheme to prepare or obtain any document or have a policy may impose requirements about—

- (a) the publication of the document or policy;
- (b) the sending of copies to persons specified in the regulations.

33 Enforcement

Regulations under this Part may provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who fails to comply with the regulations.

34 Overriding requirements

Regulations under this Part may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

Interpretation of Part 2

35 Interpretation of Part 2

(1) In this Part—

“collective benefit” has the meaning given by section 8;

“collective benefit investments”, in relation to a scheme, means investments held for the purposes of the provision of any collective benefits under the scheme;

“deficit”, in respect of a collective benefit, has the meaning given by section 21 (but this definition does not apply in section 23, which contains its own definition);

“money purchase benefit” has the meaning given by section 181 of the Pension Schemes Act 1993;

“pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;

“regulations” means regulations made by the Secretary of State;

“required range”, in relation to a level of probability, means the range specified in regulations under section 9(2)(c);

“surplus”, in respect of a collective benefit, has the meaning given by section 21;

“target” means a target required by regulations under section 9;

“trustees or managers” means—

(a) in relation to a scheme established under a trust, the trustees, and

(b) in relation to any other scheme, the managers;

“valuation report” has the meaning given by section 19.

(2) A power conferred by this Part to make provision corresponding or similar to any provision made by a section of another Act includes a power to make provision corresponding or similar to any provision that may be made by regulations under that section.

PART 3

GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES

Administration and governance

36 Pensions promise obtained from third party

(1) The Secretary of State may by regulations provide that the trustees or managers of a defined benefits scheme or a shared risk scheme must not obtain a pensions promise from a third party unless conditions specified in the regulations are met.

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

- (2) Regulations under this section—
- (a) may provide for a specified provision of the regulations to override a provision of a scheme to the extent that there is a conflict;
 - (b) may provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a person who fails to comply with the regulations.
- (3) In this section—
- “defined benefits scheme” has the meaning given by section 2;
 - “pensions promise” has the meaning given by section 5;
 - “shared risk scheme” has the meaning given by section 3;
 - “trustees or managers” means—
- (a) in relation to a scheme established under a trust, the trustees, and
 - (b) in relation to any other scheme, the managers.
- (4) In section 34(7) of the Pensions Act 1995 (power of investment and delegation overrides other legislation etc), for the words from “other than” to the end of the subsection substitute “other than an enactment contained in, or made under—
- (a) this Part,
 - (b) the Pension Schemes Act 1993, or
 - (c) section 36 of the Pension Schemes Act 2015.”

37 Duty to act in the best interests of members

- (1) The Secretary of State may by regulations impose a duty on the managers of a relevant non-trust based scheme to act in the best interests of members when taking decisions of a specified description.
- (2) In this section “relevant non-trust based scheme” means a non-trust based scheme that is—
- (a) a shared risk scheme, or
 - (b) a defined contributions scheme under which any of the benefits that may be provided are collective benefits.
- (3) Regulations under this section—
- (a) may provide for the duty to act in the best interests of members to override obligations that are inconsistent with that duty (including obligations imposed by any legislative provision, rule of law or provision of a scheme or other instrument), but
 - (b) do not otherwise affect any duty that might arise apart from this section.
- (4) Regulations under this section may provide for the consequences of a manager breaching (or threatening to breach) the duty to act in the best interests of members to be the same as the consequences of breaching (or threatening to breach) a fiduciary duty owed by the manager to the members and, accordingly, for the duty to be enforceable in the same way as a fiduciary duty.
- (5) In this section—
- “collective benefit” has the meaning given by section 8;
 - “defined contributions scheme” has the meaning given by section 4;
 - “non-trust based scheme” means a scheme that is not established under a trust;

“shared risk scheme” has the meaning given by section 3.

38 Disclosure of information about schemes

- (1) Section 113 of the Pension Schemes Act 1993 (disclosure of information about schemes to members etc) is amended as follows.
- (2) In subsection (1)—
 - (a) in the opening words, for “the persons mentioned in subsection (2)” substitute “persons of prescribed descriptions”;
 - (b) in paragraph (ca), omit “to the member” and “by him”.
- (3) Omit subsection (2).
- (4) Before subsection (3) insert—

“(2A) In complying with requirements specified in the regulations, a person must have regard to any guidance prepared from time to time by the Secretary of State.”
- (5) For subsection (4) substitute—

“(4) Where the regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping recognised trade unions informed, the regulations must make provision for referring to an employment tribunal any question whether an organisation is a recognised trade union.

(4A) For the purposes of subsection (4) a trade union is a recognised trade union in relation to an occupational pension scheme if it is an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.”
- (6) In subsection (5), for “some or all of the persons mentioned in subsection (2)” substitute “persons of a prescribed description”.
- (7) Omit paragraph 17 of Schedule 12 to the Pensions Act 2004, which is no longer needed given subsection (3).

Early leavers

39 Extension of preservation of benefit under occupational pension schemes

- (1) Part 4 of the Pension Schemes Act 1993 (protection for early leavers) is amended as follows.
- (2) In section 71 (basic principle as to short service benefit)—
 - (a) in subsection (1), for paragraph (aa) (but not the “or” at the end) substitute—

“(aa) he has at least 30 days’ qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be benefit falling within subsection (1A),”;
 - (b) after subsection (1) insert—

“(1A) The following fall within this subsection—

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

- (a) collective benefits;
 - (b) benefits calculated otherwise than by reference to the member's salary."
- (3) In section 70 (interpretation of Chapter 1: preservation requirements), in subsection (1) —
- (a) after the definition of "relevant employment" insert—
 - ““benefits”, in relation to a member of a scheme, means—
 - (a) retirement benefit for the member at normal pension age, or
 - (b) benefit for the member's wife, husband, civil partner, widow, widower, surviving civil partner or dependants or others on the member's attaining normal pension age or the member's later death, or
 - (c) both such descriptions of benefit;”;
 - (b) in the definition of "long service benefit" omit the words from "and in this definition "benefits" means" to the end of the definition.
- (4) In section 71, for subsections (7) to (11) substitute—
- “(7) In subsection (1), "2 years' qualifying service" or (as the case may be) "30 days' qualifying service" means a period of service of the relevant duration in which the member was at all times employed either—
 - (a) in pensionable service under the scheme, or
 - (b) in service in employment which was contracted-out by reference to the scheme, or
 - (c) in linked qualifying service under another scheme.
 - (8) For the purposes of subsection (7)—
 - (a) a period of service may consist of a single period or two or more periods, continuous or discontinuous;
 - (b) no regard is to be had to whether or not the service was of the same description throughout the period of service.
 - (9) A period of service previously terminated is not to count towards the 2 years' or (as the case may be) 30 days' qualifying service unless it counts towards qualification for long service benefit, and need then count only to the same extent and in the same way.
 - (10) Subsection (1)(aa) does not apply in relation to a person's membership of a scheme if—
 - (a) in a case where the benefit would necessarily all be money purchase benefit, any period of relevant service began before the day on which section 36 of the Pensions Act 2014 came into force (whether or not it also ended before that date);
 - (b) in any other case, any period of relevant service began before the day on which section 39 of the Pension Schemes Act 2015 came into force (whether or not it also ended before that date).

“Relevant service” means service that counts towards the 30 days' qualifying service for the purposes of subsection (1)(aa).”
- (5) In section 74 (computation of short service benefit), in subsections (3) and (4), after “so much of any benefit” insert “, other than collective benefit.”

- (6) In section 36 of the Pensions Act 2014, omit subsections (2) and (3) which are no longer needed given the earlier provisions of this section.

40 Revaluation of accrued benefits

Schedule 1 contains amendments about the revaluation of benefits.

Indexation

41 Collective benefits exempt from indexation

- (1) In section 51 of the Pensions Act 1995 (annual increase in rate of pension)—
- (a) in subsection (1), for “Subject to subsections (6) and (7)” substitute “Subject to subsections (6) to (7A)”;
 - (b) after subsection (7) insert—

“(7A) This section does not apply to any pension, or part of a pension, that is a collective benefit.”
- (2) Omit section 21(2) of the Pensions Act 2011, which is no longer needed given subsection (1).

42 Regulatory own fund schemes exempt from indexation

- (1) Section 51 of the Pensions Act 1995 (annual increase in rate of pension) is amended as follows.
- (2) In subsection (1)(a)(ii) (scheme based exemption) after “public service pension scheme” insert “or a regulatory own fund scheme (see subsection (9))”.
- (3) After subsection (8) insert—
- “(9) In subsection (1)(a)(ii) “regulatory own fund scheme” means a scheme in respect of which Article 17 of Council Directive [2003/41/EC](#) of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision applies.
 - (10) Regulations may amend subsection (9) to replace the reference to the Article mentioned there with a reference to any provision of an EU instrument that replaces it (with or without changes).”

43 Power to create other exemptions from indexation

- (1) In section 51 of the Pensions Act 1995 (annual increase in rate of pension), after subsection (5) insert—
- “(5A) Regulations may provide that this section does not apply to a pension, or part of a pension, of a specified description.
 - (5B) But regulations under subsection (5A) may not be made in respect of—
 - (a) a pension, or any part of a pension, under a defined benefits scheme,
 - (b) a pension, or any part of a pension, which came into payment before the day on which the regulations come into force, or

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

- (c) a pension, or any part of a pension, which is attributable to pensionable service before the day on which the regulations come into force.

(5C) Regulations under subsection (5A) may amend this Part.”

- (2) In section 175(2) of that Act (statutory instruments subject to affirmative procedure), before paragraph (a) insert—
 - “(za) section 51(5A),”.

Independent trustees

44 Removal of requirement to maintain register of independent trustees

- (1) Section 23 of the Pensions Act 1995 (power to appoint an independent trustee of an occupational pension scheme on the insolvency of the person who is the employer in relation to the scheme etc) is amended as follows.
- (2) In subsection (1), omit paragraph (b) (requirement for the trustee to be registered in a register maintained by the Pensions Regulator) and the “and” before it.
- (3) Omit subsections (4) to (6) (regulations to provide for there to be a register of independent trustees).

Rules about modification of schemes

45 Rules about modification of schemes

- (1) The Pensions Act 1995 is amended as follows.
- (2) In section 67 (the subsisting rights provisions)—
 - (a) in subsection (3), omit paragraph (b) and the “or” before it;
 - (b) after subsection (3) insert—
 - “(3A) Regulations may provide for cases in which the subsisting rights provisions do not apply.”
- (3) In section 67A (the subsisting rights provisions: interpretation), in subsection (3) (meaning of “protected modification”), after paragraph (a) insert—
 - “(aa) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to benefits in respect of which there is a pensions promise becoming, or being replaced with, a right to benefits under the scheme rules in respect of which there is no pensions promise,
 - (ab) on taking effect would or might result in any subsisting right of a member of the scheme which is a right to retirement income in respect of which there is a pensions promise becoming, or being replaced with, a right to benefits other than retirement income,
 - (ac) on taking effect would or might result in any subsisting right of—
 - (i) a member of the scheme, or
 - (ii) a survivor of a member of the scheme,

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

which is not a right or entitlement to collective benefits becoming, or being replaced with, a right or entitlement to collective benefits under the scheme rules.”.

- (4) In subsection (3)(b) of that section, after “rules” insert “, other than a pension that is a collective benefit”.
- (5) In subsection (5)(a) of that section, after “paragraph (a)” insert “, (aa), (ab), (ac)”.
- (6) In subsection (9) of that section—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
 - “(viii) regulations made under Schedule 17 to the Pensions Act 2014;
 - (ix) regulations made under Schedule 18 to the Pensions Act 2014;
 - (x) regulations made under Part 2 of the Pension Schemes Act 2015;”;
 - (b) in paragraph (b), after sub-paragraph (v) insert—
 - “(vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
 - (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
 - (viii) regulations made under section 34 of the Pension Schemes Act 2015;”.
- (7) In section 124 (interpretation), in subsection (1), at the appropriate places insert—
““pensions promise” has the meaning given by section 5 of the Pension Schemes Act 2015;”;
““retirement income” has the meaning given by section 7 of the Pension Schemes Act 2015;”.

Other amendments

46 Other amendments to do with Parts 1 and 2

Schedule 2—

- (a) contains amendments to do with Parts 1 and 2, and
- (b) replaces references to “money purchase scheme” so as to limit the number of different ways of categorising pension schemes.

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

PART 4

PENSIONS FLEXIBILITIES

CHAPTER 1

PENSIONS GUIDANCE

47 Pensions guidance

Schedule 3 contains amendments of the Financial Services and Markets Act 2000, and of other legislation, that are about the giving of pensions guidance to pension scheme members, and survivors of pension scheme members, with a right or entitlement to flexible benefits.

CHAPTER 2

INDEPENDENT ADVICE

Great Britain

48 Independent advice in respect of conversions and transfers: Great Britain

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
 - (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
 - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
 - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Secretary of State may by regulations make provision about—
 - (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
 - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Secretary of State may by regulations—
 - (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
 - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
 - (a) the valuation of the subsisting rights;

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

- (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Great Britain.
- (6) Where the trustees or managers fail to carry out a check required by this section, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
 - “appropriate independent advice” means advice that—
 - (a) is given by an authorised independent adviser, and
 - (b) meets any other requirements specified in regulations made by the Secretary of State;
 - “authorised independent adviser” means a person who—
 - (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Secretary of State, and
 - (b) meets such other requirements as may be specified in regulations made by the Secretary of State for the purpose of ensuring that the person is independent;
 - “safeguarded benefits” means benefits other than—
 - (a) money purchase benefits, and
 - (b) cash balance benefits.

49 Power to require employer to arrange advice for purposes of section 48

- (1) The Secretary of State may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 48.
- (2) Regulations under subsection (1) may, in particular—
 - (a) impose limitations on the amount that an employer may be required to pay;
 - (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;
 - (c) provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a failure by an employer to comply with the regulations.
- (3) In this section “employer” has the meaning given by regulations made by the Secretary of State.

50 Independent advice: consequential amendments: Great Britain

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 99 (trustees’ duties after exercise of option), after subsection (2) insert—
 - “(2A) Subsection (2) does not apply if—

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

- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
 - (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”
- (3) In section 101J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 18(3) of Schedule 4 to this Act) insert—
- “(2B) Subsection (1) does not apply if—
- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
 - (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

Northern Ireland

51 Independent advice in respect of conversions and transfers: Northern Ireland

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
- (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
 - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
 - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Department for Social Development in Northern Ireland may by regulations make provision about—
- (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
 - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Department for Social Development in Northern Ireland may by regulations—
- (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
 - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—

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

- (a) the valuation of the subsisting rights;
 - (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Northern Ireland.
- (6) Where the trustees or managers fail to carry out a check required by this section, Article 10 of the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)) (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
- “appropriate independent advice” means advice that—
 - (a) is given by an authorised independent adviser, and
 - (b) meets any other requirements specified in regulations made by the Department for Social Development in Northern Ireland;
 - “authorised independent adviser” means a person who—
 - (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Department for Social Development in Northern Ireland, and
 - (b) meets such other requirements as may be specified in regulations made by the Department for Social Development in Northern Ireland for the purpose of ensuring that the person is independent;
 - “safeguarded benefits” means benefits other than—
 - (a) money purchase benefits, and
 - (b) cash balance benefits.

52 Power to require employer to arrange advice for purposes of section 51

- (1) The Department for Social Development in Northern Ireland may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 51.
- (2) Regulations under subsection (1) may, in particular—
- (a) impose limitations on the amount that an employer may be required to pay;
 - (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;
 - (c) provide for Article 10 of the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)) (civil penalties) to apply to a failure by an employer to comply with the regulations.
- (3) In this section “employer” has the meaning given by regulations made by the Department for Social Development in Northern Ireland.

53 Independent advice: consequential amendments: Northern Ireland

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

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

(2) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—

“(2A) Subsection (2) does not apply if—

- (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
- (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

(3) In section 97J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 64(3) of Schedule 4 to this Act) insert—

“(2B) Subsection (1) does not apply if—

- (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
- (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

Income tax exemption

54 Independent advice: income tax exemption

(1) In Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: exemptions), in Chapter 9 (exemptions: pension provision), after section 308A insert—

“308B Independent advice in respect of conversions and transfers of pension scheme benefits

(1) No liability to income tax arises in respect of—

- (a) the provision to an employee or former employee of appropriate independent advice, or
- (b) the payment or reimbursement, to or in respect of an employee or former employee, of the cost of such advice,

if conditions A to C are met.

(2) Condition A is that the provision, payment or reimbursement is required by regulations under section 49 or 52 of the Pension Schemes Act 2015 (power to require employer to arrange independent advice in respect of conversions and transfers).

(3) If condition A is met only as respects part of the payment or reimbursement because the amount of the payment or reimbursement exceeds the amount required to be paid or reimbursed, subsection (1) applies in respect of that part.

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

- (4) Condition B is that the provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements.
 - (5) Condition C is that such other requirements as may be specified in regulations made by the Treasury are satisfied in relation to the provision, payment or reimbursement.
 - (6) In this section—
 - “appropriate independent advice”—
 - (a) in relation to England and Wales and Scotland, has the meaning given by regulations under section 48 of the Pension Schemes Act 2015;
 - (b) in relation to Northern Ireland, has the meaning given by regulations under section 51 of that Act;
 - “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which an employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of appropriate independent advice or the payment or reimbursement of the cost of such advice.”
- (2) In that Part of that Act, in section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2), after paragraph (d) insert—
 - “(da) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits),”.
 - (3) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

CHAPTER 3

DRAWDOWN, CONVERSION OF BENEFITS AND LUMP SUMS

Great Britain

55 Sums or assets that may be designated as available for drawdown: Great Britain

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants’ drawdown pension, nominees’ drawdown pension or successors’ drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.
- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.

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

- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

56 Provision about conversion of certain benefits for drawdown: Great Britain

- (1) The Secretary of State may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
- (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
 - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
- (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;
 - (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

57 Provision about calculation of lump sums: Great Britain

- (1) The Secretary of State may by regulations make provision about the calculation of lump sums in circumstances where—
- (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
 - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.
- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
- (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
 - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

58 Restrictions on conversion of benefits during winding up etc: Great Britain

(1) In section 73A of the Pensions Act 1995 (operation of scheme during winding up period), after subsection (6) insert—

“(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

(2) In section 73B of that Act (sections 73 and 73A: supplementary), in subsections (1) and (3), after “section 73A(3)” insert “or (6A)”.

(3) In section 135 of the Pensions Act 2004 (restrictions on winding up, discharge of liabilities etc during assessment period), in subsection (4), before paragraph (a) insert—

“(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

59 Restriction on payment of lump sums during PPF assessment period: Great Britain

(1) Section 138 of the Pensions Act 2004 (payment of scheme benefits during assessment period) is amended as follows.

(2) In subsection (1), after “Subsections (2)” insert “, (2A)”.

(3) After subsection (2) insert—

“(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—

- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and
- (b) the assessment date referred to in Schedule 7 were the date on which the assessment period began.”

(4) In subsection (3), omit “But”.

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

(6) In subsection (6), for “subsection (3)” substitute “subsections (2A) and (3)”.

(7) In subsection (7), after “Subsections (2),” insert “(2A),”.

(8) In subsection (8), after “subsections (2)” insert “, (2A)”.

(9) In subsection (9), for “subsections (2) and (3)” substitute “subsections (2) to (3)”.

(10) After subsection (9) insert—

“(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of subsection (2A) as

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

being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.

(9B) Regulations may create exceptions to subsection (2A).”

(11) In subsection (12), for “subsection (2)” substitute “subsections (2) and (2A)”.

(12) In subsection (13), after “subsection (2)” insert “, (2A)”.

60 Sections 55 to 57: consequential amendments

(1) In section 101AI of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (8)—

(a) in paragraph (a), after sub-paragraph (ix) insert—

“(x) section 55 of the Pension Schemes Act 2015;
 (xi) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;

(b) in paragraph (b), after sub-paragraph (vii) insert—

“(viii) section 55(3) of the Pension Schemes Act 2015;
 (ix) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”

(2) In section 67A of the Pensions Act 1995 (the subsisting rights provisions: interpretation), in subsection (9)—

(a) in paragraph (a), after sub-paragraph (x) (inserted by section 45 of this Act) insert—

“(xi) section 55 of the Pension Schemes Act 2015;
 (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by section 45 of this Act) insert—

“(ix) section 55(3) of the Pension Schemes Act 2015;
 (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”

(3) In section 318 of the Pensions Act 2004 (interpretation), in subsection (3)—

(a) in paragraph (a), after sub-paragraph (x) (inserted by Schedule 2 to this Act) insert—

“(xi) section 55 of the Pension Schemes Act 2015;
 (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 2 to this Act) insert—

“(ix) section 55(3) of the Pension Schemes Act 2015;
 (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”

Northern Ireland

61 Sums or assets that may be designated as available for drawdown: Northern Ireland

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.
- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.
- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

62 Provision about conversion of certain benefits for drawdown: Northern Ireland

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
 - (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
 - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
 - (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;
 - (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

63 Provision about calculation of lump sums: Northern Ireland

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the calculation of lump sums in circumstances where—

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

- (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
 - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.
- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
- (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
 - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

64 Restrictions on conversion of benefits during winding up etc: Northern Ireland

- (1) In Article 73A of the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)) (operation of scheme during winding up period), after paragraph (6) insert—
- “(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”
- (2) In Article 73B of that Order (Articles 73 and 73A: supplementary), in paragraphs (1) and (3), after “Article 73A(3)” insert “or (6A)”.
- (3) In Article 119 of the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#)) (restrictions on winding up, discharge of liabilities etc during assessment period), in paragraph (4), before sub-paragraph (a) insert—
- “(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

65 Restriction on payment of lump sums during PPF assessment period: Northern Ireland

- (1) Article 122 of the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#)) (payment of scheme benefits during assessment period) is amended as follows.
- (2) In paragraph (1), after “Paragraphs (2)” insert “, (2A)”.
- (3) After paragraph (2) insert—
- “(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—

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

- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and
 - (b) the assessment date referred to in Schedule 6 were the date on which the assessment period began.”
- (4) In paragraph (3), omit “But”.
- (5) In paragraph (5), for “paragraph (2)” substitute “paragraphs (2) and (2A)”.
- (6) In paragraph (6), for “paragraph (3)” substitute “paragraphs (2A) and (3)”.
- (7) In paragraph (7), after “Paragraphs (2),” insert “(2A),”.
- (8) In paragraph (8), after “paragraphs (2)” insert “, (2A)”.
- (9) In paragraph (9), for “paragraphs (2) and (3)” substitute “paragraphs (2) to (3)”.
- (10) After paragraph (9) insert—
- “(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of paragraph (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.
- (9B) Regulations may create exceptions to paragraph (2A).”
- (11) In paragraph (12), for “paragraph (2)” substitute “paragraphs (2) and (2A)”.
- (12) In paragraph (13), after “paragraph (2)” insert “, (2A)”.

66 Sections 61 to 63: consequential amendments

- (1) In section 97AI of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (7)—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
 - “(viii) section 61 of the Pension Schemes Act 2015;
 - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
 - (b) in paragraph (b), after sub-paragraph (v) insert—
 - “(vi) section 61(3) of the Pension Schemes Act 2015;
 - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”
- (2) In Article 67A of the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)) (the subsisting rights provisions: interpretation), in paragraph (9)—
- (a) in sub-paragraph (a), after head (vii) insert—
 - “(viii) section 61 of the Pension Schemes Act 2015;
 - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
 - (b) in sub-paragraph (b), after head (v) insert—
 - “(vi) section 61(3) of the Pension Schemes Act 2015;
 - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”

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

- (3) In Article 2 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (interpretation), in paragraph (4)—
- (a) in sub-paragraph (a), after head (vii) insert—
 - “(viii) section 61 of the Pension Schemes Act 2015;
 - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
 - (b) in sub-paragraph (b), after head (v) insert—
 - “(vi) section 61(3) of the Pension Schemes Act 2015;
 - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”

CHAPTER 4

TRANSFERS

Rights to transfer benefits

67 Rights to transfer benefits

Schedule 4 contains amendments that confer new statutory rights to transfer benefits.

Great Britain

68 Restriction on transfers out of unfunded public service defined benefits schemes: Great Britain

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 95 (ways of taking right to cash equivalent), in subsection (2), after “occupational pension scheme” insert “that is not an unfunded public service defined benefits scheme”.
- (3) In section 95, after subsection (2) insert—
 - “(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—
 - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—
 - (i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,
 - (ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member’s transferrable rights, and
 - (iii) the other scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
 - (b) for acquiring rights allowed under the rules of a personal pension scheme if—

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

- (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
 - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and
 - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
 - (c) for purchasing from one or more insurers such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury;
 - (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury.
- (2B) The Treasury may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in prescribed circumstances or in relation to prescribed schemes or schemes of a prescribed description.
- (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—
- (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
 - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 95(5) insert—
- “(5A) Except in such circumstances as may be prescribed in regulations made by the Secretary of State or the Treasury, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 95(6)—
- (a) after “subsections (2)” insert “, (2A)”;
 - (b) after “subsection (2)” insert “or (2A)”.
- (6) In section 96 (further provisions concerning exercise of option under section 95), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A)”.
- (7) In section 100 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A)”.
- (8) The amendments made by this section have no effect in relation to an application made under section 95(1) of the Pension Schemes Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

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

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 95(2A)(a)(iii)	Section 95(2)(a)(ii)
Section 95(2A)(b)(iii)	Section 95(2)(b)(ii)
Section 95(2A)(c)	Section 95(2)(c)
Section 95(2A)(d)	Section 95(2)(d)
Section 95(5A)	Section 95(5)(a).

69 Reduction of cash equivalents: funded public service defined benefits schemes: Great Britain

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 97 (calculation of cash equivalents), in subsection (1)—
- (a) after “verified” insert “—
(a)”;
 - (b) at the end insert “, and
(b) where a designation has been made under section 97A or 97B, in accordance with regulations under section 97C.”
- (3) After section 97 insert—

“97A Designation of funded public service defined benefits schemes

- (1) This section applies to funded public service defined benefits schemes other than schemes to which section 97B applies (equivalent provision for certain Scottish schemes).
- A scheme to which this section applies is referred to below as an “eligible scheme”.
- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
- (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
 - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme’s liabilities relating to that part.
- (6) A designation under subsection (2)—

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

- (a) may be extended (on more than one occasion) for a period of no more than 2 years;
 - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify—
 - (a) the Treasury, and
 - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (9) If the trustees or managers of a scheme, or part of a scheme, which is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify—
 - (a) the Treasury, and
 - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (10) In this section—
 - “eligible scheme” has the meaning given by subsection (1);
 - “funded public service defined benefits scheme” means a public service pension scheme that—
 - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
 - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
 - “local authority” means—
 - (a) a county or district council in England,
 - (b) a county or county borough council in Wales,
 - (c) a London borough council,
 - (d) the Greater London Authority,
 - (e) the Common Council of the City of London in its capacity as a local authority, or
 - (f) the Council of the Isles of Scilly;
 - “payment out of public funds” means a payment provided directly or indirectly—
 - (a) out of—
 - (i) the Consolidated Fund or any other account or source of money which cannot be drawn or spent other than by, or with the authority of, the Treasury, or
 - (ii) the Welsh Consolidated Fund, or
 - (b) by a local authority;
 - “the relevant person” means—

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

- (a) in relation to a scheme established by virtue of paragraph 12 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the Independent Parliamentary Standards Authority and the trustees of the Parliamentary Contributory Pension Fund;
 - (b) in relation to a scheme established by virtue of paragraph 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the trustees of the Parliamentary Contributory Pension Fund;
 - (c) in any other case, either of the following—
 - (i) the Treasury, or
 - (ii) any Minister of the Crown by whom, or with whose approval, the scheme was established.
- (11) The Treasury may by regulations modify the definitions of “local authority” and “the relevant person” in subsection (10).

**97B Designation of funded public service defined benefits schemes:
Scotland**

- (1) This section applies to a funded public service defined benefits scheme that is—
- (a) a scheme established by, or with the approval of, the Scottish Ministers;
 - (b) a scheme established by virtue of section 81(4)(b) of the Scotland Act 1998.

A scheme to which this section applies is referred to below as an “eligible scheme”.

- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
- (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
 - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme’s liabilities relating to that part.
- (6) A designation under subsection (2)—
- (a) may be extended (on more than one occasion) for a period of no more than 2 years;
 - (b) may be revoked.

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

- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify the Scottish Ministers.
- (9) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify the Scottish Ministers.
- (10) In this section—
- “eligible scheme” has the meaning given by subsection (1);
 - “funded public service defined benefits scheme” means a public service pension scheme that—
 - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
 - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
 - “payment out of public funds” means a payment provided directly or indirectly—
 - (a) out of the Scottish Consolidated Fund, or
 - (b) by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
 - “the relevant person” means—
 - (a) in relation to a scheme falling within subsection (1)(a), the Scottish Ministers;
 - (b) in relation to a scheme falling with subsection (1)(b), the trustees of the Scottish Parliamentary Contributory Pension Fund.
- (11) The Scottish Ministers may by regulations modify the definition of “the relevant person” in subsection (10).”
- (4) After section 97B (inserted by subsection (3)) insert—

“97C Reduction of cash equivalents in case of designated schemes

- (1) The Treasury may by regulations provide that where, under section 95(1), a member of a designated scheme requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.
- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 97) that the amount by which a

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

cash equivalent is to be reduced is such an amount that a member has no right to receive anything.

- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 95(1)) is designated under section 97A or 97B.”

70 Sections 68 and 69: consequential amendments

- (1) In the Pension Schemes Act 1993, in section 182 (orders and regulations: general provisions), after subsection (1) insert—

“(1A) Subsection (1) does not apply to the power of the Scottish Ministers to make regulations under section 97B(11).”

- (2) In that Act, in section 185 (consultations about other regulations), after subsection (5) insert—

“(5A) Subject to subsection (5C), before the Treasury (acting alone) make any regulations under section 95, 97A or 97C they shall consult such persons as they may consider appropriate.

(5B) Subject to subsection (5C), before the Scottish Ministers make any regulations under section 97B(11) they shall consult such persons as they may consider appropriate.

(5C) Subsections (5A) and (5B) do not apply to regulations in the case of which the Treasury or (as the case may be) the Scottish Ministers consider consultation inexpedient because of urgency or to regulations of the type described in subsection (2)(b) or (e).”

- (3) In that Act, in section 186 (Parliamentary control of orders and regulations)—

(a) in subsection (1) (negative procedure), after “Secretary of State” insert “or the Treasury”;

(b) in subsection (3) (affirmative procedure), after paragraph (e) insert “, or
(f) regulations made under section 97A(11)”;

(c) after subsection (5) insert—

“(6) Regulations made by the Scottish Ministers under section 97B(11) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

- (4) In the Pensions Act 2004, in section 18 (pension liberation: interpretation), in subsection (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

- (5) The consultation requirement in section 185(5A) of the Pension Schemes Act 1993 (inserted by subsection (2)) may be satisfied by things done before the day on which this Act is passed.

Northern Ireland

71 Restriction on transfers out of unfunded public service defined benefits schemes: Northern Ireland

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 91(2), after “occupational pension scheme” insert “that is not an unfunded public service defined benefits scheme”.
- (3) In section 91, after subsection (2) insert—
 - “(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—
 - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—
 - (i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,
 - (ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member’s transferrable rights, and
 - (iii) the other scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
 - (b) for acquiring rights allowed under the rules of a personal pension scheme if—
 - (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
 - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member’s transferrable rights, and
 - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
 - (c) for purchasing from one or more insurers such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
 - (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel.
 - (2B) The Department of Finance and Personnel may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in specified circumstances or in relation to specified schemes or schemes of a specified description.
 - (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—

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

- (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and
 - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 91(5) insert—
- “(5A) Except in such circumstances as may be prescribed in regulations made by the Department or the Department of Finance and Personnel, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 91(6)—
- (a) after “subsections (2)” insert “, (2A)”;
 - (b) after “subsection (2)” insert “or (2A)”.
- (6) In section 92 (further provisions concerning exercise of option under section 91), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A)”.
- (7) In section 96 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A)”.
- (8) The amendments made by this section have no effect in relation to an application made under section 91 of the Pension Schemes (Northern Ireland) Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes (Northern Ireland) Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 91(2A)(a)(iii)	Section 91(2)(a)(ii)
Section 91(2A)(b)(iii)	Section 91(2)(b)(ii)
Section 91(2A)(c)	Section 91(2)(c)
Section 91(2A)(d)	Section 91(2)(d)
Section 91(5A)	Section 91(5)(a).

72 Reduction of cash equivalents: funded public service defined benefits schemes: Northern Ireland

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 93 (calculation of cash equivalents), in subsection (1)—
- (a) after “verified” insert “—
(a)”;
 - (b) at the end insert “, and
(b) where a designation has been made under section 93A, in accordance with regulations under section 93B.”
- (3) After section 93 insert—

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

“93A Designation of funded public service defined benefits schemes

- (1) The relevant Department may designate a funded public service defined benefits scheme as a scheme to which regulations under section 93B are to apply for a specified period of no more than 2 years.
- (2) The power under subsection (1) may be exercised only if the relevant Department considers that—
 - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
 - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90.
- (3) The power under subsection (1) may be exercised in relation to the whole or any part of a scheme.
- (4) In the application of subsection (2) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme’s liabilities relating to that part.
- (5) A designation under subsection (1)—
 - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
 - (b) may be revoked.
- (6) The relevant Department must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant Department is the trustees or managers).
- (7) If the trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, that is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are met in relation to the scheme or part they must notify—
 - (a) the Department of Finance and Personnel, and
 - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (8) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are no longer met in relation to the scheme or part they must notify—
 - (a) the Department of Finance and Personnel, and
 - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (9) In this section—

“funded public service defined benefits scheme” means a public service pension scheme that—

 - (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and

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

(b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;

“local authority” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;

“payment out of public funds” means a payment provided directly or indirectly—

(a) out of the Northern Ireland Consolidated Fund, or

(b) by a local authority;

“the relevant Department”, in relation to a funded public service defined benefits scheme, means either of the following—

(a) the Department of Finance and Personnel, or

(b) any Northern Ireland department by whom, or with whose approval, the scheme was established.

(10) The Department of Finance and Personnel may by regulations make modifications of the definition of “the relevant Department” in subsection (9).”

(4) After section 93A (inserted by subsection (3)) insert—

“93B Reduction of cash equivalents in case of section 93A designated schemes

(1) The Department of Finance and Personnel may by regulations provide that where, under section 91(1), a member of a designated scheme requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.

(2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.

(3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 93) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.

(4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 91(1)) is designated under section 93A.”

73 Sections 71 and 72: consequential amendments

(1) In the Pension Schemes (Northern Ireland) Act 1993, in section 176 (general interpretation), in subsection (1), in the definition of “regulations”, after “means” insert “, unless the context otherwise requires,”.

(2) In that Act, in section 181 (Assembly etc control of regulations and orders)—

(a) in subsection (2) (regulations and orders subject to confirmatory procedure), at the end insert “and to regulations made by the Department of Finance and Personnel under section 93A(10)”;

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

- (b) in subsection (4) (regulations and orders subject to negative resolution), for “shall” substitute “and regulations made by the Department of Finance and Personnel under section 91 or 93B shall”.
- (3) In the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), in Article 14 (pension liberation: interpretation), in paragraph (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

CHAPTER 5

INTERPRETATION OF PART 4

74 Meaning of “flexible benefit”

In this Part “flexible benefit”, in relation to a member of a pension scheme or a survivor of a member, means—

- (a) a money purchase benefit,
- (b) a cash balance benefit, or
- (c) a benefit, other than a money purchase benefit or cash balance benefit, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor).

75 Meaning of “cash balance benefit”

- (1) In this Part “cash balance benefit”, in relation to a member of a pension scheme or a survivor of a member, means a benefit calculated by reference to an amount available for the provision of benefits to or in respect of the member (“the available amount”) where there is a promise about that amount.
- (2) But a benefit is not a “cash balance benefit” if, under the scheme—
 - (a) a pension may be provided from the available amount to or in respect of the member, and
 - (b) there is a promise about the rate of that pension.
- (3) The promise mentioned in subsection (1) includes, in particular, a promise about the change in the value of, or the return from, payments made by the member or any other person in respect of the member.
- (4) The promise mentioned in subsection (2)(b) includes a promise that—
 - (a) the available amount will be sufficient to provide a pension of a particular rate;
 - (b) the rate of a pension will represent a particular proportion of the available amount.
- (5) A benefit is not excluded from the definition of “cash balance benefit” by subsection (2) merely because under the scheme there is a promise that—
 - (a) the rate or amount of the benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of the benefit which was (or would have been) payable to the member, or

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

- (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available amount.

76 Interpretation of Part 4

UK definitions

(1) In this Part—

“cash balance benefit” has the meaning given by section 75;

“dependants’ drawdown pension”, in relation to a survivor, has the meaning given by paragraph 18 of Schedule 28 to the Finance Act 2004;

“drawdown pension”, in relation to a member, has the meaning given by paragraph 4 of Schedule 28 to the Finance Act 2004;

“flexible benefit” has the meaning given by section 74;

“nominees’ drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27B of Schedule 28 to the Finance Act 2004;

“normal pension age”, in relation to a benefit for a member of a pension scheme or a survivor of a member, means—

- (a) the earliest age at which, or earliest occasion on which, the member or survivor is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill health or otherwise), or
- (b) if there is no such age or occasion, normal minimum pension age as defined by section 279(1) of the Finance Act 2004;

“subsisting right”—

- (a) in relation to a member of a pension scheme means—

- (i) any right which has accrued to or in respect of the member to future benefits under the scheme, or
- (ii) any entitlement to benefits under the scheme,

- (b) in relation to a survivor of a member of a pension scheme, means any right to future benefits, or entitlement to benefits, which the survivor has under the scheme in respect of the member;

“successors’ drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27G of Schedule 28 to the Finance Act 2004;

“survivor”, in relation to a member of a pension scheme, means a person who has survived the member and has a right to future benefits, or is entitled to benefits, under the scheme in respect of the member;

“trustees or managers” means—

- (a) in relation to a scheme established under a trust, the trustees, and
- (b) in relation to any other scheme, the managers;

“uncrystallised funds pension lump sum” has the meaning given by paragraph 4A of Schedule 29 to the Finance Act 2004.

Great Britain only definitions

(2) In any provision of this Part as it extends to England and Wales and Scotland—

“money purchase benefits” has the meaning given by section 181 of the Pension Schemes Act 1993;

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

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;

“pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993.

Northern Ireland only definitions

(3) In any provision of this Part as it extends to Northern Ireland—

“money purchase benefits” has the meaning given by section 176 of the Pension Schemes (Northern Ireland) Act 1993;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“pension scheme” has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993.

PART 5

MISCELLANEOUS

Reemploy

77 Payments into Reemploy Limited Pension and Assurance Scheme

The Secretary of State may make payments into the Reemploy Limited Pension and Assurance Scheme.

Judicial and public service pensions

78 Pension scheme for fee-paid judges

(1) In the Judicial Pensions and Retirement Act 1993, after Part 1 insert—

“PART 1A

FEE-PAID JUDGES

18A Pension scheme for fee-paid judges

(1) The appropriate Minister may by regulations establish a scheme for the payment of pensions and other benefits to or in respect of fee-paid judges.

(2) The scheme may make provision for payments to or in respect of a person in relation to the person’s service before the scheme is established.

(3) No benefits are to be provided under a new public service pension scheme in relation to service in relation to which benefits are to be provided under a scheme under this section.

“New public service pension scheme” means a scheme under—

(a) section 1 of the Public Service Pensions Act 2013, or

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

- (b) section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (c. 2).
- (4) The power under section 18(5) of the Public Service Pensions Act 2013 is to include power to provide for exceptions in the case of a person who—
 - (a) served as a fee-paid judge before 1 April 2012, and
 - (b) has been notified by the appropriate Minister that he or she will potentially be eligible for benefits under a scheme under this section in relation to that service,
 (and section 18(6) to (8) of the 2013 Act apply accordingly).
- (5) The power under section 18(5) of the Public Service Pensions Act (Northern Ireland) 2014 is to include power to provide for exceptions in the case of a person who—
 - (a) served as a fee-paid judge before 1 April 2012, and
 - (b) has been notified by the appropriate Minister that he or she will potentially be eligible for benefits under a scheme under this section in relation to that service,
 (and section 18(7) to (9) of the 2014 Act apply accordingly).
- (6) Regulations under this section may, in particular, include provision corresponding or similar to—
 - (a) any provision made by Part 1, section 20 or Schedule 2 or 2A;
 - (b) any provision that may be made by regulations under Part 1, section 20 or Schedule 2 or 2A.
- (7) In this section—
 - “judge” means a person who holds an office specified in the regulations;
 - “fee-paid judge” means a judge whose service is remunerated by the payment of fees (as opposed to the payment of a salary).”
- (2) Schedule 5 contains related amendments.

79 Judicial pensions: pension sharing on divorce etc

In paragraph 1(5) of Schedule 2A to the Judicial Pensions and Retirement Act 1993 (pension credits), for the words from “in respect of the office” to the end substitute “in respect of the rights from which the pension credit is derived”.

80 Public service pension schemes

In Schedule 5 to the Public Service Pensions Act 2013 (meaning of “existing scheme”), in paragraph 1, after “1972” insert “other than a scheme which relates to staff of the Secret Intelligence Service or Security Service”.

Marriage of same sex couples

81 Extension to Scotland of certain provisions about marriage of same sex couples

Sections 17(11), 24D(5), 37(7) and 38A of the Pension Schemes Act 1993 (regulations about relevant gender change cases) extend to Scotland.

Pension sharing

82 Pension sharing and normal benefit age

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 101B (interpretation), for the definition of “normal benefit age” substitute—

““normal benefit age”, in relation to a pension credit benefit for a member of a scheme, is the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);

“normal pension age”, in relation to a benefit for a member of a scheme, means the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise).”
- (3) In section 101C (basic principle as to pension credit benefit), for subsection (1) substitute—
 - “(1) The normal benefit age in relation to a pension credit benefit for a member of a scheme—
 - (a) must not be lower than 60, and
 - (b) must not be higher than the permitted maximum.
 - (1A) The “permitted maximum” is 65 or, if higher, the highest normal pension age for any benefit that is payable under the scheme to or in respect of any of the members by virtue of rights which are not attributable (directly or indirectly) to a pension credit.”

PART 6

GENERAL

83 Power to make consequential amendments

- (1) The appropriate national authority may by regulations make provision that is consequential on any provision made by this Act.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify any primary or subordinate legislation (whenever passed or made).
- (3) In this section—

“appropriate national authority” means—

 - (a) in relation to provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see

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

- sections 6 to 8 of the Northern Ireland Act 1998), the Department for Social Development in Northern Ireland, and
- (b) in relation to any other provision, the Secretary of State or the Treasury;
- “primary legislation” means—
- (a) an Act;
- (b) Northern Ireland legislation;
- “subordinate legislation” means—
- (a) subordinate legislation as defined by section 21(1) of the Interpretation Act 1978;
- (b) an instrument made under Northern Ireland legislation.

84 Regulations

- (1) Regulations made by the Secretary of State or the Treasury under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing—
- (a) the first regulations under section 8(3)(b), 9, 10, 11 or 21,
- (b) regulations under section 48(3)(b), or
- (c) regulations under section 83 that amend, repeal or otherwise modify a provision of primary legislation,
- (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing regulations under section 89(4) or (6) only.

85 Regulations: Northern Ireland

- (1) A power of the Department for Social Development in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (2) Subsection (3) applies where regulations made by the Department for Social Development in Northern Ireland contain—
- (a) provision made under section 51(3)(b), or
- (b) provision made under section 83 that amends, repeals, revokes or otherwise modifies a provision of primary legislation,
- (whether alone or with other provision).
- (3) Where this subsection applies, the regulations—
- (a) must be laid before the Northern Ireland Assembly after being made;
- (b) take effect on such date as may be specified in the regulations but (without prejudice to the validity of anything done under them or to the making of new regulations) cease to have effect on the expiry of a period of 6 months from that date unless at some time before the expiry of that period the regulations are approved by a resolution of the Northern Ireland Assembly.

- (4) Any other regulations made by the Department for Social Development in Northern Ireland under this Act are subject to negative resolution within the meaning of section 41(6) of the [Interpretation Act \(Northern Ireland\) 1954 \(c. 33 \(N.I.\)\)](#).
- (5) Subsection (4) does not apply to regulations containing provision under section 89(6) only.

86 Regulations: supplementary

- (1) A power to make regulations under this Act may be used—
 - (a) to make different provision for different purposes;
 - (b) in relation to all or only some of the purposes for which it may be used.
- (2) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

87 Crown application

- (1) In this section “the relevant provisions” means—
 - (a) Part 2,
 - (b) section 36,
 - (c) section 37,
 - (d) in Chapter 2 of Part 4, sections 48, 49, 51 and 52, and
 - (e) in Chapter 3 of Part 4, sections 55 to 57 and 61 to 63.
- (2) The relevant provisions apply to a pension scheme managed by or on behalf of the Crown as they apply to other pension schemes.
- (3) Accordingly, references in those provisions to a person in the person’s capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (4) References in the relevant provisions to a person in the person’s capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (5) Nothing in the relevant provisions applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

88 Extent

- (1) This Act extends to England and Wales and Scotland only, subject to the following provisions of this section.
- (2) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.
- (3) Section 81 extends to Scotland only.
- (4) The following extend also to Northern Ireland—
 - (a) section 54(3);
 - (b) Chapter 5 of Part 4;
 - (c) this Part.

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

- (5) The following extend to Northern Ireland only—
- (a) in Chapter 2 of Part 4, sections 51 and 52;
 - (b) in Chapter 3 of Part 4, sections 61 to 63;
 - (c) section 71(8) and (9).

89 Commencement

- (1) The following come into force on the day on which this Act is passed—
- (a) section 47 and Schedule 3;
 - (b) any other provision of Part 4 so far as is necessary for enabling the exercise on or after the day on which this Act is passed of any power to make provision by regulations;
 - (c) sections 78 and 79 and Schedule 5;
 - (d) section 80;
 - (e) this Part.
- (2) Section 82 comes into force on 1 April 2015.
- (3) The following come into force on 6 April 2015—
- (a) paragraphs 24, 30, 33 and 36 of Schedule 2 (and section 46 so far as relating to those provisions);
 - (b) Part 4, so far as not already in force.
- (4) The following come into force on such day or days as may be appointed by regulations made by the Secretary of State—
- (a) Parts 1 to 3 other than paragraphs 24, 30, 33 and 36 of Schedule 2 (and section 46 so far as relating to those provisions);
 - (b) sections 77 and 81.
- (5) Regulations under subsection (4) may appoint different days for different purposes.
- (6) The Secretary of State or the Department for Social Development in Northern Ireland may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

90 Short title

This Act may be cited as the Pension Schemes Act 2015.

SCHEDULES

SCHEDULE 1

Section 40

EARLY LEAVERS: REVALUATION OF ACCRUED BENEFITS

- 1 The Pension Schemes Act 1993 is amended as follows.
2 Before section 83 insert—

“82A Overview and meaning of “the 2015 Act commencement date”

- (1) This Chapter is about the revaluation of benefits for early leavers.
(2) The table contains an overview of the contents of this Chapter.

<i>Section</i>	<i>General description</i>
Section 83	Benefits to which this Chapter applies
Sections 84 and 84A	Basis of revaluation: benefits accrued before the 2015 Act commencement date
Sections 84B and 84C	Basis of revaluation: benefits accrued on or after the 2015 Act commencement date
Section 84D	Special rules for hybrid benefits
Sections 84E and 84F	Revaluation by other methods
Section 85	Revaluation not to apply to substituted benefits
Sections 85A to 86B	Supplementary provision and definitions

- (3) In this Chapter “the 2015 Act commencement date” means the date on which paragraph 2 of Schedule 1 to the Pension Schemes Act 2015 comes into force.”

- 3 In section 83, for subsection (1A) substitute—
- “(1A) In subsection (1) “relevant benefits” means benefits that are—
- (a) retirement benefits payable to a member, or
 - (b) benefits payable in respect of a member.
- (1AA) This Chapter does not apply to any benefits payable by virtue of pension credit rights except, in the case of a salary related occupational pension scheme, to the extent that they involve the member being credited by the scheme with notional pensionable service.
- (1AB) Where this Chapter applies in relation to a benefit payable by virtue of a pension credit right, then—
- (a) if entitlement to the relevant pension credit arose before the 2015 Act commencement date, the benefit is to be treated for the purposes

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

of sections 84(1) and 84B(2) as attributable to pensionable service before that date;

- (b) if entitlement to the relevant pension credit arose on or after the 2015 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(2) as attributable to pensionable service on or after that date.

(1AC) “Pension credit rights” means rights that are attributable (directly or indirectly) to a pension credit.”

4 For section 84 substitute—

“84 Old basis of revaluation: occupational pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(a) must be revalued in accordance with this section if it is attributable to pensionable service before the 2015 Act commencement date.
- (2) The benefit must be revalued using the final salary method unless it is—
 - (a) a money purchase benefit (see subsection (3)),
 - (b) an average salary benefit revalued in accordance with subsection (4), or
 - (c) a flat rate benefit revalued in accordance with subsection (5).
- (3) If the benefit is a money purchase benefit it must be revalued using the money purchase method.
- (4) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method.
- (5) If the benefit is a flat rate benefit it must be revalued using the default method if the trustees or managers of the scheme consider the default method to be more appropriate than the final salary method.

84A Old basis of revaluation: personal pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received before the 2015 Act commencement date.
- (2) The benefit must be revalued using the money purchase method.

84B New basis of revaluation: occupational pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(a) that is a collective benefit must be revalued using the default method.
- (2) A benefit of the kind mentioned in section 83(1)(a) that is not a collective benefit must be revalued in accordance with the following provisions of this section if it is attributable to pensionable service on or after the 2015 Act commencement date.
- (3) The benefit must be revalued using the default method unless it is—
 - (a) a money purchase benefit (see subsection (4)),

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

- (b) a salary related benefit (see subsections (5) and (6)), or
 - (c) a flat rate benefit revalued in accordance with subsection (7).
- (4) If the benefit is a money purchase benefit it must be revalued using the money purchase method.
 - (5) If the benefit is a salary related benefit it must be revalued using the final salary method unless it is revalued in accordance with subsection (6).
 - (6) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method.
 - (7) If the benefit is a flat rate benefit it must be revalued using the final salary method if the trustees or managers of the scheme consider the final salary method to be more appropriate than the default method.

84C New basis of revaluation: personal pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received on or after the 2015 Act commencement date.
- (2) The benefit must be revalued using the default method unless it is a money purchase benefit.
- (3) If the benefit is a money purchase benefit it must be revalued using the money purchase method.

84D Hybrid benefits

- (1) This section modifies the revaluation requirements in this Chapter in relation to hybrid benefits.
- (2) “Hybrid benefit” means a benefit the rate or amount of which depends on which of two or more alternative methods of calculation produces the highest, or lowest, rate or amount.
- (3) For hybrid benefits—
 - (a) first, calculate the benefit using each of those methods and revalue in accordance with this Chapter, and
 - (b) then, determine which method of calculation produces the highest, or lowest, rate or amount.

84E Revaluation by other methods: general

The fact that an occupational pension scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of the member to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 151(1) of the Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes), or
- (b) under any arrangement which, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by

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

reference to the rise in the general level of prices in Great Britain during that period,

does not in itself result in conflict with section 84 or 84B, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member’s widow, widower, surviving same sex spouse or surviving civil partner has not been deducted.

84F Revaluation by other methods: transitional protection in certain cases

- (1) This section applies to a scheme which, before the 2015 Act commencement date, provided for any description of benefits to which this Chapter applies to be revalued by a method that the scheme was allowed to use under subsection (3A) or (3B) of old section 84.
- (2) The scheme may continue to use that method of revaluation in relation to that description of benefits for so long as it continues to contain that provision.
- (3) In subsection (1), “the old section 84” means section 84 as it had effect immediately before the substitution made by Schedule 1 to the Pension Schemes Act 2015.”

5 After section 85 insert—

“85A Power to add revaluation methods for personal pension schemes

- (1) Regulations may make provision enabling or requiring benefits of the kind mentioned in section 83(1)(b) to be revalued by the average salary or final salary method in specified cases.
- (2) Regulations under this section—
 - (a) may amend this Chapter (and may, in particular, amend the average salary or final salary method as applied in relation to benefits of the kind mentioned in section 83(1)(b));
 - (b) may not change the revaluation method to be used for a benefit the right to which has already accrued.”

6 After section 86 insert—

“86A The revaluation methods

The revaluation methods referred to in this Chapter are defined by the provisions listed in the table.

<i>Method</i>	<i>Provision</i>
Average salary method	Paragraph 3 of Schedule 3
Default method	Paragraph A1 of Schedule 3
Final salary method	Paragraphs 1 to 2A of Schedule 3
Money purchase method	Paragraph 5 of Schedule 3

86B Definitions of benefits referred to in this Chapter

- (1) In this Chapter—

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

“average salary benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the member’s average salary over the period of service to which the benefit relates;

“final salary benefit” means a benefit under an occupational pension scheme that is calculated by reference to the member’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 member’s pensionable service in relation to that scheme ends;

“flat rate benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference solely to the member’s length of service;

“salary related benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the salary of the member.

(2) In subsection (1) “pensionable earnings”, in relation to a pension scheme and a member of it, means earnings by reference to which benefits under the scheme are calculated.”

7 In section 186(3) (statutory instruments subject to affirmative procedure), after paragraph (b) insert—

“(ba) regulations under section 85A, or”.

8 In Schedule 3 to that Act (revaluation methods), before paragraph 1 insert—

“The default method

A1 The default method is to revalue the benefits in any way in which they would have been revalued if—

- (a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

9 Omit paragraphs 3A and 4 of that Schedule.

10 In paragraph 5(1) of that Schedule, for “if his pensionable service had not terminated” substitute “if—

- (a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

11 Omit the following, which are no longer needed given the earlier provisions of this Schedule—

- (a) paragraph 31(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999;
- (b) section 19(1) to (3) of the Pensions Act 2011.

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

SCHEDULE 2

Section 46

OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

Pension Schemes Act 1993 (c. 48)

- 1 The Pension Schemes Act 1993 is amended as follows.
- 2 In section 83 (scope of provisions about revaluation of benefits excluding guaranteed minimum pensions), in subsection (4), for paragraph (a) (but not the “and” at the end) substitute—
 - “(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits.”
- 3 In section 113 (disclosure of information about schemes to members etc), in subsection (10), for the definition of “relevant scheme” substitute—

““relevant scheme” means an occupational pension scheme under which all the benefits that may be provided are money purchase benefits.”
- 4 In section 124 (duty of Secretary of State to pay unpaid contributions to schemes), for subsection (3A) substitute—

“(3A) The sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection in any case where the scheme is—

 - (a) a defined contributions scheme,
 - (b) a shared risk scheme under which all the benefits that may be provided are money purchase benefits, or
 - (c) a shared risk scheme under which all the benefits that may be provided are money purchase benefits or collective benefits.”
- 5 (1) In section 181 (interpretation), subsection (1) is amended as follows.
 - (2) At the appropriate places insert—

““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”

““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”

““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”

““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”.
 - (3) Omit the definition of “money purchase scheme”.

Pensions Act 1995 (c. 26)

- 6 The Pensions Act 1995 is amended as follows.
- 7 In section 37 (payment of surplus to employer), in subsection (1A)—
 - (a) after “does not apply in the case of” insert “—
(a)”;
 - (b) at the end insert—

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

- “(b) any payments out of funds held for the purposes of providing collective benefits under the scheme (but see section 24 of the Pension Schemes Act 2015).”
- 8 In section 38 (power to defer winding up), in subsection (3), for paragraph (a) (but not the “or” at the end) substitute—
- “(a) a scheme under which all the benefits that may be provided are money purchase benefits.”
- 9 In section 51 (annual increase in rate of pension), in subsection (1)(a)(iii), for “is not a money purchase scheme” substitute “is not a defined contributions scheme”.
- 10 In section 51A (restrictions on increase where annuity tied to investments), in subsection (1), for “money purchase scheme” substitute “defined contributions scheme”.
- 11 In section 73 (preferential liabilities on winding up), for subsection (2) substitute—
- “(2) This section applies to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (2A) provides for the scheme to be exempt.
- (2A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits, or
- (b) a prescribed scheme or a scheme of a prescribed description.”
- 12 In section 75 (employer debt where deficiency in assets on winding up etc), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),

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

the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

- 13 (1) Section 87 (schedules of payments to money purchase schemes) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies to an occupational pension scheme that is a scheme under which —
- (a) all the benefits that may be provided are money purchase benefits, or
- (b) all the benefits that may be provided are money purchase benefits or collective benefits,
- other than a scheme falling within a prescribed class or description.”
- (3) In subsection (2)(a), after “members of the scheme” insert “in respect of money purchase benefits”.
- (4) In the heading, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 14 For the italic cross-heading above section 87 substitute “Schemes providing money purchase benefits”.
- 15 In the heading to section 88 (schedules of payments to money purchase schemes: supplementary), for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 16 (1) Section 89 (application of further provisions to money purchase schemes) is amended as follows.
- (2) In subsection (1), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits and that are schemes”.
- (3) In subsection (2), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits”.
- 17 In section 124 (interpretation), in subsection (1), at the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015,”
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015,”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015,”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description,”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015,”.
- 18 (1) Section 125 (interpretation of Part 1: supplementary) is amended as follows.
- (2) In subsection (1), for paragraph (a) (but not the “and” at the end) substitute—
- “(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits,”.

- (3) In subsection (2), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.

Welfare Reform and Pensions Act 1999 (c. 30)

- 19 In section 38 of the Welfare Reform and Pensions Act 1999 (treatment in winding up), in subsection (2A), for paragraph (a) (but not the “or” at the end) substitute—
“(a) a scheme under which all the benefits that may be provided are money purchase benefits.”

Financial Services and Markets Act 2000 (c. 8)

- 20 The Financial Services and Markets Act 2000 is amended as follows.
- 21 In section 137FA (FCA general rules: disclosure of information about pension scheme transaction costs etc), in subsection (8)—
- (a) at the appropriate place insert—
““money purchase benefit” has the meaning given by section 181(1) of the Pension Schemes Act 1993;”;
 - (b) omit the definition of “money purchase scheme”;
 - (c) in the definition of “relevant scheme” for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits and”.
- 22 (1) Section 142X (interpretation of provisions about ring-fencing) is amended as follows.
- (2) In subsection (2), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- (3) In subsection (4), for “Money purchase scheme” substitute “Money purchase benefits”.

Pensions Act 2004 (c. 35)

- 23 The Pensions Act 2004 is amended as follows.
- 24 In section 13 (improvement notices), in subsection (7)—
- (a) omit the “or” at the end of paragraph (e);
 - (b) after paragraph (f) insert “, or
 - (g) the Pension Schemes Act 2015.”
- 25 In section 17 (power of the Regulator to recover unpaid contributions), in subsection (3)—
- (a) in paragraph (b) of the definition of “due date”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”;
 - (b) in paragraph (a) of the definition of “employer contribution”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 26 (1) Section 23 (freezing orders) is amended as follows.

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

- (2) In subsection (1), for “which is not a money purchase scheme” substitute “unless it is excluded by subsection (1A)”.
- (3) After that subsection insert—
- “(1A) A scheme is excluded if—
- (a) all the benefits that may be provided under the scheme are money purchase benefits, and
- (b) the scheme does not provide for there to be a third party promise about the rate or amount of any benefit at a time before the benefit comes into payment (see subsection (10A)).”
- (4) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.
- (5) After subsection (10) insert—
- “(10A) For the purposes of subsection (1A)(b), a scheme provides for there to be a third party promise if the scheme—
- (a) requires the promise to be obtained from a third party, or
- (b) provides for the member to be given the option of requiring a promise to be obtained from a third party (whether or not the option is subject to conditions).”
- 27 In section 38 (contribution notices where avoidance of employer debt), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this section and sections 38A to 42 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 28 (1) Section 43 (financial support directions) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies in relation to a pension scheme that is—
(a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme,
unless subsection (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this section if it is—
(a) a scheme under which all the benefits that may be provided are money purchase benefits,
(b) a scheme under which all the benefits that may be provided are collective benefits,
(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
(d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where—
(a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
(b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
the scheme is to be treated for the purposes of this section and sections 43A to 51 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

(3) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.

29 In section 52 (restoration orders where transactions at an undervalue), for subsection (1) substitute—

“(1) This section applies in relation to a pension scheme that is—
(a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme,
unless subsection (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this section if it is—
(a) a scheme under which all the benefits that may be provided are money purchase benefits,
(b) a scheme under which all the benefits that may be provided are collective benefits,
(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
(d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where—
(a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and

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

- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
the scheme is to be treated for the purposes of this section and sections 53 to 56 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 30 (1) Section 90 (codes of practice) is amended as follows.
- (2) In subsection (2)(i), for “money purchase schemes” substitute “certain schemes”.
- (3) In subsection (6), in the definition of “the pensions legislation”—
- (a) omit the “or” at the end of paragraph (c);
- (b) after paragraph (d) insert—
- “(e) Schedule 18 to the Pensions Act 2014, or
(f) the Pension Schemes Act 2015.”
- 31 In section 126 (schemes eligible for pension protection), for subsection (1) substitute—
- “(1) Subject to the following provisions of this section, in this Part references to an “eligible scheme” are to a pension scheme that is—
- (a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme.
- (1A) A scheme is not an eligible scheme if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
(b) a scheme under which all the benefits that may be provided are collective benefits,
(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
(d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
(b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 32 For section 221 (application of scheme funding rules) substitute—

“221 Pension schemes to which this Part applies

- (1) The provisions of this Part apply to a pension scheme that is—
- (a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme,
unless subsection (2) provides for the scheme to be exempt.

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

- (2) A scheme is exempt from this Part if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
 - (b) a scheme under which all the benefits that may be provided are collective benefits,
 - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
 - (d) a prescribed scheme or a scheme of a prescribed description.
- (3) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
 - (b) the scheme does not fall within paragraph (c) or (d) of subsection (2),
- the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.
- (4) Regulations under subsection (2)(d) may provide for exemptions from all or any of the provisions of this Part, but for the purposes of subsection (3)(b) a scheme falls within subsection (2)(d) only if it is exempt from all of the provisions of this Part.”
- 33 In section 254 (representative of non-European scheme to be treated as trustee), in subsection (3)—
- (a) omit the “or” at the end of paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) the Pension Schemes Act 2015.”
- 34 In section 258 (pension protection on transfer of employment: form of protection), in subsection (2)—
- (a) in paragraph (b), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”;
 - (b) in paragraph (c), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- 35 In section 286 (financial assistance scheme for members of certain pension schemes), in subsection (2), for sub-paragraph (i) of paragraph (a) of the definition of “qualifying pension scheme” (but not the “or” at the end) substitute—
- “(i) a scheme under which all the benefits that may be provided are money purchase benefits.”.
- 36 In section 291 (duty of trustees or managers to act consistently with law of host member state), in subsection (4)—
- (a) omit the “or” at the end of paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) the Pension Schemes Act 2015.”
- 37 In section 307 (modification of Pensions Act 2004 in relation to certain categories of schemes), in subsection (4), for paragraph (a) of the definition of “hybrid scheme” (but not the “but” at the end) substitute—
- “(a) which is not a scheme under which all the benefits that may be provided are money purchase benefits.”.

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

- 38 (1) Section 318 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) at the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”;
- (b) omit the definition of “money purchase scheme”.
- (3) In subsection (3)—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
- “(viii) regulations made under Schedule 17 to the Pensions Act 2014;
- (ix) regulations made under Schedule 18 to the Pensions Act 2014;
- (x) regulations made under Part 2 of the Pension Schemes Act 2015;”;
- (b) in paragraph (b), after sub-paragraph (v) insert—
- “(vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
- (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
- (viii) regulations made under section 34 of the Pension Schemes Act 2015;”.

Pensions Act 2008 (c. 30)

- 39 The Pensions Act 2008 is amended as follows.
- 40 (1) Section 20 (quality requirement: UK money purchase schemes) is amended as follows.
- (2) In subsection (1), for “A money purchase scheme” substitute “An occupational defined contributions scheme”.
- (3) In the heading, for “money purchase schemes” substitute “occupational defined contributions schemes”.
- 41 In section 21 (quality requirement: UK defined benefits schemes) for “A defined benefits scheme” substitute “An occupational defined benefits scheme”.
- 42 In section 23A (alternative quality requirements for UK defined benefits schemes), in subsection (1), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.
- 43 (1) Section 24 (quality requirement: UK hybrid schemes) is amended as follows.

- (2) In subsection (1)—
- (a) for “A hybrid scheme” substitute “A shared risk scheme”;
 - (b) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
 - (c) in paragraph (b), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (d) after paragraph (b) insert—
 - “(c) the requirements under section 26 for a personal pension scheme that is a defined contributions scheme, subject to any prescribed modifications.”
- (3) In subsection (2), for “hybrid scheme” substitute “shared risk scheme”.
- (4) In the heading, for “hybrid schemes” substitute “shared risk schemes”.
- 44 (1) Section 26 (quality requirement: UK personal pension schemes) is amended as follows.
- (2) In subsection (1), after “personal pension scheme” insert “that is a defined contributions scheme”.
- (3) Omit subsection (3) (requirement for all benefits to be money purchase benefits).
- (4) In subsection (4), for “second condition” substitute “first condition”.
- (5) In subsection (6), for “third condition” substitute “second condition”.
- (6) In subsection (7), for “fourth condition” substitute “third condition”.
- 45 (1) Section 28 (certification that quality requirement or alternative requirement is satisfied) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
 - (b) in paragraph (b), after “a personal pension scheme” insert “that is a defined contributions scheme”;
 - (c) for paragraph (c) substitute—
 - “(c) a shared risk scheme, to the extent that requirements within section 24(1)(a) or (c) apply.”
- (3) In subsection (3A)—
- (a) for paragraph (a) substitute—
 - “(a) an occupational defined contributions scheme that is within section 18(b);”
 - (b) for paragraph (c) substitute—
 - “(c) an occupational shared risk scheme that is within section 18(b), to the extent prescribed;”.
- (4) In subsection (3B), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.
- 46 For the heading to section 29 substitute “Transitional periods for certain schemes”.

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

- 47 (1) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (2) In subsection (1), for “hybrid schemes” substitute “shared risk schemes”.
- (3) In subsection (2)(b) and (c), for “a defined benefits scheme or a defined benefits member of a hybrid scheme” substitute “an occupational defined benefits scheme or a defined benefits member of a shared risk scheme”.
- (4) In subsection (3)—
- (a) in the opening words, for “hybrid schemes” substitute “shared risk schemes”;
 - (b) in the substituted subsection (2), for paragraphs (a) and (b) substitute—
 - “(a) an active member, with effect from the end of the transitional period for defined benefits and shared risk schemes, of an automatic enrolment scheme which is an occupational defined benefits scheme, or
 - (b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a shared risk scheme.”
- (5) In subsection (4), for “hybrid schemes” substitute “shared risk schemes”.
- (6) In subsection (5)—
- (a) in the substituted subsection (2)(a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (b) in the substituted subsection (2)(a), for “hybrid scheme” substitute “shared risk scheme”;
 - (c) in the substituted subsection (2)(aa), for “hybrid scheme” substitute “shared risk scheme”;
 - (d) in the substituted subsection (2), for paragraph (b) substitute—
 - “(b) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is—
 - (i) a personal pension scheme other than a shared risk scheme, or
 - (ii) an occupational pension scheme under which all the benefits that may be provided are money purchase benefits or collective benefits;”;
 - (e) in the substituted subsection (2)(c), for “hybrid scheme” substitute “shared risk scheme”;
 - (f) in the substituted subsection (2)(d), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (g) in the substituted subsection (2)(e), for “hybrid scheme” substitute “shared risk scheme”.
- (7) In subsections (8) and (9), for “hybrid schemes” substitute “shared risk schemes”.
- (8) In subsection (10)(a) and (b), for “hybrid scheme” substitute “shared risk scheme”.
- (9) In subsection (11)—
- (a) in paragraph (a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (b) in paragraph (b), for “hybrid scheme” substitute “shared risk scheme”.

- (10) In the heading, for “hybrid schemes” substitute “shared risk schemes”.
- 48 In section 35 (compliance notices), in subsection (5), for “a defined benefits scheme or a hybrid scheme” substitute “an occupational defined benefits scheme or a shared risk scheme”.
- 49 In section 38 (calculation and payment of contributions), in subsection (2)(e), for “a money purchase scheme, a hybrid scheme or a personal pension scheme” substitute “a defined contributions scheme or a shared risk scheme”.
- 50 (1) Section 99 (interpretation) is amended as follows.
- (2) For the definition of “defined benefits scheme” substitute—
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”.
- (3) At the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”.
- (4) Omit the following definitions—
- “defined benefits”;
- “hybrid scheme”;
- “money purchase scheme”.

Pensions Act 2014 (c. 19)

- 51 (1) Schedule 17 to the Pensions Act 2014 (automatic transfer of pension benefits etc) is amended as follows.
- (2) In paragraph 1(2)(a) and (5)(a), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- (3) In paragraph 15(1) omit the definition of “money purchase scheme”.

SCHEDULE 3

Section 47

PENSIONS GUIDANCE

- 1 The Financial Services and Markets Act 2000 is amended as follows.
- 2 After section 333 insert—

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

“PART 20A

PENSIONS GUIDANCE

333A Introduction and definitions

- (1) This Part is about the giving of pensions guidance.
- (2) “Pensions guidance” means guidance given for the purpose of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor.
- (3) In this Part—
 - “flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;
 - “pensions guidance” has the meaning given by subsection (2);
 - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;
 - “survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.

Giving of pensions guidance

333B Treasury’s role in relation to pensions guidance

- (1) The Treasury must take such steps as they consider appropriate to ensure that people have access to pensions guidance.
- (2) The Treasury may—
 - (a) seek to increase awareness of the availability of the guidance;
 - (b) undertake or commission research relating to the giving of the guidance.

333C Giving of pensions guidance

- (1) The bodies listed in subsection (2) are to give pensions guidance in accordance with arrangements made with the Treasury.
- (2) Those bodies are—
 - (a) the Pensions Advisory Service Limited;
 - (b) the National Association of Citizens Advice Bureaux;
 - (c) the Scottish Association of Citizens Advice Bureaux;
 - (d) the Northern Ireland Association of Citizens Advice Bureaux.
- (3) The bodies listed in subsection (2) may give pensions guidance by arranging for it to be given by another person (including another listed body).
- (4) The National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux and the Northern Ireland

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

Association of Citizens Advice Bureaux may jointly carry out their functions of giving pensions guidance.

- (5) The Treasury may by regulations repeal one or more of paragraphs (a) to (d) of subsection (2).
- (6) Regulations under subsection (5) may make consequential amendments of this Act.

333D Financial assistance to bodies involved in giving pensions guidance

- (1) The Treasury may make grants or loans or give any other form of financial assistance to—
 - (a) the Pensions Advisory Service Limited;
 - (b) the Northern Ireland Association of Citizens Advice Bureaux.

(For the power to make grants to the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux see section 40A of the Consumers, Estate Agents and Redress Act 2007.)

- (2) Any grant, loan or other form of financial assistance under subsection (1)—
 - (a) is to be made or given for the purpose of enabling the body to carry out its functions under section 333C(1), and
 - (b) may be made or given subject to such other terms as the Treasury consider appropriate.

Designation of guidance providers

333E Designation of providers of pensions guidance

- (1) In this Part “designated guidance provider” means—
 - (a) the Pensions Advisory Service Limited,
 - (b) the National Association of Citizens Advice Bureaux,
 - (c) the Scottish Association of Citizens Advice Bureaux,
 - (d) the Northern Ireland Association of Citizens Advice Bureaux, or
 - (e) a person designated by the Treasury as someone who must, in giving pensions guidance, comply with standards set by the FCA under section 333H.
- (2) Before designating a person under subsection (1)(e), the Treasury must—
 - (a) consult the FCA,
 - (b) notify the person to be designated, and
 - (c) consider any representations made.
- (3) The Treasury may revoke a designation under subsection (1)(e).
- (4) The Treasury must give notice in writing of a designation under subsection (1)(e) or the revocation of a designation under subsection (3) to the person designated or (as the case may be) the person whose designation has been revoked.
- (5) The Treasury must send a copy of a notice given under subsection (4) to—
 - (a) all other designated guidance providers, and

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

- (b) the FCA.
- (6) The Treasury must from time to time publish, in such manner as they consider appropriate, a list of the persons who are designated under subsection (1)(e).

Co-operation and information sharing

333F Co-operation and information sharing

- (1) The following must co-operate with one another in matters relating to the giving of pensions guidance—
 - (a) each designated guidance provider;
 - (b) the Treasury.
- (2) Designated guidance providers and the Treasury may share information for the purposes of subsection (1).

False claims when giving pensions guidance

333G Offence of falsely claiming to be giving pensions guidance under Treasury arrangements

- (1) It is an offence for a person who is not giving pensions guidance under arrangements made with the Treasury—
 - (a) to describe himself (in whatever terms) as a person who is doing so, or
 - (b) to behave, or otherwise hold himself out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that he is doing so.
- (2) For the purposes of subsection (1), pensions guidance given by a designated guidance provider is given under arrangements made with the Treasury.
- (3) In proceedings for an offence under this section it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (4) A person guilty of an offence under this section is liable on summary conviction—
 - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both;
 - (b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
 - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (5) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (6) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the

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

reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

Standards for giving of pensions guidance by designated guidance providers

333H Standards for giving of pensions guidance by designated guidance providers

- (1) The FCA must from time to time set standards for the giving of pensions guidance by designated guidance providers.
- (2) A failure by a designated guidance provider to comply with a standard set under this section is actionable at the suit of a private person who suffers loss as a result of the failure, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) In subsection (2) “private person” has the same meaning as in section 138D.
- (4) Standards set under this section may provide for subsection (2) not to apply to a failure to comply with a specified provision of the standards.
- (5) Standards set under this section—
 - (a) may make different provision for different cases and may, in particular, make different provision in respect of different classes of designated guidance providers or different types of pensions guidance;
 - (b) may include incidental, supplemental, consequential or transitional provision.
- (6) The procedural provisions of this Act in the first column of the table apply to the setting of standards under this section as if references in those provisions to the making of rules (however expressed) were references to the setting of standards and with the additional modifications in the second column.

<i>Procedural provisions of this Act</i>	<i>Additional modifications</i>
Sections 138G and 138H	Treat the references to a rule-making instrument as references to a standard-making instrument.
Section 138I	Treat— <ol style="list-style-type: none">(a) subsection (1)(a) as if it were omitted;(b) subsection (2)(d) as if it referred to an explanation of the FCA’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
Section 138L	Treat the reference in subsection (1) to consumers (as defined in section 425A) as a reference to recipients of pensions guidance from designated guidance providers.

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

333I Monitoring of compliance with standards by designated guidance providers

- (1) The FCA must maintain arrangements for monitoring compliance by designated guidance providers with the standards set under section 333H.
- (2) Sections 165 and 167 apply for the purpose of enabling the FCA to monitor compliance but as if—
 - (a) references to an authorised person or a former authorised person (other than in section 165(11)(d)) were references to a designated guidance provider or a former designated guidance provider;
 - (b) section 165(7)(b) to (d) were omitted;
 - (c) the reference in section 167(5A)(b) to the FCA or the PRA were a reference to the FCA.
- (3) Section 175 applies as if a power that the FCA or an investigator has by virtue of subsection (2) were a power under Part 11.
- (4) Section 177 applies as if a requirement imposed by virtue of subsection (2) were a requirement imposed under Part 11.
- (5) References in a provision of Part 11 to section 165, 167, 175 or 177 include the relevant section as applied with modifications by this section.

333J Failure by designated guidance providers to comply with standards: FCA recommendations

- (1) If the FCA considers that a designated guidance provider has failed to comply with a standard set under section 333H the FCA may—
 - (a) recommend steps that the designated guidance provider might take to prevent the continuance or recurrence of the failure or to make redress to those affected by the failure, and
 - (b) having made such a recommendation, recommend that the Treasury give a direction under section 333M.
- (2) The FCA must publish a recommendation made under subsection (1)(b) unless the FCA considers that to do so—
 - (a) would be against the public interest, or
 - (b) would be inappropriate for some other reason.
- (3) If the condition in subsection (2)(a) or (b) is satisfied in relation to a recommendation but would not be satisfied if the FCA published part only of the recommendation, the FCA may publish that part.
- (4) If the power conferred by section 333E(3) to revoke a designation is exercised before the power in subsection (1) the reference in subsection (1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.

333K FCA policy on making recommendations under section 333J

- (1) The FCA must prepare and issue a statement of its policy with respect to the making of recommendations under section 333J.

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

- (2) The FCA may at any time alter or replace a statement issued under this section.
- (3) If a statement issued under this section is altered or replaced, the FCA must issue the altered or replaced statement.
- (4) The FCA may issue a statement under this section only with the consent of the Treasury.
- (5) A statement issued under this section must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of the statement.

333L FCA policy on making recommendations under section 333J: procedure

- (1) Before issuing a statement under section 333K, the FCA must—
 - (a) consult the Treasury, and
 - (b) publish a draft of the proposed statement in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the FCA within a specified time.
- (3) Before issuing the proposed statement, the FCA must have regard to any representations made to it within the specified time.
- (4) If the FCA issues the proposed statement it must publish an account, in general terms, of—
 - (a) the representations made to it within the specified time, and
 - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1)(b) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1)(b).
- (7) This section also applies to a proposal to alter or replace a statement.

333M Failure by designated guidance providers to comply with standards: Treasury directions

- (1) If the Treasury consider that a designated guidance provider has failed to comply with a standard set under section 333H the Treasury may direct the provider to take such steps as the Treasury consider appropriate—
 - (a) to prevent the continuance or recurrence of the failure;
 - (b) to make redress to those affected by the failure.
- (2) The Treasury may give a direction under subsection (1) only if the FCA has made a recommendation under section 333J(1)(b) (although the terms of the direction need not be the same as that recommended by the FCA).

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

- (3) The Treasury must—
 - (a) give notice in writing of a direction under subsection (1), and
 - (b) send a copy of the notice to the FCA.
- (4) The notice must inform the designated guidance provider that representations about why the direction should not be published may be made to the Treasury within a specified time.
- (5) Once the time specified under subsection (4) has elapsed, the Treasury must publish the direction unless—
 - (a) the Treasury consider that to do so would be against the public interest;
 - (b) having considered representations made by the designated guidance provider within the specified time, the Treasury consider that it would be inappropriate to do so for some other reason.
- (6) If the condition in subsection (5)(a) or (b) is satisfied in relation to a direction but would not be satisfied if the Treasury published part only of the direction, the Treasury may publish that part.
- (7) A direction under subsection (1) is enforceable, on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

333N Directions to designated guidance providers under section 333M: relationship with power to revoke a designation

- (1) The power conferred by section 333M(1) is exercisable in addition to, or instead of, the power conferred by section 333E(3) to revoke a designation.
- (2) If the power in section 333E(3) is exercised before the power in section 333M(1) the reference in section 333M(1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.
- (3) Subsection (1) does not limit the grounds on which the power in section 333E(3) may be exercised.

FCA's duties and power to give guidance

333O FCA's duties

- (1) The FCA must discharge its general pensions guidance functions with a view to securing an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (2) In discharging its general pensions guidance functions the FCA must have regard to—
 - (a) its strategic and operational objectives in section 1B(2) and (3), and
 - (b) the regulatory principles in section 3B.
- (3) In this section the FCA's "general pensions guidance functions" means its functions of—

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

- (a) setting standards under section 333H,
- (b) issuing statements under section 333K,
- (c) giving general guidance under section 333P (see section 333P(9)),
- (d) making rules under section 333Q, and
- (e) determining the general policy and principles by reference to which it performs particular functions under this Part.

333P Power of the FCA to give guidance

- (1) The FCA may give guidance consisting of such information and advice relating to its functions under sections 333H, 333I, 333J, 333K and 333Q as it considers appropriate.
- (2) Subsection (3) applies where the FCA proposes to give guidance to designated guidance providers generally, or to a class of designated guidance provider, in relation to standards set under section 333H or rules made under section 333Q.
- (3) Where this subsection applies, subsections (1)(b), (2)(e) and (3) of section 138I apply to the proposed guidance as they apply to proposed rules, unless the FCA considers that the delay in complying with those provisions would be prejudicial to the interests of recipients of pensions guidance from designated guidance providers.
- (4) The FCA may—
 - (a) publish its guidance,
 - (b) offer copies of its published guidance for sale at a reasonable price, and
 - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.
- (5) On giving any general guidance, the FCA must give written notice to the Treasury without delay.
- (6) If the FCA alters any of its general guidance, it must give written notice to the Treasury without delay.
- (7) The notice under subsection (6) must include details of the alteration.
- (8) If the FCA revokes any of its general guidance, it must give written notice to the Treasury without delay.
- (9) In this section “general guidance” means guidance given by the FCA under this section which is—
 - (a) given to persons generally, to designated guidance providers generally or to a class of designated guidance provider,
 - (b) intended to have continuing effect, and
 - (c) given in writing or other legible form.

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

Funding of pensions guidance

333Q Funding of FCA’s pensions guidance costs

- (1) For the purpose of meeting the FCA’s pensions guidance costs the FCA must make rules requiring designated guidance providers, or any specified class of designated guidance provider, to pay to the FCA specified amounts or amounts calculated in a specified way.
- (2) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (3) The amounts to be paid under the rules may include a component—
 - (a) to cover the expenses of the FCA in collecting the payments;
 - (b) to enable the FCA to maintain an adequate reserve.
- (4) In this section the “FCA’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the FCA in connection with the carrying out of the functions conferred on it by this Part other than by section 333R.

333R Funding of Treasury’s pensions guidance costs

- (1) The Treasury must, from time to time, notify the FCA of the amount of the Treasury’s pensions guidance costs.
- (2) Having been so notified, the FCA must make rules requiring authorised persons, or any specified class of authorised person, to pay to the FCA specified amounts or amounts calculated in a specified way with a view to recovering the amount notified under subsection (1).
- (3) The amounts to be paid under the rules may include a component to cover the expenses of the FCA in collecting the payments (“collection costs”).
- (4) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (5) The rules may be made only with the consent of the Treasury.
- (6) The Treasury may notify the FCA of matters that they will take into account when deciding whether or not to give consent for the purposes of subsection (5).
- (7) The FCA must have regard to any matters notified under subsection (6) before publishing a draft of rules to be made under this section.
- (8) The FCA must pay to the Treasury the amounts that it receives under rules made under this section apart from amounts in respect of its collection costs (which it may keep).
- (9) The Treasury must pay into the Consolidated Fund the amounts received by them under subsection (8).
- (10) In this section the “Treasury’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the Treasury—
 - (a) in giving pensions guidance or arranging for it to be given by designated guidance providers,

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

- (b) in meeting the expenses of designated guidance providers incurred in connection with the giving of the guidance (whether by means of the power conferred by section 333D or otherwise),
 - (c) in providing services to designated guidance providers to support them in giving the guidance,
 - (d) in increasing awareness of the availability of the guidance,
 - (e) in undertaking or commissioning research relating to the giving of the guidance, and
 - (f) otherwise in connection with the carrying out of its functions under section 333B.
 - (11) For the purposes of subsection (10)(b) “expenses of designated guidance providers”—
 - (a) includes expenses incurred by virtue of sections 333H(2), 333J, 333M and 333Q, and
 - (b) where a recommendation or direction has been made by virtue of section 333J(4) or 333N(2), includes expenses of a former designated guidance provider.
 - (12) The Treasury may by regulations amend the definition of the “Treasury’s pensions guidance costs” in subsection (10).”
- 3 In section 1B (the FCA’s general duties), after subsection (7) insert—
- “(7A) The FCA’s general functions do not include its general pensions guidance functions (see section 333O(3)).”
- 4 In section 1M (the FCA’s general duty to consult), after “section 1B” insert “and its duties under section 333O”.
- 5 In section 1S (reviews by independent person into discharge of FCA functions), in subsection (3) (excluded functions), after “(4)” insert “or its duties under section 333O(1) and (2)(a)”.
- 6 After section 137FA insert—

“137FB FCA general rules: disclosure of information about the availability of pensions guidance

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits.
- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
 - (a) the Secretary of State, and
 - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes, and

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

survivors of members of pension schemes, with subsisting rights in respect of any flexible benefits.

(4) In this section—

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“pensions guidance” means pensions guidance given by virtue of Part 20A;

“relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—

(a) a personal pension scheme within the meaning of an order under section 22, or

(b) a stakeholder pension scheme within the meaning of such an order;

“subsisting right” has the meaning given by section 76 of the Pension Schemes Act 2015;

“survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.”

7 (1) Section 138F (notification of rules) is amended as follows.

(2) The existing text becomes subsection (1).

(3) After that subsection insert—

“(2) Subsection (1)(b) does not apply to rules made under or by virtue of section 137FB, 333Q or 333R.”

8 In section 138I (rules: consultation by the FCA)—

(a) in subsection (6) (exemption from requirement to carry out a cost benefit analysis), after paragraph (a) insert—

“(aa) section 137FB;”;

(b) in that subsection, after paragraph (c) insert—

“(ca) section 333Q;

(cb) section 333R;”;

(c) in subsection (10) (rules to which requirement to consult the PRA does not apply), after “apply to” insert “—

(a) rules made by the FCA under section 137FB, 333Q or 333R, or

(b)”.

9 In section 139A (power of the FCA to give guidance), after subsection (1) insert—

“(1A) The FCA may not give guidance under this section relating to its functions under sections 333H, 333I, 333J, 333K and 333Q (see section 333P for provision about the giving of guidance relating to these functions).”

10 In section 140A (competition scrutiny: interpretation), in subsection (1), in paragraph (a) of the definition of “regulating provisions”—

(a) in sub-paragraph (ii), after “section 139B(5)” insert “or 333P(9)”;

(b) after sub-paragraph (iv) insert—

“(v) standards set under section 333H;

(vi) statement issued by the FCA under 333K;”.

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

- 11 In section 168 (appointment of persons to carry out investigations in particular cases), in subsection (2)(a), after “section 24(1)” insert “or 333G”.
- 12 In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333R”.
- 13 In Schedule 1ZA (the FCA), in paragraph 8 (arrangements for discharging functions)—
- (a) in sub-paragraph (3) (legislative functions that must be exercised by the FCA acting through its governing body), in paragraph (c)(i), for “or 312J” substitute “, 312J or 333K”;
 - (b) in sub-paragraph (3), after paragraph (d) insert—
“*(e) setting standards under section 333H.*”
 - (c) in sub-paragraph (4), after “section 139B(5)” insert “or 333P(9)”.
- 14 In that Schedule, in paragraph 11 (annual report), in sub-paragraph (1) (matters to be covered in the report), after paragraph (ha) insert—
“*(hb) how, in its opinion, it has complied with its duties in section 333O,*”.
- 15 In that Schedule, in paragraph 21 (FCA financial penalty scheme), in sub-paragraph (2) (list of “regulated persons” who may benefit from the scheme)—
- (a) omit the “and” at the end of paragraph (c);
 - (b) at the end of paragraph (d) insert “, and
 - (c) designated guidance providers.”
- 16 In that Schedule, in paragraph 23 (fees)—
- (a) in sub-paragraph (1), in the opening words, after “of this Act” insert “other than sections 333Q and 333R”;
 - (b) in sub-paragraph (1)(a), after “functions” insert “, other than its excepted functions,”;
 - (c) in sub-paragraph (2)(a), after “(ca)” insert “but not its excepted functions”;
 - (d) after sub-paragraph (2) insert—
“*(2ZA) The “excepted functions” of the FCA are—*
 - (a) its functions under sections 333E to 333Q, and
 - (b) its functions under section 333R so far as relating to the collection of payments.”
- 17 In section 85 of the Financial Services Act 2012 (relevant functions in relation to scheme for investigating complaints against FCA and other regulators), in subsection (4) (legislative functions of the FCA that are excluded)—
- (a) in paragraph (c)(i), for “or 312J” substitute “, 312J or 333K”;
 - (b) in paragraph (e), after “139B(5)” insert “or 333P(9)”;
 - (c) after paragraph (e) insert—
“*(f) setting standards under section 333H of FSMA 2000.*”
- 18 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

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

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333H(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333H(6) of FSMA
Section 333K(1) of FSMA	Section 333L(1) of FSMA
Section 333P(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333P(3) of FSMA
Section 333Q(1) of FSMA	Sections 138I(1) and 333Q(2) of FSMA.
Section 333R(2) of FSMA	Sections 138I(1) and 333R(4) of FSMA

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers—
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by—
 - (i) a cost benefit analysis, or
 - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
 - (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by—
 - (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
 - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333H(6) of that Act.
- (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.
- (5) In this paragraph—
- “consultation requirement” includes—
 - (a) a requirement to publish a draft;
 - (b) a requirement under section 333E(2)(b) or (c) of FSMA;

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

“FSMA” means the Financial Services and Markets Act 2000.

- 19 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.

SCHEDULE 4

Section 67

RIGHTS TO TRANSFER BENEFITS

PART 1

GREAT BRITAIN AMENDMENTS

Judicial Pensions Act 1981 (c. 20)

- 1 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes Act 1993”.

Judicial Pensions and Retirement Act 1993 (c. 8)

- 2 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes Act 1993”.

Pension Schemes Act 1993 (c. 48)

- 3 The Pension Schemes Act 1993 is amended as follows.
- 4 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 93 (and before the Chapter heading above it) insert—
- TRANSFERS AND CONTRIBUTION REFUNDS*”;
- (b) for the Chapter heading above section 93 substitute—
- TRANSFER RIGHTS: GENERAL*”;
- (c) for the Chapter heading above section 101AA substitute—

*“CHAPTER 1
EARLY LEAVERS: CASH TRANSFER
SUMS AND CONTRIBUTION REFUNDS”.*

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

- 5 In section 24F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 6 Until the coming into force of its repeal by Schedule 13 to the Pensions Act 2014, section 56 of the Pension Schemes Act 1993 (payment of state scheme premiums on termination of certified status: supplementary) has effect as if, in subsection (4)(b), for “Chapter 5 of Part 4” there were substituted “Chapter 2 of Part 4ZA”.
- 7 In section 73 (form of short service benefit and its alternatives), in subsection (3), for “Chapter IV of this Part” substitute “Chapter 1 of Part 4ZA”.
- 8 For sections 93 to 94 substitute—

“93 Scope of Chapter 1

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member’s accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
 - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
 - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
 - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
 - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
 - (a) money purchase benefits;
 - (b) flexible benefits other than money purchase benefits;
 - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member’s accrued rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.

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

- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
 - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
 - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
 - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
 - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
 - (b) a reference to a member’s “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

93A Right to statement of entitlement: benefits other than money purchase

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member’s transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member’s “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
 - (a) within the prescribed period beginning with the date of the application, and
 - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.
- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

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

94 Right to cash equivalent

- (1) A member of a pension scheme who has received a statement of entitlement under section 93A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
 - (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.”
- 9 (1) Section 95 (ways of taking right to cash equivalent) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.
 - (1A) In the case of a right acquired under section 94(1), the application must be made—
 - (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
 - (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”
 - (3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.
 - (4) After subsection (6) insert—
 - “(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”
 - (5) Omit subsections (7) and (8).
- 10 (1) Section 96 (further provisions concerning exercise of option under section 95) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) A member who has acquired a right to take a cash equivalent under section 94(1) or (2) may exercise the option conferred by section 95(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—
 - (a) in relation to the whole of that cash equivalent, or
 - (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”
 - (3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.
 - (4) For subsection (4) substitute—
 - “(4) Where a member of a pension scheme—

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

- (a) is entitled to make an application under section 95(1) in relation to any category of benefits, and
 - (b) is also entitled to give a transfer notice under section 101F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 101G(2)),

the member may not, if the scheme so provides, make an application under section 95(1) in relation to that category of benefits without also giving a transfer notice under section 101F(1) in relation to that category of benefits.”
- 11 (1) Section 97 (calculation of cash equivalents) is amended as follows.
 - (2) After subsection (1) insert—

“(1A) Where a member applies under section 95 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”
 - (3) In subsection (2)—
 - (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents” substitute “that relate to money purchase benefits”;
 - (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.
 - (4) In subsection (3), omit paragraph (a).
 - (5) For subsection (3A) substitute—

“(3A) For the purposes of subsection (3), the “appropriate date”—

 - (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 93A, and
 - (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 95.

(3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 95, the regulations may provide for the application under section 95 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 12 For section 98 substitute—

“98 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 94(1) loses that right if no application to take the cash equivalent is made within the period required by section 95(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 95, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 99(2A).

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

- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”
- 13 (1) Section 99 (trustees’ duties after exercise of option) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95 they must do what is needed to carry out what the member requires—
- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”
- (3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.
- (4) Omit subsection (3A).
- (5) After subsection (4A) insert—
- “(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”
- 14 After section 100 insert—

“100A Prohibition on excluding future accruals etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

100B Meaning of “scheme rules”: occupational pension schemes

- (1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and

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

- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4 of this Act.
- (2) For the purposes of subsection (1)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security Act 1989;
 - (ii) Chapter 2 or 3 of Part 4 of this Act or regulations made under either of those Chapters;
 - (iii) this Part of this Act or regulations made under this Part;
 - (iv) Part 4A of this Act or regulations made under that Part;
 - (v) section 110(1) of this Act;
 - (vi) Part 1 of the Pensions Act 1995 or subordinate legislation made or having effect as if made under that Part;
 - (vii) section 31 of the Welfare Reform and Pensions Act 1999;
 - (viii) any provision mentioned in section 306(2) of the Pensions Act 2004;
 - (ix) regulations made under Schedule 17 to the Pensions Act 2014;
 - (x) regulations made under Schedule 18 to the Pensions Act 2014;
 - (xi) regulations made under Part 2 of the Pension Schemes Act 2015;
 - (xii) section 55 of the Pension Schemes Act 2015;
 - (xiii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;
 - (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
 - (ii) section 129(1) of this Act;
 - (iii) section 117(1) of the Pensions Act 1995;
 - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
 - (v) section 306(1) of the Pensions Act 2004;
 - (vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
 - (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
 - (viii) regulations made under section 34 of the Pension Schemes Act 2015;
 - (ix) section 55(3) of the Pension Schemes Act 2015;
 - (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.

100C Meaning of “normal pension age” in this Chapter

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—

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

- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
 - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
 - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

100D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 93(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 93A;

“member” is to be read in accordance with section 93(11);

“normal pension age” has the meaning given by section 100C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

- (a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and
- (b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 100B;

“statement of entitlement” has the meaning given by section 93A;

“transferrable rights” is to be read in accordance with section 93(11).”

- 15 (1) Section 101F (power to give transfer notice) is amended as follows.
- (2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.
- (3) After subsection (3) insert—

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

“(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”

(4) For subsection (4) substitute—

“(4) The cash equivalent for the purposes of subsection (1) shall—

- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 101H, and
- (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”

(5) For subsection (6A) substitute—

“(6A) Regulations may—

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
- (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
- (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.

(6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—

- (a) money purchase benefits;
- (b) flexible benefits other than money purchase benefits;
- (c) benefits that are not flexible benefits.”

16 For section 101G (restrictions on power to give transfer notice) substitute—

“101G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member’s pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
 - (a) the member has been provided with a statement under section 101H in relation to benefits in that category, and
 - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
- (4) Where an eligible member of a qualifying scheme—

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

- (a) is entitled to give a transfer notice in relation to any category of benefits, and
 - (b) is also entitled to make an application to the trustees or managers of the scheme under section 95(1) in relation to benefits in the same category (or would be entitled to do so but for section 95(1A)(a)),
the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 95(1) in relation to that category of benefits.
 - (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
 - (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
 - (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member’s pension credit rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”
- 17 (1) Section 101H (salary related schemes: statements of entitlement) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member’s pension credit rights in relation to categories of benefits other than money purchase benefits.
- (1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”
- (3) In the heading for “Salary related schemes” substitute “Benefits other than money purchase”.
- 18 (1) Section 101J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and
 - (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”
- (3) After subsection (2) insert—

“(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”

(4) For subsection (7) substitute—

“(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 101H is determined.”

19 In section 101M (effect of transfer on trustees’ duties), for the words from “pension credit benefit” to the end of the section substitute “benefits to which the transfer notice relates”.

20 After section 101N insert—

“101NA Prohibition on excluding transfers of some rights without others etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”

21 (1) Section 101P (interpretation) is amended as follows.

(2) In subsection (1), at the appropriate places insert—

““category”, in relation to benefits, has the meaning given by section 101F(6B);”

““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.

(3) In that subsection, omit the definition of “pension credit benefit”.

(4) Omit subsection (2).

(5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “in relation to benefits other than money purchase benefits”.

22 Omit section 101Q.

23 In section 129 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA”.

24 In section 130 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA”.

25 In section 153 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA”.

26 In section 179 (linked qualifying service), in subsection (1)(a)—

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

- (a) in the opening words, for “Chapter 4 or 5 of Part 4” substitute “Chapter 1 or 2 of Part 4ZA”;
- (b) in sub-paragraph (iii)—
 - (i) for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”;
 - (ii) for “Chapter 5” substitute “Chapter 2”.

27 In section 181 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

Pensions Act 1995 (c. 26)

28 The Pensions Act 1995 is amended as follows.

29 In section 67A (the subsisting rights provisions: interpretation), in subsection (9)(a), for sub-paragraph (ii) substitute—

- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;
- (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.

30 In section 73 (preferential liabilities on winding up), in subsection (9), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

31 In section 73B (sections 73 and 73A: supplementary), in subsection (7), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”.

32 In section 124 (interpretation of Part 1), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers)” substitute “Chapter 2 of Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds)”.

Learning and Skills Act 2000 (c. 21)

33 In section 135 (pensions: interpretation), in subsection (4), for “section 93(1A)” substitute “section 100D”.

Pensions Act 2004 (c. 35)

34 The Pensions Act 2004 is amended as follows.

35 (1) Section 18 (pension liberation: interpretation) is amended as follows.

(2) In subsection (2)(a)—

- (a) after “accrued rights” insert “or an entitlement”;
- (b) in sub-paragraph (ii), for “the applicable rules” substitute “the scheme rules”.

(3) In subsection (3)—

- (a) for paragraph (a) substitute—
 - “(a) section 94 of the Pension Schemes Act 1993 (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;
- (b) in paragraph (b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

(4) In subsection (4)(d), for “the applicable rules” substitute “the scheme rules”.

- (5) Omit subsection (5).
- 36 In section 23 (freezing orders), in subsection (4)(g), for “salary related schemes” substitute “benefits other than money purchase”.
- 37 In section 24 (consequences of freezing order), in subsection (7), for paragraphs (a) and (b) substitute—
- “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 38 In section 73 (inspection of premises), in subsection (2)(d)—
- (a) for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”;
 - (b) for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 39 In section 135 (restrictions on winding up, discharge of liabilities etc), in subsection (6)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 40 In section 138 (payment of scheme benefits), in subsection (3)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 41 (1) Section 318 (interpretation) is amended as follows.
- (2) In subsection (2), for “an occupational pension scheme” substitute “a pension scheme”.
- (3) In subsection (3)(a), for sub-paragraph (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;
 - (ia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 42 (1) Schedule 7 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- (3) In paragraph 32(1)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

Scottish Parliamentary Pensions Act 2009 (asp 1)

- 43 (1) Schedule 1 to the Scottish Parliamentary Pensions Act 2009 (Scottish Parliamentary Pension Scheme) is amended as follows.
- (2) In paragraph 75, in Condition 6, for “section 93A(2)” substitute “section 93A(4)”.
- (3) In paragraph 91(2)(g), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”.

Pensions Act 2014 (c. 19)

- 44 The Pensions Act 2014 is amended as follows.
- 45 In section 34 (power to prohibit offer of incentives to transfer pension rights), in subsection (7), in the definition of “salary related occupational pension scheme”, for “section 93(1A)” substitute “section 100D”.

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

- 46 In Schedule 17 (automatic transfer of pension benefits etc), in paragraph 1—
- (a) in sub-paragraph (4)(d), for “applicable rules” substitute “scheme rules”;
 - (b) for sub-paragraph (6) substitute—
 - “(6) In sub-paragraph (4)—
 - (a) the reference to “scheme rules” is to be read in accordance with section 100B of the Pension Schemes Act 1993;
 - (b) “benefits” means—
 - (i) money purchase benefits other than money purchase benefits of a prescribed description, or
 - (ii) benefits of a prescribed description.”

PART 2

NORTHERN IRELAND AMENDMENTS

Judicial Pensions Act 1981 (c. 20)

- 47 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993”.

Judicial Pensions and Retirement Act 1993 (c. 8)

- 48 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993”.

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

- 49 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- 50 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 89 (and before the Chapter heading above it) insert—
 “PART 4ZA
- TRANSFERS AND CONTRIBUTION REFUNDS”;*
- (b) for the Chapter heading above section 89 substitute—
 “CHAPTER 1
- TRANSFER RIGHTS: GENERAL”;*
- (c) for the Chapter heading above section 97AA substitute—
 “CHAPTER 2

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

*EARLY LEAVERS: CASH TRANSFER
SUMS AND CONTRIBUTION REFUNDS”.*

- 51 In section 20F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 52 In section 52 (payment of state scheme premiums on termination of certified status: supplementary), in subsection (4)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 53 In section 69 (form of short service benefit and its alternatives), in subsection (3), for “Chapter IV of this Part” substitute “Chapter 1 of Part 4ZA”.
- 54 For sections 89 to 90 substitute—

“89 Scope of Chapter 1

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member’s accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
 - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
 - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
 - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
 - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
 - (a) money purchase benefits;
 - (b) flexible benefits other than money purchase benefits;
 - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member’s accrued rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or

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

- (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.
- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
 - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
 - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
 - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
 - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
 - (b) a reference to a member’s “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

89A Right to statement of entitlement: benefits other than money purchase

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member’s transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member’s “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
 - (a) within the prescribed period beginning with the date of the application, and
 - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.

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

- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

90 Right to cash equivalent

- (1) A member of a pension scheme who has received a statement of entitlement under section 89A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
- (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.”

55 (1) Section 91 (ways of taking right to cash equivalent) is amended as follows.

(2) For subsection (1) substitute—

“(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.

(1A) In the case of a right acquired under section 90(1), the application must be made—

- (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”

(3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.

(4) After subsection (6) insert—

“(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”

(5) Omit subsections (7) and (8).

56 (1) Section 92 (further provisions concerning exercise of option under section 91) is amended as follows.

(2) For subsection (1) substitute—

“(1) A member who has acquired a right to take a cash equivalent under section 90(1) or (2) may exercise the option conferred by section 91(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—

- (a) in relation to the whole of that cash equivalent, or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”

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

- (3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.
- (4) For subsection (4) substitute—
- “(4) Where a member of a pension scheme—
- (a) is entitled to make an application under section 91(1) in relation to any category of benefits, and
- (b) is also entitled to give a transfer notice under section 97F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 97G(2)),
- the member may not, if the scheme so provides, make an application under section 91(1) in relation to that category of benefits without also giving a transfer notice under section 97F(1) in relation to that category of benefits.”
- 57 (1) Section 93 (calculation of cash equivalents) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where a member applies under section 91 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”
- (3) In subsection (2)—
- (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents (as defined in section 90(1A))” substitute “that relate to money purchase benefits”;
- (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.
- (4) In subsection (3), omit paragraph (a).
- (5) For subsection (3A) substitute—
- “(3A) For the purposes of subsection (3), the “appropriate date”—
- (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 89A, and
- (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 91.
- (3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 91, the regulations may provide for the application under section 91 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 58 For section 94 substitute—

“94 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 90(1) loses that right if no application to take the cash equivalent is made within the period required by section 91(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 91, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 95(2A).
- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”

59 (1) Section 95 (trustees’ duties after exercise of option) is amended as follows.

(2) For subsection (2) substitute—

“(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 91 they must do what is needed to carry out what the member requires—

- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”

(3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.

(4) Omit subsection (3A).

(5) After subsection (4A) insert—

“(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”

60 After section 96 insert—

“96A Prohibition on excluding future accruals etc

Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

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

96B Meaning of “scheme rules”: occupational pension schemes

- (1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
 - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
 - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4.
- (2) For the purposes of subsection (1)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) Chapter 2 or 3 of Part 4 or regulations made under either of those Chapters;
 - (iii) this Part or regulations made under this Part;
 - (iv) Part 4A or regulations made under that Part;
 - (v) section 106(1);
 - (vi) Part 2 of the Pensions (Northern Ireland) Order 1995 or orders or regulations made or having effect as if made under that Part;
 - (vii) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
 - (viii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;
 - (ix) section 61 of the Pension Schemes Act 2015;
 - (x) regulations made under section 62 or 63 of the Pension Schemes Act 2015;
 - (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) section 125(1);
 - (iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;
 - (iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
 - (v) Article 279(1) of the Pensions (Northern Ireland) Order 2005;
 - (vi) section 61(3) of the Pension Schemes Act 2015;
 - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.

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

96C Meaning of “normal pension age” in this Chapter

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—
- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
 - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
 - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

96D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 89(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 89A;

“member” is to be read in accordance with section 89(11);

“normal pension age” has the meaning given by section 96C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 96B;

“statement of entitlement” has the meaning given by section 89A;

“transferrable rights” is to be read in accordance with section 89(11).”

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

- 61 (1) Section 97F (power to give transfer notice) is amended as follows.
- (2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.
- (3) After subsection (3) insert—
- “(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”
- (4) For subsection (4) substitute—
- “(4) The cash equivalent for the purposes of subsection (1) shall—
- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 97H, and
- (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”
- (5) For subsection (6A) substitute—
- “(6A) Regulations may—
- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
- (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
- (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
- (a) money purchase benefits;
- (b) flexible benefits other than money purchase benefits;
- (c) benefits that are not flexible benefits.”
- 62 For section 97G (restrictions on power to give transfer notice) substitute—

“97G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member’s pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
- (a) the member has been provided with a statement under section 97H in relation to benefits in that category, and
- (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.

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

- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
 - (4) Where an eligible member of a qualifying scheme—
 - (a) is entitled to give a transfer notice in relation to any category of benefits, and
 - (b) is also entitled to make an application to the trustees or managers of the scheme under section 91(1) in relation to benefits in the same category (or would be entitled to do so but for section 91(1A)(a)),
the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 91(1) in relation to that category of benefits.
 - (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
 - (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
 - (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member’s pension credit rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”
- 63 (1) Section 97H (salary related schemes: statements of entitlement) is amended as follows.
- (2) For subsection (1) substitute—

“(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member’s pension credit rights in relation to categories of benefits other than money purchase benefits.

(1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”
 - (3) In the heading for “Salary related schemes” substitute “Benefits other than money purchase”.
- 64 (1) Section 97J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—

“(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and

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

- (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”
- (3) After subsection (2) insert—
- “(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”
- (4) For subsection (7) substitute—
- “(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 97H is determined.”
- 65 In section 97M (effect of transfer on trustees’ duties), for the words from “pension credit benefit” to the end of the section substitute “benefits to which the transfer notice relates”.
- 66 After section 97N insert—
- “97NA Prohibition on excluding transfers of some rights without others etc**
- Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—
- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”
- 67 (1) Section 97P (interpretation) is amended as follows.
- (2) In subsection (1), at the appropriate places insert—
- ““category”, in relation to benefits, has the meaning given by section 97F(6B);”
- ““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.
- (3) In that subsection, omit the definition of “pension credit benefit”.
- (4) Omit subsection (2).
- (5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “in relation to benefits other than money purchase benefits”.
- 68 Omit section 97Q.
- 69 In section 125 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA”.
- 70 In section 126 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA”.

- 71 In section 149 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA”.
- 72 In section 174 (linked qualifying service), in subsection (1)(a)—
- (a) in the opening words, for “Chapter 4 or 5 of Part IV” substitute “Chapter 1 or 2 of Part 4ZA”;
 - (b) in sub-paragraph (iii)—
 - (i) for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (ii) for “Chapter 5” substitute “Chapter 2”.
- 73 In section 176 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.

Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

- 74 The Pensions (Northern Ireland) Order 1995 is amended as follows.
- 75 In Article 67A (the subsisting rights provisions: interpretation), in paragraph (9)(a), for head (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
 - (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 76 In Article 73 (preferential liabilities on winding up), in paragraph (9), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 77 In Article 73B (Article 73 and 73A: supplementary), in paragraph (7), for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”.
- 78 In Article 121 (interpretation of Part 2), in paragraph (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV of the Pension Schemes Act (early leavers)” substitute “Chapter 2 of Part 4ZA of the Pension Schemes Act (transfers and contribution refunds)”.

Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

- 79 The Pensions (Northern Ireland) Order 2005 is amended as follows.
- 80 (1) Article 2 (interpretation) is amended as follows.
- (2) In paragraph (3), for “an occupational pension scheme” substitute “a pension scheme”.
 - (3) In paragraph (4)(a), for head (ii) substitute—
 - “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
 - (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 81 (1) Article 14 (pension liberation: interpretation) is amended as follows.

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

- (2) In paragraph (2)(a)—
 - (a) after “accrued rights” insert “or an entitlement”;
 - (b) in head (ii), for “the applicable rules” substitute “the scheme rules”.
 - (3) In paragraph (3)—
 - (a) for sub-paragraph (a) substitute—
 - “(a) section 90 of the Pension Schemes Act (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;
 - (b) in sub-paragraph (b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
 - (4) In paragraph (4)(d), for “the applicable rules” substitute “the scheme rules”.
 - (5) Omit paragraph (5).
- 82 In Article 19 (freezing orders), in paragraph (4)(g), for “salary related schemes” substitute “benefits other than money purchase”.
- 83 In Article 20 (consequences of freezing order), in paragraph (7), for sub-paragraphs (a) and (b) substitute—
 - “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 84 In Article 68 (inspection of premises), in paragraph (2)(d)—
 - (a) for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (b) for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 85 In Article 119 (restrictions on winding up, discharge of liabilities etc.), in paragraph (6)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 86 In Article 122 (payment of scheme benefits), in paragraph (3)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 87 (1) Schedule 6 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
 - (3) In paragraph 32(1)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.

SCHEDULE 5

Section 78

PENSION SCHEME FOR FEE-PAID JUDGES: CONSEQUENTIAL AMENDMENTS

Pensions (Increase) Act 1971 (c. 56)

- 1 The Pensions (Increase) Act 1971 is amended as follows.
- 2 In section 19(2)(a) (extent to Northern Ireland)—
 - (a) after “or section” insert “18A or”;

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

- (b) after “section 10 of that Act” insert “or provision made under section 18A of that Act that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act”.
- 3 In Schedule 2 (official pensions), after paragraph 4A insert—
- “4AA A pension payable under a scheme made under section 18A of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act.”

Judicial Pensions and Retirement Act 1993 (c. 8)

- 4 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 5 In section 22 (application of the Pensions (Increase) Act 1971 to Northern Ireland), in subsection (2)—
- (a) after “shall include” insert “—
(a)”;
(b) at the end insert “; and
(b) pensions payable under a scheme made under section 18A above, other than pensions payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 6 (1) Section 28 (funding arrangements) is amended as follows.
- (2) In subsection (2) (benefits payable out of money provided by Parliament), after paragraph (a) (but before the “and” at the end) insert—
“(aa) any pension or other benefits payable under a scheme made under section 18A above,”.
 - (3) In subsection (7), for “section 10 above” substitute “—
(a) section 10 above, or
(b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 7 In section 28A (contributions in respect of Northern Ireland judges), at the end insert “or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A)”.
- 8 (1) Section 29 (regulations and orders) is amended as follows.
- (2) In subsection (2), after “other than” insert “regulations under section 18A above or”.
 - (3) After subsection (2) insert—
“(2A) A statutory instrument which contains regulations under section 18A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”