

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

Pension Schemes Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – General Changes to Legislation about Pension Schemes

Section 47: Other amendments to do with Parts 1 and 2

Schedule 2: Other amendments to do with Parts 1 and 2

Pensions (Northern Ireland) Order 1995

Article 37 of the 1995 Order makes provision in relation to payments to employers when a trust-based occupational scheme is in surplus. Paragraph 7 of the Schedule amends paragraph (1A) of Article 37 to disapply that Article in relation to funds held for the purposes of collective benefits. Funds held for the purposes of providing collective benefits should only be used to provide those benefits except in very limited circumstances. Employer liability in respect of collective benefits is limited to the employer contributions and they cannot be required to make any additional payments where the funds are insufficient to meet the targets. Correspondingly, they should not, as a general rule, have a right to any surplus in the fund. Regulations made under section 24 will set out any exceptions to the rule that the funds must only be used for provision of collective benefits.

Articles 51 and 51A of the 1995 Order relate to indexation requirements for pension schemes (that is, the method by which pensions in payment are increased annually to take account of inflation). The Schedule amends paragraph (1)(a)(iii) of Article 51, which exempts pensions in money purchase schemes from indexation requirements in certain circumstances, by substituting “defined contributions scheme” for “money purchase scheme”. It consequently amends Article 51A to replace ‘money purchase scheme’ with “defined contributions scheme”. This means that the indexation requirements exclude all defined contributions schemes, including money purchase schemes, schemes offering collective benefits, and those that are defined as self-annuitising under Article 51A.

Article 73 of the 1995 Order deals with distribution of liabilities when an occupational pension scheme winds up. Paragraph 11 of the Schedule amends

paragraph (2) of Article 73 to reflect the new scheme categories found in Part 1 of the Act.

Paragraph 11 of the Schedule applies the existing provisions on wind up to the new categories of defined benefits, shared risk and defined contributions schemes. The provisions on winding up do not apply to schemes under which all the benefits that may be provided are money purchase benefits or prescribed schemes or schemes of a prescribed description. This maintains the current position.

An “employer debt” is a reference to a statutory debt arising under Article 75 of the 1995 Order. Article 75 of the 1995 Order applies to an occupational pension scheme (other than a scheme which is a money purchase scheme, or a prescribed scheme or a scheme of a prescribed description) where there is a funding deficit in circumstances where either the scheme is winding up or a prescribed event has occurred in relation to the employer.

Paragraph 12 of the Schedule provides that Article 75 will not apply to an occupational pension scheme which offers only collective benefits, money purchase benefits, or a combination of the two. This paragraph also provides that where a scheme offers a combination of collective and non-collective benefits, the scheme is to be treated for the purposes of Part 1 of the 1995 Order as two separate schemes, with one scheme relating to the collective benefits and the other relating to the other benefits. Not all benefits in a defined contributions scheme will necessarily be money-purchase – some or all may be collective benefits.

Articles 85 and 86 of the 1995 Order make provision requiring trustees or managers of occupational money purchase schemes to prepare schedules of payments for scheme members. The Schedule amends this requirement so that it applies to all defined contribution schemes and any shared risk schemes under which either all of the benefits that may be provided are money purchase benefits, or a combination of money purchase and collective benefits. The wording of paragraph (2)(a) of Article 85 is altered to place focus on the type of benefits that are being offered, in order that ‘relevant benefits’ are considered regardless of whether a scheme is a defined contributions or a shared risk scheme. Article 121 of the 1995 Order is amended so that the terms “defined contributions scheme”, “defined benefits scheme” and “shared risk scheme”, as set out in Part 1 of this Act and “collective benefit” as set out in Part 2 of the Act, apply in that Order and to include a definition of “occupational” in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme.