

Status: Point in time view as at 26/11/2008.

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SCHEDULES

SCHEDULE 1

Section 3

THE PENSIONS REGULATOR

PART 1

MEMBERS OF THE REGULATOR

Terms of appointment and tenure of members

- 1 (1) The members of the Regulator appointed by the Secretary of State under section 2(1) (a) or (c) are to be appointed on such terms and conditions as are determined by the Secretary of State.
- (2) Subject to sub-paragraph (3), such a member—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (3) A person must cease to be a member of the Regulator where—
- (a) in the case of the chairman, he ceases to hold that office or becomes a member of the staff of the Regulator;
 - (b) in the case of any other non-executive member, he becomes a member of the staff of the Regulator;
 - (c) in the case of an executive member appointed under section 2(1)(c), he ceases to be a member of the staff of the Regulator.

Commencement Information

I1 Sch. 1 para. 1 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

- 2 Where a person ceases to be employed as Chief Executive, he ceases to be a member of the Regulator.

Commencement Information

I2 Sch. 1 para. 2 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

- 3 No person is to be prevented from being a member of the Regulator (whether as chairman or otherwise) merely because he has previously been such a member.

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Commencement Information

I3 Sch. 1 para. 3 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

Remuneration etc of members

- 4 The Regulator may pay, or make provision for paying, its non-executive members such remuneration as the Secretary of State may determine.

Commencement Information

I4 Sch. 1 para. 4 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

- 5 The Regulator may—
- (a) pay to or in respect of any person who is or has been a non-executive member such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.

Commencement Information

I5 Sch. 1 para. 5 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

- 6 Where—
- (a) a non-executive member ceases to be a member otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Regulator may make a payment to that person of such amount as the Secretary of State may determine.

Commencement Information

I6 Sch. 1 para. 6 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

PART 2

STAFF OF THE REGULATOR

The staff

- 7 (1) The staff of the Regulator consists of—
- (a) the Chief Executive of the Regulator appointed under paragraph 8,
 - (b) the other employees of the Regulator appointed under paragraph 9, and
 - (c) any additional staff made available by the Secretary of State under paragraph 10.

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- (2) No member of the Board of the Pension Protection Fund is eligible for appointment as a member of the staff of the Regulator.

Commencement Information

I7 Sch. 1 para. 7 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

The Chief Executive

- 8 (1) The Regulator is to employ a person as its Chief Executive.
- (2) The Chief Executive's main function is to be responsible for securing that the functions of the Regulator are exercised efficiently and effectively.
- (3) The first appointment of a Chief Executive—
- (a) is to be made by the Secretary of State, and
 - (b) is to be on such terms and conditions as to remuneration and other matters as are determined by the Secretary of State.
- (4) Subsequent appointments of a Chief Executive—
- (a) are to be made by the Regulator with the approval of the Secretary of State, and
 - (b) are to be on such terms and conditions as to remuneration and other matters as are determined by the Regulator with the approval of the Secretary of State.
- (5) By virtue of subsection (2) of section 8 (non-executive functions), the function conferred on the Regulator by sub-paragraph (4)(b), so far as it relates to the terms and conditions as to remuneration, is exercisable on its behalf by the committee established under that section.

Commencement Information

I8 Sch. 1 para. 8 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Other employees

- 9 (1) Other employees of the Regulator may be appointed by the Regulator with the approval of the Secretary of State as to numbers.
- (2) Any such appointments are to be on such terms and conditions as to remuneration and other matters as are determined by the Regulator with the approval of the Secretary of State.

Commencement Information

I9 Sch. 1 para. 9 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

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Additional staff etc

- 10 (1) The Secretary of State may make available to the Regulator such additional staff and such other facilities as he considers appropriate.
- (2) The availability of such staff and facilities may be on such terms as to payment by the Regulator as the Secretary of State may determine.

Commencement Information

I10 Sch. 1 para. 10 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

PART 3

MEMBERS OF THE DETERMINATIONS PANEL

Nomination of the chairman of the Panel

- 11 (1) On each occasion when the Regulator is required to appoint a person as chairman of the Determinations Panel, the chairman of the Regulator must establish a committee (in this Schedule referred to as “the appointments committee”).
- (2) The appointments committee must consist of—
- (a) a chairman appointed by the chairman of the Regulator from the non-executive members of the Regulator, and
- (b) one or more persons appointed by the chairman of the Regulator.
- (3) At least one of the persons appointed under sub-paragraph (2)(b) must be a person who is not a member of the Regulator.
- (4) But a person appointed under sub-paragraph (2)(b) must not be a person who is a member of the staff of the Regulator.
- (5) The committee must nominate a person suitable for appointment as chairman of the Panel.

Commencement Information

I11 Sch. 1 para. 11 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Terms of appointment and tenure of members of the Panel

- 12 (1) The members of the Determinations Panel are to be appointed on such terms and conditions as are determined by the Regulator with the approval of the Secretary of State.
- (2) Subject to sub-paragraph (3) such a member—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
- (b) may resign or be removed from office in accordance with those terms and conditions.

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- (3) A person must cease to be a member of the Panel where—
- (a) in the case of the chairman, he ceases to hold that office, or
 - (b) in the case of any member, he becomes a member of the Regulator or a member of the staff of the Regulator.

Commencement Information

I12 Sch. 1 para. 12 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

- 13 No person is to be prevented from being a member of the Panel (whether as chairman or otherwise) merely because he has previously been a member of the Panel.

Commencement Information

I13 Sch. 1 para. 13 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

Remuneration etc of members of the Panel

- 14 The Regulator may pay, or make provision for paying, the members of the Determinations Panel such remuneration as the Secretary of State may determine.

Commencement Information

I14 Sch. 1 para. 14 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

- 15 The Regulator may—
- (a) pay to or in respect of any person who is or has been a member of the Panel such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.

Commencement Information

I15 Sch. 1 para. 15 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

- 16 Where—
- (a) a member of the Panel ceases to be a member otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Regulator may make a payment to that person of such amount as the Secretary of State may determine.

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Commencement Information

I16 Sch. 1 para. 16 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

PART 4

PROCEEDINGS AND DELEGATION ETC

Committees

- 17 (1) The Regulator may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) The members of such committees or sub-committees may include persons who are not members of the Regulator.
- (4) The members of such sub-committees may include persons who are not members of the committee.
- (5) But the majority of the members of a committee or a sub-committee must consist of persons who are members of the Regulator or members of the staff of the Regulator.
- (6) Sub-paragraphs (2) to (5) do not apply to—
- (a) the committee established under section 8 or any of its sub-committees, or
 - (b) the Determinations Panel or any of its sub-committees (see section 9).
- (7) Subject to that, references in this Schedule to the committees of the Regulator are to—
- (a) the committee established under section 8 and any of its sub-committees,
 - (b) the Determinations Panel and any of its sub-committees,
 - (c) the appointments committee, and
 - (d) any committees or sub-committees established under this paragraph.

Commencement Information

I17 Sch. 1 para. 17 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Procedure

- 18 (1) The Regulator may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its committees (other than the Determinations Panel and any of that Panel’s sub-committees).
- (2) The Determinations Panel may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its sub-committees.
- (3) This paragraph is subject to—

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- (a) sections 93 to 104 (procedure in relation to the regulatory functions) and any corresponding provisions in force in Northern Ireland, and
- (b) any regulations made by the Secretary of State under paragraph 19.

Commencement Information

I18 Sch. 1 para. 18 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

PROSPECTIVE

- 19 (1) The Secretary of State may make regulations—
- (a) as to the procedure (including quorum) to be followed by the Regulator or any of its committees;
 - (b) as to the manner in which the functions of the Regulator are to be exercised.
- (2) Such regulations may in particular—
- (a) make provision as to the hearing of parties, the taking of evidence and the circumstances (if any) in which a document of any prescribed description is to be treated for the purposes of any proceedings before the Regulator, as evidence, or conclusive evidence, of any prescribed matter;
 - (b) make provision as to the manner in which parties to any proceedings before the Regulator may or are to be represented for the purposes of the proceedings;
 - (c) provide for enabling the Regulator to summon persons—
 - (i) to attend proceedings before the Regulator and give evidence (including evidence on oath) for any purposes of proceedings in connection with a determination whether to exercise, or the exercise of, a regulatory function (or any corresponding function under any provisions in force in Northern Ireland corresponding to this Act), or
 - (ii) to produce any documents required by the Regulator for those purposes.
- (3) In this paragraph references to proceedings before the Regulator include references to proceedings before the Determinations Panel and any of the Panel's sub-committees.

Delegation

- 20 (1) The Regulator may authorise—
- (a) any executive member of the Regulator,
 - (b) any other member of the staff of the Regulator, or
 - (c) any of its committees (other than the appointments committee, the Determinations Panel and any of that Panel's sub-committees),
- to exercise, on behalf of the Regulator, such of its functions, in such circumstances, as the Regulator may determine.
- (2) But sub-paragraph (1) does not apply to—
- (a) the non-executive functions of the Regulator listed in subsection (4) of section 8 (which, by virtue of subsection (2) of that section, must be discharged by the committee established under that section),

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- (b) the duty of the Regulator to appoint the chairman and other members of the Determinations Panel under section 9,
 - (c) the duty of the Regulator to determine the terms and conditions of their appointments under paragraph 12(1), and
 - (d) the functions of the Regulator which are exercisable only by the Panel by virtue of—
 - (i) section 10(1) (the power in certain circumstances to determine whether to exercise the functions listed in Schedule 2 and to exercise them) or any corresponding provision in force in Northern Ireland, or
 - (ii) section 99(10) (the functions concerning the compulsory review of certain determinations) or any corresponding provision in force in Northern Ireland.
- (3) The Regulator may authorise the appointments committee to exercise the power under paragraph 18 to determine the committee’s own procedure (including quorum).
- (4) The Regulator may authorise the Determinations Panel, in such circumstances as the Regulator may determine, to exercise on behalf of the Regulator—
- (a) the power to determine whether to exercise one or more of the regulatory functions listed in sub-paragraph (5), and
 - (b) where the Panel so determines to exercise the regulatory function in question, the power to exercise it.
- (5) The regulatory functions mentioned in sub-paragraph (4) are—
- (a) the power to issue an improvement notice under section 13;
 - (b) the power to issue a third party notice under section 14;
 - (c) the power to issue a clearance statement under section 42;
 - (d) the power to issue a notice under section 45(1) approving the details of arrangements;
 - (e) the power to issue a clearance statement under section 46;
 - (f) the power to make an order under section 154(8);
 - (g) the power to make an order under section 219(4);
 - (h) the power to grant or revoke authorisation under section 288;
 - (i) the power to grant or revoke approval under section 289;
 - (j) the power to issue a notice under section 293(5);
 - (k) the power by direction under section 2(3)(a) of the Welfare Reform and Pensions Act 1999 (c. 30) to refuse to register a scheme under section 2 of that Act;
 - (l) the power to appoint a trustee under any of the following provisions of section 7 of the Pensions Act 1995 (c. 26)—
 - (i) subsection (1) where a trustee is removed by reason of his disqualification;
 - (ii) subsection (3)(b);
 - (m) the power to appoint an independent trustee under section 23 of that Act;
 - (n) the power to give directions under section 72B of that Act facilitating a winding up.
- (6) The Regulator may also authorise the Determinations Panel, in such circumstances as the Regulator may determine, to exercise on behalf of the Regulator such functions

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(other than those mentioned in sub-paragraph (2)(a) to (c)) as the Regulator considers necessary for the effective exercise by the Panel of—

- (a) a function of the Regulator which it is authorised to exercise by virtue of sub-paragraph (4),
- (b) a function of the Regulator mentioned in sub-paragraph (2)(d) (functions exercisable only by the Panel), or
- (c) a function of the Panel under section 93(3), section 99(11) or paragraph 18(2) of this Schedule (procedure).

(7) This paragraph is subject to any regulations made by the Secretary of State under paragraph 21.

Commencement Information

- I19** Sch. 1 para. 20(1)(2)(4)-(7) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
I20 Sch. 1 para. 20(3) in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, **Sch.**

21 ^[F1](1) The Secretary of State may make regulations—

- (a) limiting the extent to which any of the functions mentioned in subsection (8) of section 8 may be delegated by the committee established under that section to any of its members or any of its sub-committees under that subsection;
- (b) limiting the extent to which any of the functions mentioned in subsection (9) of section 10 may be delegated by the Determinations Panel to any of its members or any of its sub-committees under that subsection;
- (c) limiting the extent to which functions of the Regulator may be delegated under paragraph 20;
- (d) limiting the delegation under paragraph 20 of any power to delegate contained in that paragraph;
- ^[F2](e) permitting the Regulator to authorise such persons, in such circumstances and under such arrangements, as the Regulator may determine, to exercise on behalf of the Regulator—
 - (i) the power to determine whether to exercise any of the functions listed in sub-paragraph (2);
 - (ii) the power to exercise any of the functions listed in sub-paragraph (2) or such other functions as may be prescribed.]

^[F3](2) The functions mentioned in sub-paragraph (1)(e) are—

- (a) the power to issue an improvement notice under section 13;
- (b) the power to issue a third party notice under section 14;
- (c) the power to recover unpaid contributions under section 17;
- (d) the power to require information under section 72;
- (e) the power to vary or revoke a determination, order, notice or direction under section 101;
- (f) the power to require payment of a penalty under section 10 of the Pensions Act 1995;
- (g) the power to issue a compliance notice under section 35 of the Pensions Act 2008;
- (h) the power to issue a third party compliance notice under section 36 of that Act;

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- (i) the power to issue an unpaid contributions notice under section 37 of that Act;
- (j) the power to issue a fixed penalty notice under section 40 of that Act;
- (k) the power to issue an escalating penalty notice under section 41 of that Act;
- (l) the power to recover penalties under section 42 of that Act;
- (m) the power to review a notice under section 43 of that Act;
- (n) the power to issue a compliance notice in respect of prohibited recruitment conduct under section 51 of that Act;
- (o) the power to issue a penalty notice in respect of prohibited recruitment conduct under section 52 of that Act.]

Textual Amendments

- F1** Sch. 1 para. 21 renumbered as Sch. 1 para. 21(1) (26.11.2008) by [Pensions Act 2008 \(c. 30\)](#), **ss. 133(2), 149(2)** (with [s. 133\(6\)](#))
- F2** Sch. 1 para. 21(1)(e) substituted (26.11.2008) by [Pensions Act 2008 \(c. 30\)](#), **ss. 133(3), 149(2)** (with [s. 133\(6\)](#))
- F3** Sch. 1 para. 21(2) inserted (26.11.2008) by [Pensions Act 2008 \(c. 30\)](#), **ss. 133(4), 149(2)** (with [s. 133\(6\)](#))

Commencement Information

- I21** Sch. 1 para. 21 in force at 15.3.2005 for specified purposes by [S.I. 2005/695](#), **art. 2(5)** (with [arts. 4-6, Sch. 2, Sch. 3](#))

Application of seal and proof of instruments

- 22 (1) The fixing of the common seal of the Regulator must be authenticated by the signature of a person authorised for that purpose by the Regulator (whether generally or specifically).
- (2) Sub-paragraph (1) does not apply in relation to any document which is or is to be signed in accordance with the law of Scotland.

Commencement Information

- I22** Sch. 1 para. 22 in force at 17.12.2004 by [S.I. 2004/3350](#), **art. 2, Sch.**

- 23 A document purporting to be duly executed under the seal of the Regulator or purporting to be signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be so executed or signed unless the contrary is proved.

Commencement Information

- I23** Sch. 1 para. 23 in force at 17.12.2004 by [S.I. 2004/3350](#), **art. 2, Sch.**

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PART 5

FUNDING AND ACCOUNTS

Funding

- 24 The Secretary of State may pay the Regulator out of money provided by Parliament such sums as he may determine towards its expenses.

Commencement Information

- I24** Sch. 1 para. 24 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)
I25 Sch. 1 para. 24 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 25 (1) The Secretary of State may make regulations authorising the Regulator to charge fees to meet the costs incurred by the Regulator in connection with applications made for—
- (a) the modification of an occupational pension scheme under section 69 of the Pensions Act 1995 (c. 26) or under any corresponding provision in force in Northern Ireland, or
 - (b) the issuing of a clearance statement under section 42 or 46 or under any corresponding provision in force in Northern Ireland.
- (2) Regulations under sub-paragraph (1) may prescribe, or authorise the Regulator to determine, the time at which any fee is due.
- (3) Any fee which is owed to the Regulator by virtue of regulations under this paragraph may be recovered as a debt due to the Regulator.

Commencement Information

- I26** Sch. 1 para. 25 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 26 (1) Section 175 of the Pension Schemes Act 1993 (c. 48) (levies towards certain expenditure) is amended as follows.
- (2) In subsection (1) omit “or” at the end of paragraph (b) and for paragraph (c) substitute—
- “(c) of the Regulatory Authority (including the establishment of the Authority under the Pensions Act 2004), or
 - (d) of the Lord Chancellor in meeting the costs of the legal assistance scheme established by virtue of section 106 of the Pensions Act 2004 (legal assistance in connection with proceedings before the Pensions Regulator Tribunal),”.
- (3) In subsection (3), in paragraph (a), for the words from “any amounts paid” to the end of the paragraph substitute “—
- (i) any amounts paid to the Secretary of State under section 168(4) of this Act or section 10 of the Pensions Act 1995 (civil penalties), and

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- (ii) any fees paid to the Authority under paragraph 25 of Schedule 1 to the Pensions Act 2004 (fees for certain applications), and”.

Commencement Information

I27 Sch. 1 para. 26 in force at 10.2.2005 for specified purposes and at 1.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(2\)](#), [Sch. Pt. 2](#) (with transitional provisions and savings in [S.I. 2005/695](#), arts. 5(8), 6, Schs. 2, 3 (as amended by [S.I. 2005/1108](#), art. 3(b))

Accounts

- 27 (1) The Regulator must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Regulator must send a copy of each statement of accounts—
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General,
- before the end of the month of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which he receives under sub-paragraph (3), and
 - (b) lay a copy of each statement and of his report before each House of Parliament.
- (5) In this paragraph “financial year” means—
- (a) the period beginning with the date on which the Regulator is established and ending with the next following 31st March, and
 - (b) each successive period of 12 months.

Commencement Information

I28 Sch. 1 para. 27 in force at 10.2.2005 by [S.I. 2005/275](#), [art. 2\(4\)](#), [Sch. Pt. 4](#)

Other expenses

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Textual Amendments

F4 Sch. 1 para. 28 repealed (26.11.2008) by Pensions Act 2008 (c. 30), ss. 133(5), 149(2), Sch. 11 Pt. 6

PART 6

STATUS AND LIABILITY ETC

Status

- 29 (1) The Regulator is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, privilege or immunity of the Crown.
- (2) Accordingly, the Regulator’s property is not to be regarded as property of, or held on behalf of, the Crown.

Commencement Information

I29 Sch. 1 para. 29 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Validity

- 30 The validity of any proceedings of the Regulator (including any proceedings of any of its committees) is not to be affected by—
- (a) any vacancy among the members of the Regulator or of any of its committees,
 - (b) any defect in the appointment of any member of the Regulator or of any of its committees, or
 - (c) any defect in the appointment of the Chief Executive.

Commencement Information

I30 Sch. 1 para. 30 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Disqualification

- 31 Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) is amended as follows—
- (a) in Part 2 (bodies whose members are disqualified) at the appropriate place insert— “ The Pensions Regulator. ”, and
 - (b) in Part 3 (other disqualifying offices) at the appropriate place insert— “ Member of the Determinations Panel established by the Pensions Regulator under section 9 of the Pensions Act 2004. ”

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I31 Sch. 1 para. 31 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

32 Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) is amended as follows—

- (a) in Part 2 (bodies whose members are disqualified) at the appropriate place insert— “ The Pensions Regulator. ”, and
- (b) in Part 3 (other disqualifying offices) at the appropriate place insert— “ Member of the Determinations Panel established by the Pensions Regulator under section 9 of the Pensions Act 2004. ”

Commencement Information

I32 Sch. 1 para. 32 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

The Parliamentary Commissioner for Administration

33 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13)(departments and authorities subject to investigation), at the appropriate place insert— “ The Pensions Regulator. ”

Commencement Information

I33 Sch. 1 para. 33 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

The Superannuation Act 1972

- 34 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include—
- the chairman of the Regulator
 - the employees of the Regulator.
- (2) The Regulator must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Commencement Information

I34 Sch. 1 para. 34 in force at 17.12.2004 by [S.I. 2004/3350](#), [art. 2](#), [Sch.](#)

Exemption from liability in damages

- 35 (1) Neither the Regulator nor any person who is a member of the Regulator, a member of any of its committees, or a member of its staff is to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Regulator conferred by, or by virtue of, this or any other enactment.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Any person who is—
- (a) the chairman of the Regulator,
 - (b) the Chief Executive of the Regulator, or
 - (c) the chairman of the Determinations Panel,
- is not to be liable in damages for anything done or omitted in the exercise or purported exercise of any function conferred on the office in question by, or by virtue of, this Act or any provisions in force in Northern Ireland corresponding to this Act.
- (3) Any person who is a member of the committee established under section 8 or of any of its sub-committees is not to be liable in damages for anything done or omitted in the discharge or purported discharge of the duty to prepare a report under subsection (5) of that section on the discharge of the non-executive functions.
- (4) Any person who is a member of the Determinations Panel is not to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Panel under—
- (a) section 93(3) (procedure in relation to regulatory functions) or any corresponding provision in force in Northern Ireland,
 - (b) section 99(11) (procedure in relation to exercise of functions on a compulsory review) or any corresponding provision in force in Northern Ireland, or
 - (c) paragraph 18(2) of this Schedule (general procedure).
- (5) But sub-paragraphs (1) to (4) do not apply—
- (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).

Commencement Information

- I35** Sch. 1 para. 35(1)-(3)(4)(c)(5) in force at 17.12.2004 for specified purposes by [S.I. 2004/3350](#), [art. 2](#), [Sch. Pt. 7](#)
- I36** Sch. 1 para. 35(4)(a)(b) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)
- I37** Sch. 1 para. 35(5) in force at 6.4.2005 for specified purposes in so far as it relates to paragraph 35(4)(a) and (b) by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

SCHEDULE 2

Section 10

THE RESERVED REGULATORY FUNCTIONS

PART 1

FUNCTIONS UNDER THE PENSION SCHEMES ACT 1993 (C. 48)

- 1 The power by direction under section 99(4) to grant an extension of the period within which the trustees or managers of a scheme are to carry out certain duties.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I38 Sch. 2 para. 1 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 2 The power by direction under section 101J(2) to extend the period for compliance with a transfer notice.

Commencement Information

I39 Sch. 2 para. 2 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 3 The power under regulations made by virtue of section 168(4) to require a person to pay a penalty.

Commencement Information

I40 Sch. 2 para. 3 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

PART 2

FUNCTIONS UNDER THE PENSIONS ACT 1995 (C. 26)

- 4 The power to make an order under section 3(1) prohibiting a person from being a trustee.

Commencement Information

I41 Sch. 2 para. 4 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 5 The power to make an order under section 3(3) revoking such an order.

Commencement Information

I42 Sch. 2 para. 5 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 6 The power to make an order under section 4(1) suspending a trustee.

Commencement Information

I43 Sch. 2 para. 6 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 7 The power to make an order under section 4(2) extending the period for which an order under section 4(1) of that Act has effect.

Commencement Information

I44 Sch. 2 para. 7 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 8 The power to make an order under section 4(5) revoking an order under section 4(1) of that Act suspending a trustee.

Commencement Information

I45 Sch. 2 para. 8 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 9 The power to make an order appointing a trustee under any of the following provisions of section 7—
- (a) subsection (1) where a trustee is removed by an order under section 3 (prohibition orders);
 - (b) subsection (3)(a) or (c).

Commencement Information

I46 Sch. 2 para. 9 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 10 The power under section 9 to exercise by order the same jurisdiction and powers as the High Court or the Court of Session for vesting property in, or transferring property to, trustees in consequence of the appointment or removal of a trustee.

Commencement Information

I47 Sch. 2 para. 10 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 11 The power to require a person to pay a penalty under section 10 (including under regulations made by virtue of subsection (3) of that section).

Commencement Information

I48 Sch. 2 para. 11 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 12 The power to make an order under section 11 directing or authorising an occupational pension scheme to be wound up.

Commencement Information

I49 Sch. 2 para. 12 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 13 The power to give directions to trustees under section 15.

Commencement Information

I50 Sch. 2 para. 13 in force at 6.4.2005 by [S.I. 2005/695](#), [art. 2\(1\)](#) (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- [^{F5}13A The duty under section 23(4), and regulations made thereunder, to compile and maintain a register of persons who satisfy prescribed conditions to act as independent trustees, but only in so far as that duty entails the removal of a person from that register if he does not satisfy, or no longer satisfies, any such prescribed condition.]

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F5** Sch. 2 para. 13A inserted (11.4.2005) by [The Occupational Pension Schemes \(Independent Trustee\) Regulations 2005 \(S.I. 2005/703\)](#), regs. 1(1), 5

- 14 The power under section 29(5) to give a notice waiving a disqualification under section 29 of that Act.

Commencement Information

- I51** Sch. 2 para. 14 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with arts. 4-6, Sch. 2, Sch. 3)

- 15 The power under section 30(2) to exercise by order the same jurisdiction and powers as the High Court or the Court of Session for vesting property in, or transferring property to, the trustees where a trustee becomes disqualified under section 29 of that Act.

Commencement Information

- I52** Sch. 2 para. 15 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with arts. 4-6, Sch. 2, Sch. 3)

- [^{F6}15A. The power under section 58(7) to extend or further extend the period referred to in section 58(6) of that Act in relation to a schedule of contributions for an occupational pension scheme.

Textual Amendments

- F6** Sch. 2 paras. 15A, 15B, inserted (19.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(1), **2(2)** (with reg. 2(3))

- 15B. The power under section 60(7) to extend or further extend the period applicable under section 60(3) of that Act in relation to securing an increase in the value of the assets of an occupational pension scheme.]

Textual Amendments

- F6** Sch. 2 paras. 15A, 15B, inserted (19.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(1), **2(2)** (with reg. 2(3))

- 16 The power to make an order under section 67G(2) by virtue of which any modification of, or grant of rights under, an occupational pension scheme is void to any extent.

Commencement Information

- I53** Sch. 2 para. 16 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with arts. 4-6, Sch. 2, Sch. 3)

- 17 The power to make an order under section 67H(2) prohibiting, or specifying steps to be taken in relation to, the exercise of a power to modify an occupational pension scheme.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I54 Sch. 2 para. 17 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 18 The power to make an order under section 69 authorising the modification of an occupational pension scheme or modifying the scheme.

Commencement Information

I55 Sch. 2 para. 18 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 19 The power to make an order under section 71A modifying an occupational pension scheme with a view to ensuring that it is properly wound up.

Commencement Information

I56 Sch. 2 para. 19 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

PART 3

FUNCTIONS UNDER THE WELFARE REFORM AND PENSIONS ACT 1999 (C. 30)

- 20 The power by direction under section 2(3)(b) to remove a scheme from the register of stakeholder pension schemes.

Commencement Information

I57 Sch. 2 para. 20 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

PART 4

FUNCTIONS UNDER THIS ACT

- 21 The power to make or extend a restraining order under section 20.

Commencement Information

I58 Sch. 2 para. 21 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 22 The power to make an order under section 20(10) permitting payments out of an account that is subject to a restraining order.

Commencement Information

I59 Sch. 2 para. 22 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

- 23 The power to make a repatriation order under section 21.

Status: Point in time view as at 26/11/2008.

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Commencement Information

I60 Sch. 2 para. 23 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

24 The power to make a freezing order under section 23.

Commencement Information

I61 Sch. 2 para. 24 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

25 The power to make an order under section 25(3) extending the period for which a freezing order has effect.

Commencement Information

I62 Sch. 2 para. 25 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

26 The power to make an order under section 26 validating action taken in contravention of a freezing order.

Commencement Information

I63 Sch. 2 para. 26 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

27 The power to make an order under section 28 directing that specified steps are taken.

Commencement Information

I64 Sch. 2 para. 27 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

28 The power to make an order under section 30 giving a direction where a freezing order ceases to have effect.

Commencement Information

I65 Sch. 2 para. 28 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

29 The power to make an order under section 31(3) directing the notification of members.

Commencement Information

I66 Sch. 2 para. 29 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

30 The power to issue a contribution notice under section 38.

Commencement Information

I67 Sch. 2 para. 30 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

Status: Point in time view as at 26/11/2008.

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[^{F7}30A The power to issue a direction under section 39A(6) to any person.]

Textual Amendments

F7 Sch. 2 para. 30A inserted (26.11.2008) by Pensions Act 2008 (c. 30), s. 149(2)(3), Sch. 9 para. 13(a)

31 The power to issue a direction under section 41(4) to the trustees or managers of an occupational pension scheme.

Commencement Information

I68 Sch. 2 para. 31 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

32 The power to issue a revised contribution notice under section 41(9).

Commencement Information

I69 Sch. 2 para. 32 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

33 The power to issue a financial support direction under section 43.

Commencement Information

I70 Sch. 2 para. 33 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

[^{F8}33A The power to issue a direction under section 43A(3) to any person.]

Textual Amendments

F8 Sch. 2 para. 33A inserted (26.11.2008) by Pensions Act 2008 (c. 30), s. 149(2)(3), Sch. 9 para. 13(b)

34 The power to issue a contribution notice under section 47.

Commencement Information

I71 Sch. 2 para. 34 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

35 The power to issue a direction under section 50(4) to the trustees or managers of an occupational pension scheme.

Commencement Information

I72 Sch. 2 para. 35 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

36 The power to issue a revised contribution notice under section 50(9).

Commencement Information

I73 Sch. 2 para. 36 in force at 6.4.2005 by S.I. 2005/695, art. 2(1) (with arts. 4-6, Sch. 2, Sch. 3)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

37 The power to make a restoration order under section 52.

Commencement Information

I74 Sch. 2 para. 37 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

38 The power to issue a contribution notice under section 55.

Commencement Information

I75 Sch. 2 para. 38 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

39 The power to issue a notice under section 71 requiring a report to be provided to the Regulator.

Commencement Information

I76 Sch. 2 para. 39 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

40 The power to make a direction under section 76(8) extending the retention period for documents taken into possession under section 75.

Commencement Information

I77 Sch. 2 para. 40 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

41 The power to make a direction under section 78(10) extending the retention period for documents taken into possession under that section.

Commencement Information

I78 Sch. 2 para. 41 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

42 The power to make an order under section 231 modifying a scheme, giving directions or imposing a schedule of contributions.

Commencement Information

I79 Sch. 2 para. 42 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

43 The power to issue a ring-fencing notice under section 292.

Commencement Information

I80 Sch. 2 para. 43 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

44 The power to vary or revoke under section 101—
(a) a determination made by the Determinations Panel whether to exercise one of the other functions listed in this Schedule, or

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- (b) an order, notice or direction made, issued or given in the exercise of one of those functions—
- (i) by the Panel, or
 - (ii) by the Regulator in compliance with a direction of the Tribunal under section 103.

Commencement Information

I81 Sch. 2 para. 44 in force at 6.4.2005 by [S.I. 2005/695](#), **art. 2(1)** (with [arts. 4-6](#), [Sch. 2](#), [Sch. 3](#))

[^{F9}PART 5

OTHER FUNCTIONS

Textual Amendments

F9 [Sch. 2 Pt. 5](#) added (6.4.2006) by [The Occupational and Personal Pension Schemes \(Consultation by Employers and Miscellaneous Amendment\) Regulations 2006 \(S.I. 2006/349\)](#), [regs. 1\(2\)](#), **20**

- 45 The power to make an order under regulation 19 of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349) to waive or relax any of the requirements of regulations 6 to 16 of those Regulations.]

SCHEDULE 3

Section 86

RESTRICTED INFORMATION HELD BY THE REGULATOR: CERTAIN PERMITTED DISCLOSURES TO FACILITATE EXERCISE OF FUNCTIONS

Commencement Information

I82 Sch. 3 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), **Sch. Pt. 7**

Persons

The Secretary of State.

Functions

Functions under—

- (a) Part 14 of the Companies Act 1985 (c. 6),
- (b) the Insolvency Act 1986 (c. 45),
- (c) Part 3 of the Companies Act 1989 (c. 40),
- (d) Part 1 of the Export and Investment Guarantees Act 1991 (c. 67) (apart from sections 5 and 6),
- (e) Part 3 of the Pension Schemes Act 1993 (c. 48),
- (f) Part 5 of the Police Act 1997 (c. 50),

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	(g) the Financial Services and Markets Act 2000 (c. 8), or
	(h) this Act, and functions of co-operating with overseas government authorities and bodies in relation to criminal matters.
The Bank of England.	Any of its functions.
The Financial Services Authority.	Functions under— (a) the legislation relating to friendly societies, (b) the Building Societies Act 1986 (c. 53), or (c) the Financial Services and Markets Act 2000 (c. 8).
[^{F10} The Charity Commission.	Functions under the Charities Act 1993 (c. 10) or the Charities Act 2006.]
The Pensions Regulator Tribunal.	Any of its functions.
The Pensions Ombudsman.	Functions under— (a) the Pension Schemes Act 1993 (c. 48), or (b) the Pension Schemes (Northern Ireland) Act 1993 (c. 49).
The Ombudsman for the Board of the Pension Protection Fund.	Any of his functions.
The Comptroller and Auditor General.	Any of his functions.
The Auditor General for Wales.	Any of his functions.
The Auditor General for Scotland.	Any of his functions.
The Comptroller and Auditor General for Northern Ireland.	Any of his functions.
The Commissioners of Inland Revenue or their officers.	Functions under— (a) the Income and Corporation Taxes Act 1988 (c. 1), (b) the Taxation of Chargeable Gains Act 1992 (c. 12), (c) Part 3 of the Pension Schemes Act 1993, (d) Part 3 of the Pension Schemes (Northern Ireland) Act 1993, ^{F11} ... (e) the Income Tax (Earnings and Pensions) Act 2003 (c. 1). ^{F12} [^{F13} ... (f) the Income Tax (Trading and Other Income) Act 2005 (so far as relating to functions previously exercised under the Income and Corporation Taxes Act 1988).] ^{F14} ... (g) [^{F15} Part 4 of the Finance Act 2004 (c. 12).] [^{F16} or—

Status: Point in time view as at 26/11/2008.

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	(h) the Income Tax Act 2007 (so far as relating to functions previously exercised under the Income and Corporation Taxes Act 1988).]
The Commissioners of Customs and Excise.	Functions under any enactment.
The Official Receiver or, in Northern Ireland, the Official Receiver for Northern Ireland.	Functions under the enactments relating to insolvency.
An inspector appointed by the Secretary of State.	Functions under Part 14 of the Companies Act 1985 (c. 6).
A person authorised to exercise powers under—	Functions under those sections or that Article.
(a) section 447 of the Companies Act 1985,	
(b) Article 440 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), or	
(c) section 84 of the Companies Act 1989 (c. 40).	
A person appointed under—	Functions in relation to that investigation.
(a) section 167 of the Financial Services and Markets Act 2000 (c. 8),	
(b) subsection (3) or (5) of section 168 of that Act, or	
(c) section 284 of that Act,	
to conduct an investigation.	
A body designated under section 326(1) of that Act.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.
The Panel on Takeovers and Mergers.	Functions under the City Code on Takeovers and Mergers and the Rules Governing Substantial Acquisitions of Shares for the time being issued by the Panel.
The General Insurance Standards Council.	Functions of regulating sales and advisory and service standards in relation to insurance.
A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 (c. 45)).	Functions in its capacity as such a body under that Act.
A person on whom functions are conferred by or under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (c. 29).	The functions so conferred.
The Counter Fraud and Security Management Service established under the	Any of its functions.

Status: Point in time view as at 26/11/2008.

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Counter Fraud and Security Management Service (Establishment and Constitution) Order 2002 (S.I. 2002/3039).

The Department of Enterprise, Trade and Investment in Northern Ireland.

Functions under—

- (a) Part 15 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)),
- (b) the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
- (c) Part 2 of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)).

The Department for Social Development in Northern Ireland.

Functions under Part 3 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).

An Inspector appointed by the Department of Enterprise, Trade and Investment in Northern Ireland.

Functions under Part 15 of the Companies (Northern Ireland) Order 1986.

A recognised professional body within the meaning of Article 350 of the Insolvency (Northern Ireland) Order 1989.

Functions in its capacity as such a body under that Order.

F17

F17

...

...

[^{F18}Any body carrying on activities concerned with any of the matters set out in section 16(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) or Article 16(2) of the Companies (Audit, Investigations and Community Enterprise) (Northern Ireland) Order 2005 (S.I. 2005/1967 (N.I.17)) (a “relevant body”), any subsidiary (within the meaning given by section 736 of the Companies Act 1985 (c.6) or Article 4 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6)) of a relevant body and any body established under the constitution of a relevant body or such a subsidiary.

Its functions relating to carrying on activities concerned with any of the following matters—

- (a) issuing standards to be applied in actuarial work,
- (b) issuing standards in respect of matters to be contained in reports or other communications required to be produced or made by actuaries or in accordance with standards within paragraph (a),
- (c) investigating departures from standards within paragraph (a) or (b),
- (d) taking steps to secure compliance with standards within paragraph (a) or (b),
- (e) carrying out investigations into public interest cases arising in connection with the performance of actuarial functions by members of the Institute of Actuaries or, in Scotland, the Faculty of Actuaries (“the Institute or Faculty”) or persons who, although not members of the Institute or Faculty, are subject to the rules of one of these bodies in performing actuarial functions (“members”),

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- (f) holding disciplinary hearings relating to members following the conclusion of investigations within paragraph (e),
- (g) deciding whether (and, if so, what) disciplinary action should be taken against members to whom hearings within paragraph (f) related,
- (h) supervising the exercise by the Institute or Faculty of:
 - (i) investigatory or disciplinary functions exercised by the Institute or Faculty in relation to the performance by their members of actuarial functions,
 - (ii) the setting by the Institute or Faculty of standards in relation to the performance by their members of actuarial functions, and
 - (iii) the determining by the Institute or Faculty of requirements in relation to the education and training of their members,
- (i) overseeing or directing any of the matters mentioned in paragraphs (a) to (h),

and functions relating to the funding of activities concerned with any of the matters mentioned in paragraphs (a) to (i).

Any functions in connection with any levy payable to it under section 17 of the Companies (Audit, Investigations and Community Enterprise) Act 2004.

A member of the panel appointed under paragraph 4 of Schedule 17 to the Financial Services and Markets Act 2000 (c.8) by the body corporate established by paragraph 2 of that Schedule.

Functions under—

- (a) Part 3 (the compulsory jurisdiction),
- (b) Part 3A (the consumer credit jurisdiction), and
- (c) Part 4 (the voluntary jurisdiction) of that Schedule to that Act.

The Gambling Commission.

Functions under—

- (a) the Gaming Act 1968 (c.65),
 - (b) the Lotteries and Amusements Act 1976 (c.32), and
 - (c) the Gambling Act 2005 (c.19).]
-

Textual Amendments

- F10** Sch. 3 entry substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 206**; S.I. 2007/309, art. 2, Sch.
- F11** Word in Sch. 3 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 658(a), **Sch. 3** (with Sch. 2)

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- F12** Word in Sch. 3 omitted (6.4.2006) by virtue of [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **18(2)(a)**
- F13** Words in Sch. 3 inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 658(b)** (with [Sch. 2](#))
- F14** Word in Sch. 3 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 487\(a\)](#), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F15** Words in Sch. 3 added (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **18(2)(c)**
- F16** Words in Sch. 3 inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 487(b)** (with [Sch. 2](#))
- F17** Sch. 3 entry omitted (7.12.2006) by virtue of [The Pensions Act 2004 \(Disclosure of Restricted Information\) \(Amendment of Specified Persons\) Order 2006 \(S.I. 2006/2937\)](#), arts. 1, **2(a)**
- F18** Words in Sch. 3 added (7.12.2006) by [The Pensions Act 2004 \(Disclosure of Restricted Information\) \(Amendment of Specified Persons\) Order 2006 \(S.I. 2006/2937\)](#), arts. 1, **2(b)**

SCHEDULE 4

Section 102

THE PENSIONS REGULATOR TRIBUNAL

PART 1

THE TRIBUNAL

The Panels

- 1 (1) The Lord Chancellor must appoint a panel of persons for the purpose of serving as chairmen of the Tribunal (“the panel of chairmen”).
- (2) A person is qualified for membership of the panel of chairmen if—
- [^{F19}(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis,]
 - (b) he is an advocate or solicitor in Scotland of at least [^{F20}5] years' standing,
 - (c) he is a member of the Bar of Northern Ireland of at least [^{F21}5] years' standing, or
 - (d) he is a solicitor of the Supreme Court of Northern Ireland of at least [^{F22}5] years' standing.
- (3) The panel of chairmen must include at least one member who is a person of the kind mentioned in sub-paragraph (2)(b).
- (4) The Lord Chancellor must also appoint a panel of persons who appear to him to be qualified by experience or otherwise to deal with matters of the kind that may be referred to the Tribunal (“the lay panel”).

Textual Amendments

- F19** [Sch. 4 para. 1\(2\)\(a\)](#) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(2)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F20** Word in [Sch. 4 para. 1\(2\)\(b\)](#) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

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F21 Word in Sch. 4 para. 1(2)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

F22 Word in Sch. 4 para. 1(2)(d) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(2)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

Commencement Information

I83 Sch. 4 para. 1 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

The President

- 2 (1) The Lord Chancellor must appoint one of the members of the panel of chairmen to preside over the exercise of the Tribunal's functions.
- (2) The member so appointed is to be known as the President of the Pensions Regulator Tribunal (in this Schedule referred to as "the President").
- (3) The Lord Chancellor may appoint one of the members of the panel of chairmen to be the Deputy President.
- (4) The Deputy President is to have such functions in relation to the Tribunal as the President may assign to him.
- (5) The Lord Chancellor may not appoint a person to be the President or Deputy President unless that person—
- [^{F23}(a) satisfies the judicial-appointment eligibility condition on a 7-year basis,]
 - (b) is an advocate or solicitor in Scotland of at least [^{F24}7] years' standing,
 - (c) is a member of the Bar of Northern Ireland of at least [^{F25}7] years' standing, or
 - (d) is a solicitor of the Supreme Court of Northern Ireland of at least [^{F26}7] years' standing.
- (6) If the President ceases to be a member of the panel of chairmen, he also ceases to be the President.
- (7) If the Deputy President ceases to be a member of the panel of chairmen, he also ceases to be the Deputy President.
- (8) If the President is absent or otherwise unable to act, his functions may be exercised—
- (a) by the Deputy President, or
 - (b) if there is no Deputy President or he too is absent or otherwise unable to act, by a person appointed for that purpose from the panel of chairmen by the Lord Chancellor.
- [^{F27}(9) The Lord Chancellor may appoint a person to be President or Deputy President, or appoint a person under sub-paragraph (8)(b), only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.]

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Textual Amendments

- F23** Sch. 4 para. 2(5)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(3)(a)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F24** Word in Sch. 4 para. 2(5)(b) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F25** Word in Sch. 4 para. 2(5)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F26** Word in Sch. 4 para. 2(5)(d) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 40(3)(b)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F27** Sch. 4 para. 2(9) inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), art. 1, **Sch. 1 para. 26**

Commencement Information

- I84** Sch. 4 para. 2 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

Terms of office etc

- 3 (1) Subject to the provisions of this Schedule, each member of the panel of chairmen and the lay panel—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (2) A member of either panel is eligible for re-appointment if he ceases to hold office.

Commencement Information

- I85** Sch. 4 para. 3 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

Remuneration and allowances

- 4 The Lord Chancellor may pay, or make provision for paying, out of money provided by Parliament, any person in respect of his service—
- (a) as a member of the Tribunal (including service as the President or Deputy President), or
 - (b) as a person appointed under paragraph 7(4) (appointment of experts),
- such remuneration and allowances as the Lord Chancellor may determine.

Commencement Information

- I86** Sch. 4 para. 4 in force at 17.12.2004 by S.I. 2004/3350, art. 2, **Sch.**

Staff

- 5 (1) The Lord Chancellor may appoint such staff for the Tribunal as he may determine.
- (2) The remuneration of the Tribunal's staff is to be paid by the Lord Chancellor out of money provided by Parliament.

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Commencement Information

I87 Sch. 4 para. 5 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Expenses

- 6 The Lord Chancellor may pay, out of money provided by Parliament, such expenses of the Tribunal as the Lord Chancellor may determine.

Commencement Information

I88 Sch. 4 para. 6 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 2

CONSTITUTION OF THE TRIBUNAL

- 7 (1) On a reference to the Tribunal, the persons to act as members of the Tribunal for the purposes of the reference are to be selected from the panel of chairmen or the lay panel in accordance with arrangements made by the President for the purposes of this paragraph (“the standing arrangements”).
- (2) The standing arrangements must provide for at least one member to be selected from the panel of chairmen.
- (3) If, while a reference is being dealt with, a person serving as a member of the Tribunal in respect of the reference becomes unable to act, the reference may be dealt with—
- (a) by the other members selected in respect of the reference, or
 - (b) if it is being dealt with by a single member, by such other member of the panel of chairmen as may be selected in accordance with the standing arrangements for the purposes of the reference.
- (4) If it appears to the Tribunal that a matter before it involves a question of fact of special difficulty, it may appoint one or more experts to provide assistance.
- (5) For the purposes of this Schedule, a “reference to the Tribunal” means a reference to the Tribunal under this Act or any provisions in force in Northern Ireland corresponding to this Act.

Commencement Information

I89 Sch. 4 para. 7 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

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PART 3

TRIBUNAL PROCEDURE

General

- 8 [F28(1)] For the purpose of dealing with references, or any matter preliminary or incidental to a reference, the Tribunal must sit at such times and in such place or places as the Lord Chancellor may direct.
- [F29(2) Before giving a direction under sub-paragraph (1) in relation to sittings in England and Wales the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (3) Before giving a direction under sub-paragraph (1) in relation to sittings in Scotland the Lord Chancellor must consult the Lord President of the Court of Session.
- (4) Before giving a direction under sub-paragraph (1) in relation to sittings in Northern Ireland the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.]

Textual Amendments

- F28** Sch. 4 para. 8(1): Sch. 4 para. 8 renumbered as Sch. 4 para. 8(1) (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 27\(2\)](#)
- F29** Sch. 4 para. 8(2)(3)(4) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 1, [Sch. 1 para. 27\(3\)](#)

Commencement Information

- I90** Sch. 4 para. 8 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 9 Rules made by the Lord Chancellor under section 102 may, in particular, include provision—
- (a) as to the manner in which references are to be instituted;
 - (b) for the holding of hearings in private in such circumstances as may be specified in the rules;
 - (c) as to the persons who may appear on behalf of the parties;
 - (d) for a member of the panel of chairmen to hear and determine interim matters arising on a reference;
 - (e) for the Tribunal to deal with urgent cases expeditiously;
 - (f) as to the withdrawal of references;
 - (g) as to the registration, publication and proof of decisions and orders.

Commencement Information

- I91** Sch. 4 para. 9 in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)

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Practice directions

- 10 The President may give directions as to the practice and procedure to be followed by the Tribunal in relation to references to it.

Commencement Information

I92 Sch. 4 para. 10 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Evidence

- 11 (1) The Tribunal may by summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any document in his custody or under his control which the Tribunal considers it necessary to examine.
- (2) The Tribunal may—
- (a) take evidence on oath and for that purpose administer oaths, or
 - (b) instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matters in respect of which he is examined.
- (3) A person who without reasonable excuse refuses or fails—
- (a) to attend following the issue of a summons by the Tribunal, or
 - (b) to give evidence,
- is guilty of an offence.
- (4) A person guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A person who without reasonable excuse—
- (a) alters, suppresses, conceals or destroys a document which he is or is liable to be required to produce for the purposes of proceedings before the Tribunal, or
 - (b) refuses to produce a document when so required,
- is guilty of an offence.
- (6) A person guilty of an offence under sub-paragraph (5) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (7) In this paragraph “document” includes information recorded in any form and, in relation to information recorded otherwise than in a legible form, references to its production include references to producing a copy of the information—
- (a) in a legible form, or
 - (b) in a form from which it can readily be produced in a legible form.

Commencement Information

I93 Sch. 4 para. 11 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

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Decisions of the Tribunal

- 12 (1) A decision of the Tribunal may be taken by a majority.
- (2) The decision must state whether it was unanimous or taken by a majority.
- (3) The decision must be recorded in a document which—
- (a) contains a statement of the reasons for the decision, and
 - (b) is signed and dated by the member of the panel of chairmen dealing with the reference.
- (4) The Tribunal must inform each party to the reference of its decision.
- (5) The Tribunal must as soon as reasonably practicable send a copy of the document mentioned in sub-paragraph (3)—
- (a) to each of the parties to the reference, and
 - (b) to such other persons as appear to the Tribunal to be directly affected by the decision.
- (6) The Tribunal must send the Secretary of State and the Department for Social Development in Northern Ireland a copy of its decision.
- (7) In this paragraph “document” includes information recorded in any form.

Commencement Information

I94 Sch. 4 para. 12 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Costs

- 13 (1) If the Tribunal considers that a party to any proceedings on a reference has acted vexatiously, frivolously or unreasonably it may order that party to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.
- (2) If, in any proceedings on a reference, the Tribunal considers that a determination of the Regulator which is the subject of the reference was unreasonable it may order the Regulator to pay to another party to the proceedings the whole or part of the costs or expenses incurred by the other party in connection with the proceedings.

Commencement Information

I95 Sch. 4 para. 13 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

PART 4

STATUS ETC

Disqualification

- 14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices), at the appropriate place insert— “ Any member,

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in receipt of remuneration, of a panel of persons who may be selected to act as members of the Pensions Regulator Tribunal.”

Commencement Information

I96 Sch. 4 para. 14 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

- 15 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (other disqualifying offices), at the appropriate place insert— “ Any member, in receipt of remuneration, of a panel of persons who may be selected to act as members of the Pensions Regulator Tribunal. ”

Commencement Information

I97 Sch. 4 para. 15 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

The Parliamentary Commissioner for Administration

- 16 In Schedule 4 to the Parliamentary Commissioner Act 1967 (c. 13) (relevant tribunals for the purposes of section 5(7) of that Act), at the appropriate place insert — “ The Pensions Regulator Tribunal constituted under section 102 of the Pensions Act 2004. ”

Commencement Information

I98 Sch. 4 para. 16 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Judicial Pensions and Retirement Act 1993

- 17 (1) The Judicial Pensions and Retirement Act 1993 (c. 8) is amended as follows.
- (2) In Schedule 1 (offices which may be qualifying offices), in Part 2, at the appropriate place insert— “ President or Deputy President of the Pensions Regulator Tribunal ”
- (3) In Schedule 5 (relevant offices in relation to retirement provisions), at the appropriate place insert— “ Member of the Pensions Regulator Tribunal. ”

Commencement Information

I99 Sch. 4 para. 17 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Disclosure of information

- 18 In section 449(1) of the Companies Act 1985 (c. 6) (exceptions from restrictions on publication and disclosure), after paragraph (m) insert—
- “(n) for the purposes of proceedings before the Pensions Regulator Tribunal.”

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Commencement Information

I100 Sch. 4 para. 18 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 19 In Schedule 15D to that Act (permitted disclosures of information) (as inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004), after paragraph 44 insert—

“44A A disclosure for the purposes of proceedings before the Pensions Regulator Tribunal.”

Commencement Information

I101 Sch. 4 para. 19 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

- 20 In section 87(2) of the Companies Act 1989 (c. 40) (exceptions from restrictions on disclosure), after paragraph (c) insert—

“(d) proceedings before the Pensions Regulator Tribunal.”

Commencement Information

I102 Sch. 4 para. 20 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

- 21 In section 50(2) of the Courts and Legal Services Act 1990 (c. 41) (exceptions from restrictions on disclosure), after paragraph (s) insert—

“(t) the Pensions Regulator Tribunal to discharge any of its functions.”

Commencement Information

I103 Sch. 4 para. 21 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

f³⁰Delegation

Textual Amendments

F30 Sch. 4 para. 22 and cross-heading inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), art. 1, Sch. 1 para. 28

- 22 (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under this Schedule.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this Schedule.
- (3) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Schedule—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

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(b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

SCHEDULE 5

Section 109

THE BOARD OF THE PENSION PROTECTION FUND

Modifications etc. (not altering text)

C1 Sch. 5 modified (N.I.) (6.4.2005) by [The Pension Protection Fund \(Review and Reconsideration of Reviewable Matters\) Regulations \(Northern Ireland\) 2005 \(S.R. 2005/138\)](#), regs. 1(1), **26**

PART 1

MEMBERS OF THE BOARD

Appointment of chairman

1 The chairman of the Board is to be appointed by the Secretary of State.

Commencement Information

I104 Sch. 5 para. 1 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Appointment of ordinary members

- 2
- (1) The appointments of the first five ordinary members are to be made by the Secretary of State.
 - (2) Subsequent appointments of ordinary members are to be made by the Board, subject to sub-paragraph (4).
 - (3) In making any appointment by virtue of sub-paragraph (2) the Board must act in accordance with any procedure for making such appointments that may be prescribed.
 - (4) If, at any time, there are less than five ordinary members, the Secretary of State must appoint such number of ordinary members as is required to bring the number of ordinary members to five.

Commencement Information

I105 Sch. 5 para. 2 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Terms of appointment

- 3
- (1) The chairman and the ordinary members appointed by the Secretary of State are to be appointed on such terms and conditions as are determined by the Secretary of State.

Status: Point in time view as at 26/11/2008.

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- (2) The ordinary members appointed by the Board are to be appointed on such terms and conditions as are determined—
- (a) in the case of a non-executive member, by the chairman with the approval of the Secretary of State, and
 - (b) in the case of an executive member, by the Chief Executive.
- (3) This paragraph is subject to paragraph 7 (remuneration of members).

Commencement Information

I106 Sch. 5 para. 3 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Tenure of members

- 4 (1) Subject to the following provisions, the chairman and any ordinary member—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (2) A person must cease to be a member of the Board where—
- (a) in the case of the chairman, he ceases to hold that office or becomes a member of the staff of the Board;
 - (b) in the case of any other non-executive member, he becomes a member of the staff of the Board;
 - (c) in the case of an ordinary member who is an executive member, he ceases to be a member of the staff of the Board.

Commencement Information

I107 Sch. 5 para. 4 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

- 5 Where a person ceases to be employed as Chief Executive, he ceases to be a member of the Board.

Commencement Information

I108 Sch. 5 para. 5 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

- 6 No person is to be prevented from being a member of the Board (whether as chairman or otherwise) merely because he has previously been such a member.

Commencement Information

I109 Sch. 5 para. 6 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Status: Point in time view as at 26/11/2008.

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Remuneration etc of members

- 7 The Board may pay, or make provision for paying, its non-executive members such remuneration as the Secretary of State may determine.

Commencement Information

I110 Sch. 5 para. 7 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

- 8 The Board may—
- (a) pay to or in respect of any person who is or has been a non-executive member such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.

Commencement Information

I111 Sch. 5 para. 8 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

- 9 Where—
- (a) a non-executive member ceases to be a member otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Board may make a payment to that person of such amount as the Secretary of State may determine.

Commencement Information

I112 Sch. 5 para. 9 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Interpretation of Part 1

- 10 In this Part “ordinary member” has the same meaning as in section 108.

Commencement Information

I113 Sch. 5 para. 10 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 2

STAFF OF THE BOARD

The staff

- 11 (1) The staff of the Board consists of—
- (a) the Chief Executive of the Board appointed under paragraph 12,

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- (b) the other employees of the Board appointed under paragraph 13, and
 - (c) any additional staff made available by the Secretary of State under paragraph 14.
- (2) No member of the Regulator, or of the Determinations Panel established by the Regulator under section 9, is eligible for appointment as a member of the staff of the Board.

Commencement Information

II14 Sch. 5 para. 11 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

The Chief Executive

- 12 (1) The Board is to employ a person as its Chief Executive.
- (2) The Chief Executive's main function is to be responsible for securing that the functions of the Board are exercised efficiently and effectively.
- (3) The first appointment of a Chief Executive—
- (a) is to be made by the Secretary of State, and
 - (b) is to be on such terms and conditions as to remuneration and other matters as are determined by the Secretary of State.
- (4) Subsequent appointments of a Chief Executive are to be made by the Board with the approval of the Secretary of State.
- (5) Appointments under sub-paragraph (4) are to be—
- (a) on such terms and conditions as to remuneration as may be determined by the Board with the approval of the Secretary of State, and
 - (b) on such other terms and conditions as may be determined by the Secretary of State.
- (6) By virtue of subsection (2) of section 112 (non-executive functions), the function conferred on the Board by sub-paragraph (5)(a) is exercisable on its behalf by the committee established under that section.

Commencement Information

II15 Sch. 5 para. 12 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Other employees

- 13 (1) Other employees of the Board may be appointed by the Board with the approval of the Secretary of State as to numbers.
- (2) Subject to sub-paragraph (3), an appointment under sub-paragraph (1) is to be on such terms and conditions as may be determined by the Chief Executive.
- (3) The terms and conditions relating to remuneration are—
- (a) in the case of an appointment of an employee who is also to be an executive member of the Board, to be determined by the Board with the approval of the Secretary of State,

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- (b) in the case of an appointment of an employee of a prescribed description, to be determined by the Board.
- (4) By virtue of subsection (2) of section 112 (non-executive functions), the functions conferred on the Board by sub-paragraph (3)(a) and (b) are exercisable on its behalf by the committee established under that section.

Commencement Information

I116 Sch. 5 para. 13(1)(2)(3)(a)(4) in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Additional staff etc

- 14 (1) The Secretary of State may make available to the Board such additional staff and such other facilities as he considers appropriate.
- (2) The availability of such staff and facilities may be on such terms as to payment by the Board as the Secretary of State may determine.

Commencement Information

I117 Sch. 5 para. 14 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 3

PROCEEDINGS AND DELEGATION ETC

Committees

- 15 (1) The Board may establish committees for any purpose.
- (2) Any committee established by the Board may establish sub-committees.
- (3) The members of such committees or sub-committees may include persons who are not members of the Board.
- (4) The members of a sub-committee may include persons who are not members of the committee.
- (5) Sub-paragraphs (3) and (4) do not apply to the committee established under section 112 or any of its sub-committees.

Modifications etc. (not altering text)

- C2** Sch. 5 para. 15: power to modify conferred (N.I.) (25.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), arts. 1(2), **189(6)** (with art. 285(5)); [S.R. 2005/48](#), art. 2(4)(a)(b), Sch. Pt. 4
- C3** Sch. 5 para. 15: power to modify conferred (25.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), arts. 1(2), **190(6)** (with art. 285(5)); [S.R. 2005/48](#), art. 2(4)(a)(b), Sch. Pt. 4
- C4** Sch. 5 para. 15 modified (6.4.2005) by [The Pension Protection Fund \(Review and Reconsideration of Reviewable Matters\) Regulations 2005 \(S.I. 2005/669\)](#), regs. 1(1), **26**

Status: Point in time view as at 26/11/2008.

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C5 Sch. 5 para. 15 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Maladministration\) Regulations 2005 \(S.I. 2005/650\)](#), arts. 1(1), **18(2)**

Commencement Information

I118 Sch. 5 para. 15 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Procedure

- 16 The Board may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its committees or sub-committees.

Modifications etc. (not altering text)

- C6** Sch. 5 para. 16: power to modify conferred (25.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), arts. 1(2), **190(6)** (with art. 285(5)); [S.R. 2005/48](#), art. 2(4)(a)(b), Sch. Pt. 4
- C7** Sch. 5 para. 16: power to modify conferred (N.I.) (25.2.2005 for specified purposes, 6.4.2005 in so far as not already in force) by [The Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#), arts. 1(2), **189(6)** (with art. 285(5)); [S.R. 2005/48](#), art. 2(4)(a)(b), Sch. Pt. 4

Commencement Information

I119 Sch. 5 para. 16 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

Delegation

- 17 (1) The Board may authorise—
- (a) any executive member of the Board,
 - (b) any other member of its staff, or
 - (c) any of its committees or sub-committees (other than the committee established under section 112 or any of its sub-committees),
- to exercise on behalf of the Board, such of its functions, in such circumstances, as the Board may determine.
- (2) But sub-paragraph (1) does not apply to the non-executive functions of the Board (which must, by virtue of subsection (2) of section 112, be discharged by the committee established under that section).

Commencement Information

I120 Sch. 5 para. 17 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

- 18 (1) The Board may make arrangements for any of its functions mentioned in sub-paragraph (2) to be exercised, in accordance with those arrangements, by a person on behalf of the Board.
- (2) The functions are those conferred by or by virtue of—
- (a) the pension compensation provisions (see section 162);

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- (b) section 163 (adjustments to be made where Board assumes responsibility for a scheme);
 - (c) section 165 (duty to notify Inland Revenue in relation to guaranteed minimum pensions);
 - (d) section 166 (duty to pay scheme benefits unpaid at assessment date);
 - (e) sections 169 and 170 (discharge of liabilities in respect of compensation or money purchase benefits);
 - (f) section 191 (notices requiring provision of information);
 - (g) section 203(1)(a) (provision of information to members of schemes etc);
 - (h) section 111 (supplementary powers), so far as that section relates to any function conferred by or by virtue of any provision mentioned in paragraphs (a) to (g).
- (3) Where arrangements are made under this paragraph for any functions of the Board to be exercised by another person on its behalf—
- (a) section 195(1)(b) (offence of providing false or misleading information to the Board) and section 196 (use of information) apply in relation to that person and any functions of the Board exercised by him as they apply in relation to the Board and its functions;
 - (b) subject to paragraph (c), sections 197 to 202 and 203(2) to (6) (disclosure of information) apply in relation to that person and any information obtained by him in the exercise of the Board’s function as they apply in relation to the Board and information obtained by it in the exercise of its functions;
 - (c) nothing in paragraph (b) authorises any person to determine on behalf of the Board under section 201(1) whether the disclosure of any restricted information is desirable or expedient in the interests of members of occupational pension schemes or in the public interest.

Commencement Information

- I121** Sch. 5 para. 18(1)(3) in force at 1.9.2005 by S.I. 2005/2447, art. 2(4), **Sch. Pt. 1**
- I122** Sch. 5 para. 18(2)(a)-(e) in force at 6.4.2006 by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- I123** Sch. 5 para. 18(2)(f)-(h) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**

- 19 (1) Where the Board makes arrangements under paragraph 18(1) for any of its functions to be exercised by a person on its behalf, those arrangements may also provide for that person to exercise on behalf of the Board any delegable review function.
- (2) Where the Regulator is required to or may exercise any function on behalf of the Board by virtue of—
- (a) section 181(4) or 189(8) (administrative functions relating to levies),
 - (b) section 181(7)(b) or 189(10)(b) (recovery of levies), or
 - (c) regulations under section 181(8) or 189(11) (collection, recovery and waiver of levies),
- the Board may also require the Regulator to exercise on behalf of the Board any delegable review function.
- (3) In this paragraph, “delegable review function”, in relation to a delegated function, means—

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- (a) any function, by virtue of section 207(1)(a) or (3)(a), to give a review decision in respect of any reviewable matter arising from the exercise of the delegated function;
- (b) in relation to any function exercisable by virtue of paragraph (a) above, any other function under regulations under section 207(1) in connection with the giving of a review decision;
- (c) any function conferred by section 111 (supplementary powers), so far as that section relates to any function mentioned in paragraph (a) or (b).

(4) In sub-paragraph (3)—

“delegated function” means a function which is exercisable on behalf of the Board as mentioned in sub-paragraph (1) or (2);

“review decision” has the meaning given by section 207(1).

Commencement Information

I124 Sch. 5 para. 19 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Application of seal and proof of instruments

- 20 (1) The fixing of the common seal of the Board must be authenticated by the signature of a person authorised for that purpose by the Board (whether generally or specifically).
- (2) Sub-paragraph (1) does not apply in relation to any document which is or is to be signed in accordance with the law of Scotland.

Commencement Information

I125 Sch. 5 para. 20 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

- 21 A document purporting to be duly executed under the seal of the Board or purporting to be signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be so executed or signed unless the contrary is proved.

Commencement Information

I126 Sch. 5 para. 21 in force at 17.12.2004 by [S.I. 2004/3350](#), art. 2, [Sch.](#)

PART 4

ACCOUNTS

Accounts

- 22 (1) The Board must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.

Status: Point in time view as at 26/11/2008.

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- (2) Each statement of accounts must—
- (a) contain an actuarial valuation of the Pension Protection Fund, and
 - (b) comply with any accounting directions given by the Secretary of State with the approval of the Treasury.
- (3) For the purposes of sub-paragraph (2)—
- “actuarial valuation”, with respect to the Fund, means a valuation, prepared and signed by the appointed actuary, of the assets and liabilities of the Fund;
- “accounting direction” means a direction regarding—
- (a) the information to be contained in a statement of accounts and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (4) In sub-paragraph (3)—
- (a) “the appointed actuary” means a person with prescribed qualifications or experience, or a person approved by the Secretary of State, who is appointed by the Board for the purposes of this paragraph, and
 - (b) the liabilities and assets to be taken into account in preparing the actuarial valuation, and their amount or value, are to be determined, calculated and verified by the appointed actuary in the prescribed manner.
- (5) The Board must send a copy of each statement of accounts—
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General,
- before the end of the month of August next following the financial year to which the statement relates.
- (6) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which he receives under sub-paragraph (5), and
 - (b) lay a copy of each statement and of his report before each House of Parliament.
- (7) In this paragraph “financial year” means—
- (a) the period beginning with the date on which the Board is established and ending with the next following 31st March, and
 - (b) each successive period of 12 months.

Commencement Information

I127 Sch. 5 para. 22(1)-(3)(5)-(7) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

I128 [Sch. 5 para. 22\(4\)](#) in force at 1.1.2006 for specified purposes and 1.4.2006 in so far as not already in force by [S.I. 2005/3331](#), [art. 2\(4\)](#), [Sch. Pt. 4](#)

Other expenses

23 The Board may—

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- (a) pay, or make provision for paying, persons attending proceedings of the Board at its request such travelling and other allowances (including compensation for loss of remunerative time) as the Board may determine, and
- (b) pay, or make provision for paying, persons from whom the Board may decide to seek advice, as being persons considered by the Board to be specially qualified to advise it on particular matters, such fees as the Board may determine.

Commencement Information

I129 Sch. 5 para. 23(a) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

I130 Sch. 5 para. 23(b) in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

PART 5

STATUS AND LIABILITY ETC

Status

- 24 (1) The Board is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, privilege or immunity of the Crown.
- (2) Accordingly, the Board's property is not to be regarded as property of, or held on behalf of, the Crown.

Commencement Information

I131 Sch. 5 para. 24 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Validity

- 25 The validity of any proceedings of the Board (including any proceedings of any of its committees or sub-committees) is not to be affected by—
- (a) any vacancy among the members of the Board or of any of its committees or sub-committees,
 - (b) any defect in the appointment of any member of the Board or of any of its committees or sub-committees, or
 - (c) any defect in the appointment of the Chief Executive.

Commencement Information

I132 Sch. 5 para. 25 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Status: Point in time view as at 26/11/2008.

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Disqualification

- 26 In Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24), in Part 2 (bodies whose members are disqualified), at the appropriate place insert— “ The Board of the Pension Protection Fund. ”

Commencement Information

I133 Sch. 5 para. 26 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

- 27 In Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25), in Part 2 (bodies whose members are disqualified), at the appropriate place insert — “ The Board of the Pension Protection Fund. ”

Commencement Information

I134 Sch. 5 para. 27 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

The Superannuation Act 1972

- 28 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include—
the chairman of the Board
the employees of the Board.
- (2) The Board must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to subparagraph (1) in the sums payable out of money provided by Parliament under that Act.

Commencement Information

I135 Sch. 5 para. 28 in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

Exemption from liability in damages

- 29 (1) Neither the Board nor any person who is a member of the Board, a member of any of its committees or sub-committees, or a member of its staff is to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Board conferred by, or by virtue of, this or any other enactment.
- (2) Any person who is the Chief Executive of the Board is not to be liable in damages for anything done or omitted in the exercise or purported exercise of any function conferred on the Chief Executive by, or by virtue of, this Act or any provisions in force in Northern Ireland corresponding to this Act.
- (3) Any person who is a member of the committee established under section 112 or of any of its sub-committees is not to be liable in damages for anything done or omitted in the discharge or purported discharge of the duty to prepare a report under subsection (5) of that section on the discharge of the non-executive functions.

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- (4) Sub-paragraphs (1) to (3) do not apply—
- (a) if it is shown that the action or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).
- (5) This paragraph does not prevent the Board being required to pay compensation on a direction of the PPF Ombudsman by virtue of regulations under section 213(1) or 214 or any provision in force in Northern Ireland corresponding to either of those provisions.

Commencement Information

I136 Sch. 5 para. 29(1)-(4) in force at 17.12.2004 by S.I. 2004/3350, art. 2, Sch.

I137 Sch. 5 para. 29(5) in force at 21.7.2005 by S.I. 2005/1720, art. 2(6)(b)

SCHEDULE 6

Section 161

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES TO THE BOARD

- 1 This Schedule applies where the property, rights and liabilities of an occupational pension scheme are transferred to the Board in accordance with section 161.

Modifications etc. (not altering text)

C8 Sch. 6 para. 1 modified (6.4.2005) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1(1)(d), 61, 70(2) and amendment to earlier affecting provision (1.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(2), 10(4)

Commencement Information

I138 Sch. 6 para. 1 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 2 (1) Subject to sub-paragraph (2), the property, rights and liabilities so transferred include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned,
 - (b) property situated anywhere in the United Kingdom or elsewhere, and
 - (c) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (2) Where, but for this sub-paragraph, any rights or liabilities under a contract of employment between the trustees or managers of the scheme and an individual would be transferred to the Board under section 161, this sub-paragraph operates to terminate the contract of employment on the day preceding the day on which the transfer notice is received by the trustees or managers of the scheme.

Status: Point in time view as at 26/11/2008.

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Commencement Information

I139 Sch. 6 para. 2 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 3
- (1) Without prejudice to the generality of section 161 and subject to sub-paragraph (2), any legal proceedings or applications to any authority pending immediately before the transfer by or against any of the trustees or managers of the scheme in their capacity as trustees or managers shall be continued by or against the Board.
 - (2) The liabilities transferred by section 161 do not include any liabilities in respect of an existing or future cause of action against the trustees or managers of the scheme if, disregarding the transfer, the trustees or managers would have been personally liable to meet the claim and would not have been indemnified from the assets of the scheme.

Commencement Information

I140 Sch. 6 para. 3 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 4
- The transfer is binding on all persons, even if, apart from this paragraph, it would have required the consent or concurrence of any person.

Commencement Information

I141 Sch. 6 para. 4 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 5
- No person shall have any power, in consequence of the transfer, to terminate or modify any interest or right which was vested in the trustees or managers of the scheme.

Commencement Information

I142 Sch. 6 para. 5 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 6
- Any reference in any agreement, document or instrument of any description to the trustees or managers of the scheme shall have effect so far as necessary for the purposes of giving effect to the transfer as a reference to the Board.

Commencement Information

I143 Sch. 6 para. 6 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 7
- (1) The Board must take all such steps as may be required to secure that the vesting in the Board, by virtue of section 161, of any foreign property, right or liability is effective under the relevant foreign law.
 - (2) Until the vesting of any foreign property, right or liability in the Board is effective under the relevant foreign law, the persons who were the trustees or managers of the scheme immediately before the transfer effected by section 161 must hold that property or right for the benefit of, or discharge that liability on behalf of, the Board.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Nothing in this paragraph prejudices the effect under the law of England and Wales or of Scotland of the vesting in the Board, in accordance with section 161, of any foreign property, right or liability.
- (4) In this paragraph references to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

Commencement Information

I144 Sch. 6 para. 7 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

SCHEDULE 7

Section 162

PENSION COMPENSATION PROVISIONS

Modifications etc. (not altering text)

- C9** Sch. 7 amendment to earlier affecting provision S.I. 2005/652, reg. 14(2) (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), 7
- C10** Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **15**
- C11** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **14(2)**
- C12** Sch. 7 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **12** (with reg. 23(3))
- C13** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Hybrid Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/449\)](#), regs. 1(1), **3(2)-(4)**
- C14** Sch. 7 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **13(1)**
- C15** Sch. 7 modified (1.8.2006) by [The Pension Protection Fund \(Pension Sharing\) Regulations 2006 \(S.I. 2006/1690\)](#), regs. 1(1), **3**

Introductory

- 1 This Schedule applies for the purposes of determining the compensation payable where the Board assumes responsibility for an eligible scheme (“the scheme”) in accordance with this Chapter.

Modifications etc. (not altering text)

- C16** Sch. 7 para. 1 modified (6.4.2005) by [The Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#), regs. 1(1)(d), **61**, 70(3) and amendment to earlier affecting provision (1.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(2), **10(4)**

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I145 Sch. 7 para. 1 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

- 2 In this Schedule references to “the assessment date” are to the date on which the assessment period in relation to the scheme, or (where there has been more than one such assessment period) the last one, began.

Commencement Information

I146 Sch. 7 para. 2 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

Pensions in payment at assessment date

- 3 (1) Compensation is payable in accordance with this paragraph where, immediately before the assessment date, a person is entitled to present payment of a pension under the admissible rules of the scheme.
- (2) That person (“the pensioner”) is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life or, in a case to which sub-paragraph (8) applies, until such time as entitlement to the pension would have ceased under the admissible rules.
- (3) The annual rate of the periodic compensation is the appropriate percentage of the aggregate of—
- (a) the protected pension rate, and
 - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) In sub-paragraph (3) “the appropriate percentage” means—
- (a) in a case to which sub-paragraph (7) applies, 90%, and
 - (b) in any other case, 100%.
- (5) In sub-paragraph (3) “the protected pension rate” means the annual rate of the pension, under the admissible rules, immediately before the assessment date.
- (6) In determining for the purposes of sub-paragraph (5) the annual rate of the pension immediately before the assessment date, any recent discretionary increase is to be disregarded if paragraph 35(3) applies.
- (7) This sub-paragraph applies where the pensioner has not attained normal pension age in respect of the pension before the assessment date and his entitlement to the pension—
- (a) is attributable to his pensionable service, and
 - (b) did not arise by virtue of any provision of the admissible rules of the scheme making special provision as to early payment of pension on grounds of ill health.
- (8) This sub-paragraph applies where the pension was not attributable—
- (a) to the pensioner’s pensionable service, or
 - (b) (directly or indirectly) to a pension credit to which the pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30).

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (9) This paragraph does not apply if compensation is payable in respect of the pension in accordance with paragraph 5 (pension benefits postponed at assessment date).
- (10) This paragraph is subject to—
 paragraph 26 (compensation cap), and
 paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C17 Sch. 7 para. 3 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable III Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **11(1)**

Commencement Information

I147 Sch. 7 para. 3 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 4 (1) This paragraph applies where—
- (a) the pensioner dies on or after the assessment date, and
 - (b) the pension was attributable—
 - (i) to the pensioner’s pensionable service, or
 - (ii) (directly or indirectly) to a pension credit to which the pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.
- (2) Subject to sub-paragraph (4), the pensioner’s widow or widower is entitled to periodic compensation commencing on the day following the pensioner’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the pensioner would at that time have been entitled under paragraph 3 in respect of the pension had the pensioner not died.
- (4) The pensioner’s widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.
- (5) In this paragraph “the pension” and “the pensioner” are to be construed in accordance with paragraph 3.

Commencement Information

I148 Sch. 7 para. 4(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

I149 Sch. 7 para. 4(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

Pension benefits postponed at assessment date

- 5 (1) Compensation is payable in accordance with this paragraph where immediately before the assessment date—
- (a) a person is entitled to present payment of a pension under the admissible rules of the scheme,

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) payment of that pension is postponed, and
 - (c) he has attained normal pension age in relation to the pension.
- (2) That person (“the postponed pensioner”) is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life or, in a case to which sub-paragraph (7) applies, until such time as entitlement to the pension would have ceased under the admissible rules.
- (3) The annual rate of the periodic compensation is 100% of the aggregate of—
- (a) the protected pension rate, and
 - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) In sub-paragraph (3) “the protected pension rate” means what would have been the annual rate of the pension, under the admissible rules, if the postponement of payment had ceased immediately before the assessment date.
- (5) In determining for the purposes of sub-paragraph (4) the annual rate of the pension immediately before the assessment date, any recent discretionary increase is to be disregarded if paragraph 35(3) applies.
- (6) Where the pension is attributable (directly or indirectly) to a pension credit, the reference in sub-paragraph (1)(c) to “normal pension age” is to be read as a reference to “normal benefit age”.
- (7) This sub-paragraph applies where the pension was not attributable—
- (a) to the postponed pensioner’s pensionable service, or
 - (b) (directly or indirectly) to a pension credit to which the postponed pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30).
- (8) This paragraph is subject to—
- paragraph 24 (commutation), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C18 Sch. 7 para. 5 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **25(2)(a)** (with reg. 23(3))

Commencement Information

I150 Sch. 7 para. 5 in so far as not already in force (6.4.2005) by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 6 (1) This paragraph applies where the postponed pensioner—
- (a) dies on or after the assessment date, and
 - (b) the pension was attributable—
 - (i) to the postponed pensioner’s pensionable service, or
 - (ii) (directly or indirectly) to a pension credit to which the postponed pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subject to sub-paragraph (4), the postponed pensioner’s widow or widower is entitled to periodic compensation commencing on the day following the postponed pensioner’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the postponed pensioner would at that time have been entitled under paragraph 5 in respect of the pension had the postponed pensioner not died.
- (4) The postponed pensioner’s widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.
- (5) In this paragraph “the postponed pensioner” and “the pension” are to be construed in accordance with paragraph 5.

Commencement Information

I151 Sch. 7 para. 6(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

I152 Sch. 7 para. 6(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)

- 7
 - (1) Compensation is payable in accordance with this paragraph where immediately before the assessment date—
 - (a) a person is entitled to present payment of a lump sum under the admissible rules of the scheme (“the scheme lump sum”),
 - (b) payment of that lump sum is postponed, and
 - (c) he has attained normal pension age in relation to the lump sum.
 - (2) That person is entitled to compensation in the form of a lump sum of an amount equal to 100% of the amount of the scheme lump sum which would have been payable had the postponement ceased immediately before the assessment date.
 - (3) The compensation is payable at the assessment date.
 - (4) Where the scheme lump sum is attributable (directly or indirectly) to a pension credit, the reference in sub-paragraph (1)(c) to “normal pension age” is to be read as a reference to “normal benefit age”.
 - (5) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.
 - (6) This paragraph is subject to paragraph 30 (power of Secretary of State to change percentage rates by order).

Commencement Information

I153 Sch. 7 para. 7 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Active members over normal pension age at assessment date

- 8
 - (1) Compensation is payable in accordance with this paragraph where a person who, under the admissible rules, is (immediately before the assessment date) an active

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

member of the scheme has, before that date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a pension.

- (2) The active member is entitled to periodic compensation in respect of that pension (“the pension”) commencing at the assessment date and continuing for life.
- (3) The annual rate of the periodic compensation is 100% of the aggregate of—
 - (a) the protected notional pension, and
 - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) In sub-paragraph (3) “the protected notional pension” means the aggregate of—
 - (a) the accrued amount, and
 - (b) any increases in the pension to which the active member would have been entitled under the admissible rules (by virtue of the fact that the pension did not come into payment at normal pension age) if he had ceased to be an active member of the scheme immediately before the assessment date.
- (5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

$$AR \times PE \times PS$$

where—

AR is the active member’s annual accrual rate in respect of the pension under the admissible rules,

PE is the active member’s annual pensionable earnings in respect of the pension under the admissible rules, and

PS is the active member’s pensionable service in respect of the pension under the admissible rules in years (including any fraction of a year).

- (6) If the accrual rates or pensionable earnings differ in respect of different parts of the active member’s pensionable service relating to the pension, an amount is calculated in accordance with the formula in sub-paragraph (5) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in that sub-paragraph to the active member’s pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

- (7) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (5), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.
- (8) This paragraph is subject to—
 - paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),
 - paragraph 24 (commutation), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C19 Sch. 7 para. 8 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **17(1)** (with reg. 23(3))

Commencement Information

I154 Sch. 7 para. 8 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 9
- (1) This paragraph applies where the active member dies on or after the assessment date.
 - (2) Subject to sub-paragraph (4), the active member’s widow or widower is entitled to periodic compensation commencing on the day following the member’s death and continuing for life.
 - (3) The annual rate of the periodic compensation at any time is half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the active member would at that time have been entitled under paragraph 8 in respect of the pension had the member not died.
 - (4) The active member’s widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.
 - (5) In this paragraph “the pension” and “the active member” are to be construed in accordance with paragraph 8.

Commencement Information

I155 Sch. 7 para. 9(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

I156 Sch. 7 para. 9(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

- 10
- (1) Compensation is payable in accordance with this paragraph where an active member of the scheme has, before the assessment date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a lump sum (“the scheme lump sum”).
 - (2) The active member is entitled to compensation of an amount equal to 100% of the aggregate of—
 - (a) the accrued amount, and
 - (b) any increases to which the active member would have been entitled under the admissible rules (by virtue of the fact that the lump sum was not paid at normal pension age) had the active member ceased to be an active member immediately before the assessment date.
 - (3) The compensation is payable at the assessment date.
 - (4) Subject to sub-paragraphs (5) and (6), the accrued amount is—

$$AR \times PE \times PS$$

where—

Status: Point in time view as at 26/11/2008.

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AR is the active member’s annual accrual rate in respect of the scheme lump sum under the admissible rules,

PE is the active member’s annual pensionable earnings in respect of the scheme lump sum under the admissible rules, and

PS is the active member’s pensionable service in respect of the scheme lump sum, under the admissible rules, in years (including any fraction of a year).

- (5) If the accrual rates or pensionable earnings differ in respect of different parts of the active member’s pensionable service relating to the scheme lump sum, an amount is calculated in accordance with the formula in sub-paragraph (4) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in that sub-paragraph to the active member’s pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

- (6) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (4), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.
- (7) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.
- (8) This paragraph is subject to—
paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund), and
paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C20 Sch. 7 para. 10 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), [regs. 1\(1\), 17\(1\)](#) (with [reg. 23\(3\)](#))

Commencement Information

I157 Sch. 7 para. 10 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

Active members who have not attained normal pension age at assessment date

- 11 (1) Compensation is payable in accordance with this paragraph where a person who, under the admissible rules, is (immediately before the assessment date) an active member of the scheme has not, before that date, attained normal pension age in respect of his rights under the admissible rules of the scheme to a pension.
- (2) If the active member survives to attain normal pension age in respect of that pension (“the pension”), he is entitled to periodic compensation in respect of the pension commencing at that age and continuing for life.
- (3) The annual rate of the periodic compensation is 90% of the aggregate of—
(a) the protected notional pension, and
(b) any increases under paragraph 28 (annual increases in periodic compensation).

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In sub-paragraph (3) “the protected notional pension” means the aggregate of—
- (a) the accrued amount, and
 - (b) the revaluation amount for the revaluation period (see paragraph 12).
- (5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

$$AR \times PE \times PS$$

where—

AR is the active member’s annual accrual rate in respect of the pension under the admissible rules,

PE is the active member’s annual pensionable earnings in respect of the pension under the admissible rules, and

PS is the active member’s pensionable service in respect of the pension under the admissible rules in years (including any fraction of a year).

- (6) If the accrual rates or pensionable earnings differ in respect of different parts of the active member’s pensionable service relating to the pension, an amount is calculated in accordance with the formula in sub-paragraph (5) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in sub-paragraph (5) to the active member’s pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

- (7) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (5), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.
- (8) This paragraph is subject to—
- paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),
 - paragraph 24 (commutation),
 - paragraph 26 (compensation cap), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C21 Sch. 7 para. 11 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), [regs. 1\(1\), 17\(1\)](#) (with [reg. 23\(3\)](#))

Commencement Information

I158 Sch. 7 para. 11 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

- 12 (1) This paragraph applies for the purposes of paragraph 11(4)(b).
- (2) The revaluation period is the period which—
- (a) begins with the assessment date, and

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) ends with the day before the day on which the active member attains normal pension age in respect of the pension.
 - (3) The revaluation amount for the revaluation period is—
 - (a) in a case where the revaluation period is less than one month, nil, and
 - (b) in any other case, the revaluation percentage of the accrued amount.
 - (4) In sub-paragraph (3) “the revaluation percentage” means the lesser of—
 - (a) the percentage increase in the general level of prices in Great Britain during the revaluation period determined in the prescribed manner, and
 - (b) the maximum revaluation rate.
 - (5) For the purposes of sub-paragraph (4)(b) “the maximum revaluation rate” in relation to the revaluation period is—
 - (a) if that period is a period of 12 months, 5%, and
 - (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (4)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.
- This is subject to paragraph 29 (power of Board to determine maximum revaluation rate etc).
- (6) In this paragraph “the active member”, “the accrued amount” and “the pension” are to be construed in accordance with paragraph 11.

Commencement Information

1159 Sch. 7 para. 12(1)-(3)(4)(b)(5)(6) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

1160 Sch. 7 para. 12(4)(a) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(3\)](#), [Sch. Pt. 3](#)

- 13
- (1) This paragraph applies where the active member dies on or after the assessment date.
 - (2) Subject to sub-paragraph (4), the widow or widower of the active member is entitled to periodic compensation commencing on the day following the active member’s death and continuing for life.
 - (3) The annual rate of the periodic compensation at any time is—
 - (a) where the active member died after attaining normal pension age, half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the member would at that time have been entitled under paragraph 11 in respect of the pension had the member not died, and
 - (b) where the active member died before attaining normal pension age, half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the member would have been entitled at normal pension age under paragraph 11 if—
 - (i) normal pension age had been the member’s actual age immediately before the date of the member’s death, and
 - (ii) the member had not died.
 - (4) The active member’s widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In this paragraph “the pension” and “the active member” are to be construed in accordance with paragraph 11.

Commencement Information

I161 Sch. 7 para. 13(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

I162 Sch. 7 para. 13(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(3\)](#), [Sch. Pt. 3](#)

- 14 (1) Compensation is payable in accordance with this paragraph where immediately before the assessment date, under the admissible rules of the scheme, an active member of the scheme has not attained normal pension age in respect of his rights to a lump sum (“the scheme lump sum”).
- (2) If the active member survives to attain normal pension age in respect of the scheme lump sum, he is entitled to compensation in respect of the scheme lump sum when he attains that age.
- (3) The compensation is a lump sum equal to 90% of the protected amount.
- (4) In sub-paragraph (3) “the protected amount” means the aggregate of—
- (a) the accrued amount, and
 - (b) the revaluation amount for the revaluation period.
- (5) Subject to sub-paragraphs (6) and (7), the accrued amount is—

$$AR \times PE \times PS$$

where—

AR is the active member’s annual accrual rate in respect of the scheme lump sum under the admissible rules,

PE is the active member’s annual pensionable earnings in respect of the scheme lump sum under the admissible rules, and

PS is the active member’s pensionable service in respect of the scheme lump sum, under the admissible rules, in years (including any fraction of a year).

- (6) If the accrual rates or pensionable earnings differ in respect of different parts of the active member’s pensionable service relating to the scheme lump sum, an amount is calculated in accordance with the formula in sub-paragraph (5) in respect of each of those parts and the accrued amount is the aggregate of those amounts.

For this purpose the references in that sub-paragraph to the active member’s pensionable service, accrual rate and pensionable earnings are to be read as references to the part of his pensionable service in question and to his accrual rate and pensionable earnings in respect of that part.

- (7) In any case where the Board is satisfied that it is not possible to identify one or more of the elements of the formula in sub-paragraph (5), the Board may, having regard to the admissible rules, determine how the accrued amount is to be calculated.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Paragraph 12 applies for the purpose of determining the revaluation amount except that—
- (a) in that paragraph the references to the pension are to be read as references to the scheme lump sum, and
 - (b) in sub-paragraph (6) of that paragraph the reference to paragraph 11 is to be read as a reference to this paragraph.
- (9) This paragraph is subject to—
- paragraph 20 (compensation in respect of scheme right to transfer payment or contribution refund),
 - paragraph 26 (compensation cap), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C22 Sch. 7 para. 14 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **17(2)** (with reg. 23(3))

Commencement Information

I163 Sch. 7 para. 14 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Deferred members who have not attained normal pension age at assessment date

- 15 (1) Compensation is payable in accordance with this paragraph where, under the admissible rules of the scheme, a person who is a deferred member immediately before the assessment date has not attained normal pension age, in respect of his rights to a pension under the scheme, before that date.
- (2) If that person (“the deferred member”) survives to attain normal pension age in respect of that pension (“the pension”), he is entitled to periodic compensation in respect of the pension commencing at that age and continuing for life.
- (3) The annual rate of the periodic compensation is 90% of the aggregate of—
- (a) the protected pension rate, and
 - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) In sub-paragraph (3) “the protected pension rate” means the aggregate of—
- (a) the accrued amount,
 - (b) the revaluation amount for the first revaluation period (see paragraph 16), and
 - (c) the revaluation amount for the second revaluation period (see paragraph 17).
- (5) In sub-paragraph (4) “the accrued amount” means an amount equal to the initial annual rate of the pension to which the deferred member would have been entitled in accordance with the admissible rules had he attained normal pension age when the pensionable service relating to the pension ended.
- (6) This paragraph is subject to—
- paragraph 24 (commutation),
 - paragraph 26 (compensation cap), and

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paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

- C23** Sch. 7 para. 15 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **25(2)(b)** (with reg. 23(3))
- C24** Sch. 7 para. 15 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Reviewable Ill Health Pensions\) Regulations 2005 \(S.I. 2005/652\)](#), regs. 1(1), **12**

Commencement Information

- I164** Sch. 7 para. 15 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 16 (1) This paragraph applies for the purposes of paragraph 15(4)(b).
- (2) The first revaluation period is the period which—
- (a) begins with the day after the day on which the deferred member’s pensionable service in respect of the pension ended, and
 - (b) ends with the day before the assessment date.
- (3) The revaluation amount for the first revaluation period is—
- (a) where that period is less than one month, nil, and
 - (b) in any other case, the amount determined in the prescribed manner.
- (4) In this paragraph “the deferred member” and “the pension” are to be construed in accordance with paragraph 15.

Commencement Information

- I165** Sch. 7 para. 16(1)(2)(3)(a)(4) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I166** Sch. 7 para. 16(3)(b) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

- 17 (1) This paragraph applies for the purposes of paragraph 15(4)(c).
- (2) The second revaluation period is the period which—
- (a) begins with the assessment date, and
 - (b) ends with the day before the day on which the deferred member attains normal pension age in respect of the pension.
- (3) The revaluation amount for the second revaluation period is—
- (a) where that period is less than one month, nil, and
 - (b) in any other case the revaluation percentage of the aggregate of—
 - (i) the accrued amount, and
 - (ii) the revaluation amount for the first revaluation period (see paragraph 16).
- (4) In sub-paragraph (3) “the revaluation percentage” means the lesser of—
- (a) the percentage increase in the general level of prices in Great Britain during the second revaluation period determined in the prescribed manner, and
 - (b) the maximum revaluation rate.

Status: Point in time view as at 26/11/2008.

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- (5) For the purposes of sub-paragraph (4)(b) “the maximum revaluation rate”, in relation to the second revaluation period, is—
- (a) if that period is a period of 12 months, 5%, and
 - (b) in any other case, the percentage that would be the percentage mentioned in sub-paragraph (4)(a) had the general level of prices in Great Britain increased at the rate of 5% compound per annum during that period.

This is subject to paragraph 29 (power of Board to determine maximum revaluation rate).

- (6) In this paragraph “the deferred member”, “the accrued amount” and “the pension” are to be construed in accordance with paragraph 15.

Commencement Information

I167 Sch. 7 para. 17(1)-(3)(4)(b)(5)(6) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

I168 Sch. 7 para. 17(4)(a) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)

- 18 (1) This paragraph applies where—
- (a) the deferred member dies on or after the assessment date, and
 - (b) the pension was attributable to the deferred member’s pensionable service.
- (2) Subject to sub-paragraph (4), the widow or widower of the deferred member is entitled to periodic compensation commencing on the day following the deferred member’s death and continuing for life.
- (3) The annual rate of the periodic compensation at any time is—
- (a) where the deferred member died after attaining normal pension age, half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the deferred member would at that time have been entitled under paragraph 15 in respect of the pension had the member not died,
 - (b) where the deferred member died before attaining normal pension age, half of the annual rate of the periodic compensation (including any increases under paragraph 28) to which the deferred member would have been entitled at that time under paragraph 15 if—
 - (i) normal pension age had been the deferred member’s actual age immediately before the date of the deferred member’s death, and
 - (ii) the deferred member had not died.
- (4) The deferred member’s widow or widower is not entitled to periodic compensation under this paragraph in such circumstances as may be prescribed.
- (5) In this paragraph “the deferred member” and “the pension” are to be construed in accordance with paragraph 15.

Commencement Information

I169 Sch. 7 para. 18(1)-(3)(5) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1170 Sch. 7 para. 18(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(3), **Sch. Pt. 3**

- 19 (1) Compensation is payable in accordance with this paragraph where, under the admissible rules of the scheme, a deferred member has not attained normal pension age in respect of his rights to a lump sum under the scheme (“the scheme lump sum”) before the assessment date.
- (2) If the deferred member survives to attain normal pension age in respect of the scheme lump sum, he is entitled to compensation under this paragraph on attaining that age.
- (3) The compensation is a lump sum equal to 90% of the protected amount.
- (4) In sub-paragraph (3) “the protected amount” means the aggregate of—
- (a) the accrued amount,
 - (b) the revaluation amount for the first revaluation period, and
 - (c) the revaluation amount for the second revaluation period.
- (5) In sub-paragraph (4) “the accrued amount” means an amount equal to the amount of the scheme lump sum to which the deferred member would have been entitled in accordance with the admissible rules had normal pension age been the actual age attained by the deferred member when the pensionable service relating to the lump sum ended.
- (6) Paragraphs 16 and 17 apply in relation to this paragraph as if in those paragraphs—
- (a) references to the pension were to the scheme lump sum, and
 - (b) “the deferred member” and “the accrued amount” had the same meaning as in this paragraph.
- (7) This paragraph does not apply in relation to a lump sum to which a person is entitled by reason of commuting any part of a pension under the scheme.
- (8) This paragraph is subject to—
- paragraph 26 (compensation cap), and
 - paragraph 30 (power of Secretary of State to change percentage rates by order).

Modifications etc. (not altering text)

C25 Sch. 7 para. 19 modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **25(2)(c)** (with reg. 23(3))

Commencement Information

1171 Sch. 7 para. 19 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Compensation in respect of scheme right to transfer payment or contribution refund

- 20 (1) Compensation is payable in accordance with this paragraph where—
- (a) a person’s pensionable service terminates on the commencement of the assessment period,
 - (b) as a result, he has rights, under the admissible rules, to—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) a transfer payment calculated by reference to the value of benefits which have accrued to him under the scheme (“the protected transfer payment”), or
 - (ii) a cash payment calculated by reference to the amount of contributions made by him or on his behalf to the scheme (“the protected contribution repayment”),
 - (c) Chapter 5 of Part 4 of the Pension Schemes Act 1993 (c. 48) (early leavers: cash transfer sums and contribution refunds) does not apply to him, and
 - (d) he does not have relevant accrued rights to benefit (within the meaning of section 101AA(4) of that Act).
- (2) That person is entitled to compensation in the form of a lump sum in respect of the protected transfer payment or protected contribution repayment.
 - (3) The amount of the compensation is 90% of the amount of the protected transfer payment or protected contribution repayment (whichever is the greater).
 - (4) For the purposes of sub-paragraph (3), the amount of the protected transfer payment or protected contribution repayment is to be calculated in accordance with the admissible rules, which are to be applied for this purpose subject to any prescribed modifications.
 - (5) The compensation is payable immediately after the transfer notice given under section 160 is received by the trustees or managers of the scheme.
 - (6) This paragraph is subject to paragraph 30 (power of Secretary of State to change percentage rates by order).
 - (7) Regulations may modify any provision of paragraph 8, 10, 11 or 14 (compensation for persons who were active members immediately before assessment date) as it applies in the case of a person who is entitled to compensation under this paragraph.
 - (8) Regulations may modify any provision of sub-paragraphs (1) to (6) as it applies in the case of a person who is entitled to compensation under paragraph 8, 10, 11 or 14.

Modifications etc. (not altering text)

- C26** Sch. 7 para. 20(1)(c) modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **18** (with reg. 23(3))
- C27** Sch. 7 para. 20(1)(d) modified (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\)](#), regs. 1(1), **18** (with reg. 23(3))

Commencement Information

- I172** Sch. 7 para. 20(1)-(3)(5)(6) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**
- I173** Sch. 7 para. 20(4)(7)(8) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

Pension credit members who have not attained normal benefit age at assessment date

- 21 (1) Paragraphs 15, 18 and 19 apply in relation to a pension credit member of the scheme who has not attained normal benefit age at the assessment date as they apply to a deferred member who has not attained normal pension age at that date, subject to the modifications in sub-paragraph (2).

Status: Point in time view as at 26/11/2008.

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- (2) The modifications are as follows—
- (a) in paragraph 15(1) and (2) the references to normal pension age are to be read as references to normal benefit age,
 - (b) in paragraph 15(4) for the words from “the aggregate of” to the end substitute “the accrued amount”,
 - (c) for paragraph 15(5) substitute—
 - “(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the initial annual rate of the pension which, under the admissible rules, the deferred member is entitled to receive at normal benefit age by virtue of his pension credit rights.”,
 - (d) for paragraph 18(1)(b) substitute—
 - “(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred pensioner became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30).”,
 - (e) in paragraph 19(1) and (2) the references to normal pension age are to be read as references to normal benefit age,
 - (f) in paragraph 19(4) for the words from “the aggregate of” to the end substitute “the accrued amount”,
 - (g) for paragraph 19(5) substitute—
 - “(5) In sub-paragraph (4) “the accrued amount” means an amount equal to the amount of the scheme lump sum which, under the admissible rules, the deferred member is entitled to receive at normal benefit age by virtue of his pension credit rights.”, and
 - (h) paragraph 19(6) does not apply.

Commencement Information

I174 Sch. 7 para. 21 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Survivors who do not meet conditions for scheme benefits at assessment date

- 22 (1) Compensation is payable in accordance with this paragraph where—
- (a) a member of the scheme has died before the assessment date,
 - (b) as a result of that death, a pension, which is attributable to the member’s pensionable service, is payable to that person’s widow or widower or any other person (“the survivor”) if conditions specified in the scheme rules are met, and
 - (c) the survivor first satisfies those conditions on or after that date.
- (2) The survivor is entitled to periodic compensation in respect of that pension (“the pension”)—
- (a) commencing if, and when, the pension would have become payable under the admissible rules, and
 - (b) continuing until such time as entitlement to the pension would have ceased under the admissible rules.
- (3) The annual rate of the periodic compensation is 100% of the aggregate of—

Status: Point in time view as at 26/11/2008.

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- (a) the initial rate of the pension which would have been payable in accordance with the admissible rules had the conditions mentioned in sub-paragraph (1) (c) been satisfied, immediately before the assessment date, and
 - (b) any increases under paragraph 28 (annual increases in periodic compensation).
- (4) This paragraph is subject to paragraph 30 (power of Secretary of State to change percentage rates by order).

Commencement Information

I175 Sch. 7 para. 22 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Compensation in form of dependants' benefits

- 23 (1) Regulations may provide for compensation to be payable, in such circumstances as may be prescribed, to or in respect of—
- (a) partners of prescribed descriptions of persons of prescribed descriptions who were members of the scheme immediately before the assessment date;
 - (b) dependants of prescribed descriptions of persons of prescribed descriptions who—
 - (i) were members of the scheme, or had rights to benefits payable under the scheme rules in respect of a member, immediately before the assessment date,
 - (ii) became entitled to benefits under the scheme rules in respect of a member on or after the assessment date but before the time the trustees or managers of the scheme received a transfer notice under section 160, or
 - (iii) have become entitled to compensation under paragraph 22 (survivors who do not meet conditions for scheme benefits at assessment date), in relation to the scheme.
- (2) Regulations may in particular—
- (a) provide for compensation in the form of periodic or lump sum payments;
 - (b) provide for periodic compensation to be payable for a prescribed period;
 - (c) apply paragraphs 28 and 29(2) (annual increases in respect of periodic compensation) in respect of compensation in the form of periodic payments (with or without modifications).

Commencement Information

I176 Sch. 7 para. 23 in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(3), Sch. Pt. 3

Status: Point in time view as at 26/11/2008.

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[^{F31}Effect of discharge of liability during or immediately before assessment period

Textual Amendments

F31 Sch. 7 para. 23A and cross-heading inserted (6.4.2005) by [The Occupational Pension Schemes \(Modification of Pension Protection Provisions\) Regulations 2005 \(S.I. 2005/705\)](#), regs. 1(2), 3

- 23A. (1) This paragraph applies if—
- (a) at any time during the assessment period in relation to the scheme (or, if there has been more than one such assessment period, the last one) any liability to provide pensions or other benefits to or in respect of any member or members under the scheme is discharged by virtue of—
 - (i) regulations under section 135(4), or
 - (ii) the Board validating any action mentioned in section 135(9), or
 - (b) any such liability is discharged on the assessment date, but before the commencement of the assessment period,
- and compensation is payable in accordance with this Schedule in respect of the pensions or other benefits (apart from this paragraph).
- (2) Any entitlement to compensation under this Schedule in respect of the pensions or other benefits that arose before the discharge ceases on the discharge, except so far as the entitlement was to a payment falling to be made before the discharge.
 - (3) After the discharge any compensation payable under this Schedule in respect of the pensions or other benefits is determined on the basis that—
 - (a) the discharge occurred immediately before the assessment date, and
 - (b) the admissible rules of the scheme provided—
 - (i) for the discharge to occur at that time, and
 - (ii) accordingly, for entitlement under those rules to the pensions or other benefits then to cease or, as the case may be, to cease to the extent to which liability in respect of them is discharged.]

Commutation of periodic compensation

- 24 (1) In prescribed circumstances, a person entitled to periodic compensation under paragraph 5, 8, 11 or 15 may opt to commute for a lump sum a portion of the periodic compensation with effect from the time it becomes payable.
- (2) Except in such circumstances as may be prescribed, the portion commuted under sub-paragraph (1) must not exceed 25%.
 - (3) Any reduction required to be made under paragraph 26 (compensation cap) must be made before determining the amount of a person's periodic compensation which may be commuted under this paragraph.
 - (4) Where a person opts to commute any part of his periodic compensation under this paragraph, the lump sum payable under sub-paragraph (1) is the actuarial equivalent of the commuted portion of the periodic compensation calculated from tables designated for this purpose by the Board.
 - (5) The Board must publish in such manner as it considers appropriate the tables designated by it for the purposes of sub-paragraph (4).

Status: Point in time view as at 26/11/2008.

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- (6) Regulations may prescribe the manner in which an option to commute periodic compensation under this paragraph may be exercised.
- (7) This paragraph does not apply where—
- (a) before the assessment date, the person concerned has received benefits under the scheme rules which were in the form of a lump sum (otherwise than as a result of the commutation of any part of a pension) and were attributable to his own service under the scheme, or
 - (b) immediately before the assessment date, the person concerned has rights to a lump sum under the admissible rules (otherwise than by commutation of any part of a pension) and those rights are attributable to such service.
- (8) The Secretary of State may, by order, amend sub-paragraph (2) to substitute a different percentage for the percentage for the time being specified in that sub-paragraph.

Commencement Information

- I177** Sch. 7 para. 24(1)(2)(6) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)
- I178** Sch. 7 para. 24(3)-(5)(7)(8) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Early payment of compensation

- 25 (1) Regulations may prescribe circumstances in which, and conditions subject to which, a person may become entitled to—
- (a) periodic compensation under paragraph 11 or 15, or
 - (b) lump sum compensation under paragraph 14 or 19,
- before he attains normal pension age (or, in a case to which paragraph 21 applies, normal benefit age).
- (2) The Board must determine the amount of the actuarial reduction to be applied to compensation where a person becomes so entitled by virtue of regulations under this paragraph.
- (3) Where, by virtue of this paragraph, periodic compensation is payable to a person under paragraph 11 or 15 before that person attains normal pension age—
- (a) paragraph 12(2) applies as if the reference to the date on which the active member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph, and
 - (b) paragraph 17(2)(b) applies as if the reference to the date on which the deferred member attains normal pension age were a reference to the date on which the compensation is payable by virtue of this paragraph.

Commencement Information

- I179** Sch. 7 para. 25(1) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)
- I180** Sch. 7 para. 25(2)(3) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Compensation cap

- 26 (1) Where—
- (a) a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) under the scheme, and
 - (b) [^{F32}sub-paragraph (2)(a), (b) or (c)] applies,
- the amount of the compensation must be restricted in accordance with sub-paragraph (3).
- (2) For the purposes of sub-paragraph (1)—
- (a) this paragraph applies if—
 - (i) the annual value of benefit A exceeds the compensation cap, and
 - (ii) [^{F33}neither of paragraphs (b) and (c) applies], and
 - (b) this paragraph applies if—
 - (i) [^{F34}(zi) benefit A is attributable to the person's pensionable service,]
 - (i) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits [^{F35}that are attributable to his pensionable service] under the scheme or a connected occupational pension scheme (“benefit or benefits B”), and
 - (ii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap^[F36], and
 - (c) this paragraph applies if—
 - (i) benefit A is attributable to a pension credit from a transferor,
 - (ii) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits that are—
 - (ia) under the scheme or a connected occupational pension scheme, and
 - (ib) attributable to a pension credit from the same transferor, (“benefit or benefits B”), and
 - (iii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.]
- (3) Where the relevant compensation in respect of benefit A is required to be restricted in accordance with this sub-paragraph—
- (a) if that compensation is within sub-paragraph (4)(a), the protected pension rate for the purposes of paragraph 3(3)(a) is the cap fraction of the rate determined in accordance with paragraph 3(5);
 - (b) if that compensation is within sub-paragraph (4)(b), the protected notional pension for the purposes of paragraph 11(3)(a) is the cap fraction of the rate determined in accordance with paragraph 11(4);
 - (c) if that compensation is within sub-paragraph (4)(c), the protected amount for the purposes of paragraph 14(3) is the cap fraction of the amount determined in accordance with paragraph 14(4);
 - (d) if that compensation is within sub-paragraph (4)(d), the protected pension rate for the purposes of paragraph 15(3)(a) is the cap fraction of the rate determined in accordance with paragraph 15(4);

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(e) if that compensation is within sub-paragraph (4)(e), the protected amount for the purposes of paragraph 19(3) is the cap fraction of the amount determined in accordance with paragraph 19(4).

(4) For the purposes of this paragraph “relevant compensation” means—

- (a) periodic compensation under paragraph 3 (in a case to which sub-paragraph (7) of that paragraph applies),
- (b) periodic compensation under paragraph 11,
- (c) compensation under paragraph 14,
- (d) periodic compensation under paragraph 15, or
- (e) compensation under paragraph 19.

(5) For the purposes of this paragraph, “the cap fraction” means—

$$\frac{C}{V}$$

Where—

C is the compensation cap, and

V is the annual value of benefit A or, in a case to which sub-paragraph (2)(b) [F37 or (c)] applies, the aggregate of the annual values of benefit A and benefit or benefits B.

(6) For the purposes of this paragraph the “annual value” of a benefit in respect of which a person has become entitled to relevant compensation means—

- (a) if the relevant compensation is within sub-paragraph (4)(a) and neither paragraph (b) nor (c) below applies, the amount of the protected pension rate for the purposes of paragraph 3(3)(a);
- (b) if the relevant compensation is within sub-paragraph (4)(a) and is in respect of a pension of which a portion has been commuted for a lump sum, the amount which would have been the protected pension rate for those purposes had that portion not been commuted;
- (c) if the relevant compensation is within sub-paragraph (4)(a) and the person became entitled to a relevant lump sum under the scheme at the same time as he became entitled to the pension to which that compensation relates, an amount equal to the aggregate of—
 - (i) the protected pension rate for the purposes of paragraph 3(3)(a), and
 - (ii) the annualised value of the relevant lump sum;
- (d) if the relevant compensation is within sub-paragraph (4)(b), the amount of the protected notional pension for the purposes of paragraph 11(3)(a);
- (e) if the relevant compensation is within sub-paragraph (4)(c), the annualised value of the protected amount for the purposes of paragraph 14(3);
- (f) if the relevant compensation is within sub-paragraph (4)(d), the amount of the protected pension rate for the purposes of paragraph 15(3)(a);
- (g) if the relevant compensation is within sub-paragraph (4)(e), the annualised value of the protected amount for the purposes of paragraph 19(3);

and for the purposes of determining the annual value of a benefit any reduction required to be made by this paragraph is to be disregarded.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(7) In this paragraph—

“annualised value” of a lump sum or amount means the annualised actuarially equivalent amount of that sum or amount determined in accordance with actuarial factors published by the Board;

“the compensation cap”, in relation to the person who becomes entitled to relevant compensation in respect of benefit A, means—

(a) the amount specified by the Secretary of State by order, or

(b) where the person—

(i) has not attained the age of 65, or

(ii) has attained the age of 66,

at the time he first becomes entitled to that compensation, that amount as adjusted by the Board in accordance with actuarial adjustment factors published by it;

and for the purposes of this paragraph, except in prescribed circumstances, the scheme is connected with another occupational pension scheme if the same person is or was an employer in relation to both schemes.

(8) For the purposes of sub-paragraph (6)(c) a lump sum under the scheme is a relevant lump sum if the person’s entitlement to the lump sum—

(a) is attributable to his pensionable service, and

(b) did not arise by virtue of any provision of the admissible rules of the scheme making special provision as to early payment of pension on grounds of ill health.

(9) Regulations may provide for this paragraph to apply with prescribed modifications where a person becomes entitled to relevant compensation in respect of a benefit and he has previously—

(a) become entitled to relevant compensation in respect of a benefit or benefits under the scheme or a connected occupational pension scheme, or

(b) become entitled to one or more lump sums under the scheme or a connected occupational pension scheme.

(10) Regulations may prescribe sums which are to be disregarded for the purposes of this paragraph.

Textual Amendments

F32 Words in Sch. 7 para. 26(1)(b) substituted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(2\)\(7\)](#)

F33 Words in Sch. 7 para. 26(2)(a)(ii) substituted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(3\)\(7\)](#)

F34 Sch. 7 para. 26(2)(b)(zi) inserted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(4\)\(a\)\(7\)](#)

F35 Words in Sch. 7 para. 26(2)(b)(i) inserted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(4\)\(b\)\(7\)](#)

F36 Sch. 7 para. 26(2)(c) and word inserted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(5\)\(7\)](#)

F37 Words in Sch. 7 para. 26(5) inserted (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(6\)\(7\)](#)

Modifications etc. (not altering text)

C28 Sch. 7 para. 26 amendment to earlier affecting S.I. 2005/670, reg. 22 (retrospective to 6.4.2005 as regards reg. 2(2)-(4), otherwise 6.4.2017) by [The Pension Protection Fund \(Modification\) \(Amendment\) Regulations 2017 \(S.I. 2017/324\), regs. 1, 2](#)

C29 Sch. 7 para. 26 applied (with modifications) (6.4.2005) by [The Pension Protection Fund \(Compensation\) Regulations 2005 \(S.I. 2005/670\), regs. 1\(1\), 22 \(with reg. 23\(3\)\)](#)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

C30 Sch. 7 para. 26(9) modified (retrospectively) by [Pensions Act 2014 \(c. 19\), s. 51\(7\)\(8\)](#)

Commencement Information

I181 Sch. 7 para. 26(1)-(6)(8) in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

I182 Sch. 7 para. 26(7) in force only so far as it relates to paragraph (a) of the definition of "the compensation cap" for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes only so far as it relates to paragraph (a) of the definition of "the compensation cap", at 6.4.2005 for specified purposes by [S.I. 2005/275, art. 2\(3\), Sch. Pt. 3](#)

I183 Sch. 7 para. 26(7) in force at 6.4.2005 in so far as not already in force by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

I184 Sch. 7 para. 26(9)(10) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275, art. 2\(3\), Sch. Pt. 3](#)

Increasing the compensation cap in line with earnings

- 27 (1) This paragraph applies where, on a review under subsection (2) of section 148 of the Social Security Administration Act 1992 (c. 5) (review of general level of earnings obtaining in Great Britain) in a tax year, the Secretary of State concludes that the general level of earnings obtaining in Great Britain ("the new level") exceeds the general level at the end of the period mentioned in paragraph (a) or, as the case may be, the date determined under paragraph (b) of that subsection ("the old level").
- (2) The Secretary of State must make an order under sub-paragraph (7) of paragraph 26 which has the effect of increasing the amount specified for the purposes of that sub-paragraph by the percentage by which the new level is greater than the old level.
- (3) The order must provide for the increase to have effect on and after the 1st April next following the end of the tax year to which the review relates.

Commencement Information

I185 Sch. 7 para. 27 in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

Annual increase in periodic compensation

- 28 (1) This paragraph provides for the increases mentioned in sub-paragraph (3)(b) of paragraphs 3, 5, 8, 11, 15 and 22.
- (2) Where a person is entitled to periodic compensation under any of those paragraphs, he is entitled, on the indexation date, to an increase under this paragraph of—
- (a) the appropriate percentage of the amount of the underlying rate immediately before that date, or
- (b) where the person first became entitled to the periodic compensation during the period of 12 months ending immediately before that date, 1/12th of that amount for each full month for which he was so entitled.
- (3) In sub-paragraph (2)—
- “appropriate percentage” means the lesser of—
- (a) the percentage increase in the retail prices index for the period of 12 months ending with the 31st May last falling before the indexation date, and
- (b) 2.5%;

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- “indexation date” means—
- (a) the 1st January next falling after a person first becomes entitled to the periodic compensation, and
 - (b) each subsequent 1st January during his lifetime;
- “underlying rate” means, in the case of periodic compensation under any of the paragraphs mentioned in sub-paragraph (1), the aggregate of—
- (a) so much of the amount mentioned in sub-paragraph (3)(a) of the paragraph in question as is attributable to post-1997 service, and
 - (b) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date.
- (4) Where paragraph 26(3) (compensation cap) applies to restrict the amount of periodic compensation under one of the paragraphs mentioned in sub-paragraph (1), the amount mentioned in sub-paragraph (3)(a) of the paragraph in question is attributable to post-1997 service and pre-1997 service in the same proportions as the amount so mentioned would have been so attributable had paragraph 26(3) not applied.
- (5) Where a portion of periodic compensation under one of the paragraphs mentioned in sub-paragraph (1) has been commuted under paragraph 24—
- (a) for the purposes of sub-paragraph (2), the definition of “underlying rate” in sub-paragraph (3) applies as if the reference in paragraph (a) of the definition to the amount mentioned in sub-paragraph (3)(a) of the paragraph in question was a reference to that amount reduced by the commutation percentage, and
 - (b) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that amount would have been so attributable had no part of the periodic compensation been commuted.
- (6) In this paragraph—
- “post-1997 service” means—
- (a) pensionable service which is within paragraph 36(4)(a) and occurs on or after 6th April 1997, or
 - (b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;
- “pre-1997 service” means—
- (a) pensionable service which is within paragraph 36(4)(a) and occurred before 6th April 1997, or
 - (b) pensionable service which is within paragraph 36(4)(b) and meets such requirements as may be prescribed;
- “the commutation percentage”, in relation to periodic compensation, means the percentage of that compensation commuted under paragraph 24.
- (7) But in this paragraph, in relation to any relevant pension credit amount, “post-1997 service” and “pre-1997 service” have such meanings as may be prescribed.
- (8) In sub-paragraph (7), “relevant pension credit amount” means an amount mentioned in sub-paragraph (3)(a) of—
- (a) paragraph 3,
 - (b) paragraph 5, or
 - (c) paragraph 15 as it applies by virtue of paragraph 21,
- which is attributable (directly or indirectly) to a pension credit.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (9) This paragraph is subject to paragraph 29 (Board’s power to alter rates of revaluation and indexation).

Commencement Information

I186 Sch. 7 para. 28(1)-(5)(8)(9) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

I187 Sch. 7 para. 28(6)(7) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), **Sch. Pt. 3**

Board’s powers to alter rates of revaluation and indexation

- 29 (1) The Board may determine the percentage that is to be the maximum revaluation rate for the purposes of paragraphs 12(4) and 17(4), and where it does so paragraphs 12(5) and 17(5) do not apply.
- (2) The Board may also determine the percentage that is to be the appropriate percentage for the purposes of paragraph 28 (and where it does so the definition of “appropriate percentage” in paragraph 28(3) does not apply).
- (3) Before making a determination under this paragraph the Board must—
- (a) consult such persons as it considers appropriate, and
 - (b) publish details of the proposed determination in such manner as it considers appropriate and consider any representations made in respect of it.
- (4) The rate determined under this paragraph may be nil.
- (5) A determination under this paragraph may be expressed so as to have effect for a limited period.
- (6) A determination under sub-paragraph (2)—
- (a) has effect in relation to future increases under paragraph 28 only, and
 - (b) may be expressed to have effect—
 - (i) in all cases (whether the entitlement to the periodic compensation first arose before or after the date the determination is made), or
 - (ii) only in cases where entitlement to the periodic compensation first arose on or after a date determined by the Board.
- (7) Notice of any determination under this paragraph must be published in such manner as the Board considers appropriate.

Commencement Information

I188 Sch. 7 para. 29 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Secretary of State’s powers to vary percentage paid as compensation

- 30 (1) The Secretary of State may, on the recommendation of the Board, by order provide that any of the provisions mentioned in sub-paragraph (2) is to have effect as if a different percentage were substituted for the percentage specified in the provision on the passing of this Act (“the original percentage”).

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The provisions are paragraphs 3(4)(a) and (b), 5(3), 7(2), 8(3), 10(2), 11(3), 14(3), 15(3), 19(3), 20(3) and 22(3) of this Schedule (percentage used to calculate periodic or lump sum compensation entitlement).
- (3) Subject to sub-paragraph (4), an order under sub-paragraph (1) has effect only in respect of any period for which the Board has, under paragraph 29—
- (a) reduced the maximum revaluation rate for the purposes of paragraphs 12(4) and 17(4) to nil, and
 - (b) reduced the appropriate percentage for the purposes of paragraph 28 to nil in all cases.
- (4) Sub-paragraph (3) does not prevent an order under sub-paragraph (1) having effect to the extent that it provides for paragraph 3(4)(a), 11(3), 14(3), 15(3), 19(3) or 20(3) (provisions where the original percentage is 90%) to have effect as if for the original percentage there were substituted a higher percentage.
- (5) Before making a recommendation for the purposes of sub-paragraph (1) the Board must—
- (a) consult such persons as it considers appropriate, and
 - (b) publish details of the proposed recommendation in such manner as it considers appropriate and consider any representations made in respect of it.
- (6) Subject to sub-paragraph (3), an order under this paragraph may have effect—
- (a) for a limited period specified in the order;
 - (b) in relation—
 - (i) to all payments of compensation which fall to be made after such date as may be specified in the order (whether the entitlement to the periodic compensation first arose before or after that date), or
 - (ii) only to payments of compensation to which a person first becomes entitled after such a date.
- (7) The date specified under sub-paragraph (6)(b)(i) or (ii) must not be earlier than the date of the order.

Commencement Information

I189 Sch. 7 para. 30 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Special provision in relation to certain pensions in payment before the assessment date

- 31 (1) The powers conferred by this paragraph are exercisable in relation to cases where—
- (a) immediately before the assessment date, a person (“the pensioner”) is entitled to present payment of a pension under the scheme rules (“the pre-assessment date pension”), but
 - (b) the effect of disregarding rules within paragraphs (a) and (b) of paragraph 35(2) is that the pensioner is not entitled to compensation under paragraph 3(2) by reason of the pension or a part of the pension.
- (2) Regulations may provide—

Status: Point in time view as at 26/11/2008.

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- (a) for the pensioner to be treated, for the purposes of the pension compensation provisions, as entitled, immediately before the assessment date, to present payment of a pension under the admissible rules, and
 - (b) for the compensation payable under paragraph 3 in respect of that pension to be determined in the prescribed manner and, for this purpose, for any provision of this Schedule to be applied with such modifications as may be prescribed.
- (3) Regulations may also provide, in cases where—
- (a) the pensioner is not treated as entitled to present payment of a pension by virtue of regulations under sub-paragraph (2), but
 - (b) he is or may become entitled to compensation in respect of the pre-assessment date pension otherwise than under paragraph 3,
- for any provision of this Schedule to apply with such modifications as may be prescribed.

Commencement Information

I190 Sch. 7 para. 31(1) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

I191 Sch. 7 para. 31(2)(3) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), [art. 2\(3\)](#), [Sch. Pt. 3](#)

Short periods of service which terminate on commencement of assessment period

- 32 (1) This paragraph applies to a member of the scheme if—
- (a) his pensionable service terminates on the commencement of the assessment period, and
 - (b) as a result, he has rights, in relation to the scheme, under Chapter 5 of Part 4 of the Pension Schemes Act 1993 (c. 48) (early leavers: cash transfer sums and contribution refunds).
- (2) Where this paragraph applies, for the purposes of this Schedule the member is to be treated as if, immediately before the assessment date, he—
- (a) had relevant accrued rights to benefits under the scheme (within the meaning of section 101AA(4) of that Act), and
 - (b) did not have any other rights to benefits (other than benefits attributable (directly or indirectly) to a pension credit) under the scheme.

Commencement Information

I192 Sch. 7 para. 32 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

Power to modify Schedule in its application to certain schemes

- 33 Where the scheme is a prescribed scheme or a scheme of a prescribed description, this Schedule applies with such modifications as may be prescribed.

Status: Point in time view as at 26/11/2008.

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Commencement Information

II93 Sch. 7 para. 33 in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(3), **Sch. Pt. 3**

Normal pension age

- 34 (1) In this Schedule “normal pension age”, in relation to the scheme and any pension or lump sum under it, means the age specified in the admissible rules as the earliest age at which the pension or lump sum becomes payable without actuarial adjustment (disregarding any admissible rule making special provision as to early payment on the grounds of ill health).
- (2) Where different ages are specified in relation to different parts of a pension or lump sum—
- (a) this Schedule has effect as if those parts were separate pensions or, as the case may be, lump sums, and
 - (b) references in relation to a part of the pension or lump sum to the normal pension age are to be read as references to the age specified in the admissible rules as the earliest age at which that part becomes payable under the scheme without actuarial adjustment (disregarding any special provision as to early payment on grounds of ill health or otherwise).
- (3) In any case where the Board is satisfied that it is not possible to identify the normal pension age from the admissible rules of the scheme, it may, having regard to those rules, determine how the normal pension age is to be determined.

Commencement Information

II94 Sch. 7 para. 34 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**

Scheme rules, admissible rules etc

- 35 (1) In this Schedule, in relation to the scheme, the following expressions have the meaning given by this paragraph—
- “admissible rules”;
 - “recent rule changes”;
 - “recent discretionary increase”.
- (2) The “admissible rules” means the scheme rules disregarding—
- (a) in a case where sub-paragraph (3) applies, the recent rule changes, and
 - (b) in any case, any scheme rule which comes into operation on, or operates by reference, to the winding up of the scheme or any associated event.
- (3) This sub-paragraph applies if the combined effect of the recent rule changes and recent discretionary increases is such that, if account were taken of those changes and increases in calculating the protected liabilities in relation to the scheme at the relevant time, those protected liabilities would be greater than they would be if all those changes and increases were disregarded.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In sub-paragraph (3) “the relevant time” means the time immediately before the assessment period which begins on the assessment date.
- (5) Subject to sub-paragraph (6), “recent rule changes” means—
- (a) changes to the scheme rules which took effect in the period of three years ending with the assessment date, or were made in that period and took effect by reference to an earlier time, and
 - (b) any scheme rules which come into operation on, or operate by reference to—
 - (i) an insolvency event in relation to the employer or any associated event, or
 - (ii) any prescribed event relating to the future of the employer as a going concern.
- (6) “Recent rule changes” does not include—
- (a) any scheme rules or changes attributable to paragraph 3 of Schedule 5 to the Social Security Act 1989 (c. 24), section 129 of the Pension Schemes Act 1993 (c. 48), section 117 of the Pensions Act 1995 (c. 26), section 31(4) of the Welfare Reform and Pensions Act 1999 (c. 30) or section 306 of this Act (overriding requirements),
 - (b) any enactment, or any scheme rules or changes which are required or reasonably necessary to comply with an enactment,
 - (c) any scheme rules or changes that come into operation on, or operate by reference to, the winding up of the scheme or any associated event, and
 - (d) any scheme rules or changes of a prescribed description.
- (7) “Recent discretionary increase” means an increase in the rate of any pension in payment or postponed pension under the scheme rules which took effect in the period mentioned in sub-paragraph (5)(a).
- (8) For the purposes of sub-paragraph (7) an increase (“the relevant increase”) in the rate of a pension in payment or postponed pension is to be disregarded to the extent that it does not exceed—
- (a) the amount by which the pension in question is required to be increased by virtue of—
 - (i) the admissible rules, or
 - (ii) sections 13(1) and 109 of the Pension Schemes Act 1993 (requirement to index and pay guaranteed minimum pensions), or
 - (b) if greater, the appropriate percentage of the rate of that pension.
- (9) For the purposes of sub-paragraph (8)(a), no increase in the rate of a pension which is made at the discretion of the trustees or managers of the scheme, the employer or any other person is to be regarded as an increase required by virtue of the admissible rules.
- (10) For the purposes of sub-paragraph (8)(b), “the appropriate percentage” is the percentage increase in the general level of prices in Great Britain during the period—
- (a) beginning when the rate of the pension was last increased or, if there has been no previous increase, the date the pension first became payable (or would have been payable but for its being postponed), and
 - (b) ending with the time the relevant increase was made.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I195 Sch. 7 para. 35 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Accrual rate, pensionable service and pensionable earnings

- 36 (1) In this Schedule, in relation to a member's entitlement to benefits under the scheme, each of the following expressions has the meaning given by this paragraph—
- “accrual rate”;
 - “pensionable earnings”;
 - “pensionable service”.
- (2) “Accrual rate” means the rate at which under the admissible rules rights to the benefits accrue over time by reference to periods of pensionable service.
- (3) “Pensionable earnings” means the earnings by reference to which the benefits are calculated under the admissible rules.
- (4) Subject to sub-paragraph (5), “pensionable service” means—
- (a) actual service in any description of employment to which the scheme applies which qualifies the member for benefits under the scheme, and
 - (b) any notional service allowed in respect of the member under the admissible rules which qualifies the member for such benefits.
- (5) The service within sub-paragraph (4)(b) does not include—
- (a) service attributable (directly or indirectly) to a pension credit, or
 - (b) service of a prescribed description.

Commencement Information

I196 Sch. 7 para. 36 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

Other definitions

- 37 (1) In this Schedule—
- “deferred member”, in relation to the scheme, means a person who, under the admissible rules, has accrued rights other than—
 - (a) an active member, or
 - (b) a person who in respect of his pensionable service is entitled to the present payment of pension or other benefits;
 - “normal benefit age”, in relation to the scheme and a person with rights to a pension or lump sum under it attributable (directly or indirectly) to a pension credit, means the age specified in the admissible rules as the earliest age at which that pension or lump sum becomes payable without actuarial adjustment (disregarding any scheme rule making special provision as to early payment on grounds of ill health or otherwise);
 - “pension credit member”, in relation to the scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit;

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the [^{F38}Statistics Board], or
- (b) where that index is not published for a month, any substituted index or figures published by [^{F39}the Board];

“the scheme” is to be construed in accordance with paragraph 1.

- (2) For the purposes of this Schedule the accrued rights of a member of the scheme at any time are the rights (other than rights attributable (directly or indirectly) to a pension credit) which, in accordance with the admissible rules, have accrued to or in respect of him at that time to future benefits.
- (3) In this Schedule references to a pension or lump sum under the admissible rules of the scheme, or a right to such a pension or lump sum, do not include a pension or lump sum, or right to a pension or lump sum, which is a money purchase benefit.
- (4) In this Schedule references to “ill health” are to be construed in accordance with regulations under this sub-paragraph.

Textual Amendments

F38 Words in Sch. 7 para. 37(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 3 para. 15\(a\)](#); S.I. 2008/839, art. 2

F39 Words in Sch. 7 para. 37(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 3 para. 15\(b\)](#); S.I. 2008/839, art. 2

Commencement Information

I197 Sch. 7 para. 37(1)-(3) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

I198 Sch. 7 para. 37(4) in force for the purpose only of conferring power to make regulations, orders or rules, as the case may be, 10.2.2005; and for all other purposes at 6.4.2005 in so far as not already in force by [S.I. 2005/275](#), art. 2(3), [Sch. Pt. 3](#)

SCHEDULE 8

Section 200

RESTRICTED INFORMATION HELD BY THE BOARD: CERTAIN PERMITTED DISCLOSURES TO FACILITATE EXERCISE OF FUNCTIONS

Commencement Information

I199 Sch. 8 in force at 9.12.2005 by [S.I. 2005/3331](#), art. 2(2), [Sch. Pt. 2](#)

Persons

The Secretary of State.

Functions

Functions under—

- (a) Part 14 of the Companies Act 1985 (c. 6),

Status: Point in time view as at 26/11/2008.

Changes to legislation: *Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(b) the Insolvency Act 1986 (c. 45), (c) Part 3 of the Companies Act 1989 (c. 40), (d) Part 1 of the Export and Investment Guarantees Act 1991 (c. 67) (apart from sections 5 and 6), (e) Part 3 of the Pension Schemes Act 1993 (c. 48), (f) Part 5 of the Police Act 1997 (c. 50), (g) the Financial Services and Markets Act 2000 (c. 8), or (h) this Act, and functions of co-operating with overseas government authorities and bodies in relation to criminal matters.
The Bank of England.	Any of its functions.
The Financial Services Authority.	Functions under— (a) the legislation relating to friendly societies, (b) the Building Societies Act 1986 (c. 53), or (c) the Financial Services and Markets Act 2000.
[^{F40} The Charity Commission.	Functions under the Charities Act 1993 (c. 10) or the Charities Act 2006.]
The Pensions Regulator Tribunal.	Any of its functions.
The Pensions Ombudsman.	Functions under— (a) the Pension Schemes Act 1993, or (b) the Pension Schemes (Northern Ireland) Act 1993 (c. 49).
The Ombudsman for the Board of the Pension Protection Fund.	Any of his functions.
The Comptroller and Auditor General.	Any of his functions.
The Auditor General for Wales.	Any of his functions.
The Auditor General for Scotland.	Any of his functions.
The Comptroller and Auditor General for Northern Ireland.	Any of his functions.
The Commissioners of Inland Revenue or their officers.	Functions under— (a) the Income and Corporation Taxes Act 1988 (c. 1), (b) the Taxation of Chargeable Gains Act 1992 (c. 12), (c) Part 3 of the Pension Schemes Act 1993 (c. 48), (d) ^{F41} Part 3 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49), ...

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	(e) the Income Tax (Earnings and Pensions) Act 2003 (c. 1). [^{F42F43} ...
	(f) the Income Tax (Trading and Other Income) Act 2005 (so far as relating to functions previously exercised under the Income and Corporation Taxes Act 1988).] ^{F44} or-
	(g) the Income Tax Act 2007 (so far as relating to functions previously exercised under the Income and Corporation Taxes Act 1988).]
The Commissioners of Customs and Excise.	Functions under any enactment.
The Official Receiver or, in Northern Ireland, the Official Receiver for Northern Ireland.	Functions under the enactments relating to insolvency.
An inspector appointed by the Secretary of State.	Functions under Part 14 of the Companies Act 1985 (c. 6).
A person authorised to exercise powers under—	Functions under those sections or that Article.
(a) section 447 of the Companies Act 1985,	
(b) Article 440 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), or	
(c) section 84 of the Companies Act 1989 (c. 40).	
A person appointed under—	Functions in relation to that investigation.
(a) section 167 of the Financial Services and Markets Act 2000 (c. 8),	
(b) subsection (3) or (5) of section 168 of that Act, or	
(c) section 284 of that Act,	
to conduct an investigation.	
A body designated under section 326(1) of that Act.	Functions in its capacity as a body designated under that section.
A recognised investment exchange or a recognised clearing house (as defined by section 285 of that Act).	Functions in its capacity as an exchange or clearing house recognised under that Act.
A body corporate established in accordance with section 212(1) of that Act.	Functions under the Financial Services Compensation Scheme, established in accordance with section 213 of that Act.
The Panel on Takeovers and Mergers.	Functions under the City Code on Takeovers and Mergers and the Rules Governing Substantial Acquisitions of Shares for the time being issued by the Panel.
The General Insurance Standards Council.	Functions of regulating sales and advisory and service standards in relation to insurance.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 (c. 45)).	Functions in its capacity as such a body under that Act.
A person on whom functions are conferred by or under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (c. 29).	The functions so conferred.
The Counter Fraud and Security Management Service established under the Counter Fraud and Security Management Service (Establishment and Constitution) Order 2002 (S.I. 2002/3039).	Any of its functions.
The Department of Enterprise, Trade and Investment in Northern Ireland.	Functions under— (a) Part 15 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), (b) the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or (c) Part 2 of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)).
The Department for Social Development in Northern Ireland.	Functions under Part 3 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).
An Inspector appointed by the Department of Enterprise, Trade and Investment in Northern Ireland.	Functions under Part 15 of the Companies (Northern Ireland) Order 1986.
A recognised professional body within the meaning of Article 350 of the Insolvency (Northern Ireland) Order 1989.	Functions in its capacity as such a body under that Order.
F45 ...	F45 ...
[^{F46} A member of the panel appointed under paragraph 4 of Schedule 17 to the Financial Services and Markets Act 2000 (c.8) by the body corporate established by paragraph 2 of that Schedule.	Functions under— (a) Part 3 (the compulsory jurisdiction), (b) Part 3A (the consumer credit jurisdiction), and (c) Part 4 (the voluntary jurisdiction) of that Schedule to that Act.
The Gambling Commission.	Functions under— (a) the Gaming Act 1968 (c.65), (b) the Lotteries and Amusements Act 1976 (c.32), and (c) the Gambling Act 2005 (c.19).]

Textual Amendments

F40 Sch. 8 entry substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), **Sch. 8 para. 207**; [S.I. 2007/309](#), art. 2, Sch.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F41** Word in Sch. 8 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 659\(a\), Sch. 3](#) (with Sch. 2)
- F42** Words in Sch. 8 inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 659\(b\)](#) (with Sch. 2)
- F43** Word in Sch. 8 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 488\(a\), Sch. 3 Pt. 1](#) (with Sch. 2)
- F44** Words in Sch. 8 inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 488\(b\)](#) (with Sch. 2)
- F45** Sch. 8 entry omitted (7.12.2006) by virtue of [The Pensions Act 2004 \(Disclosure of Restricted Information\) \(Amendment of Specified Persons\) Order 2006 \(S.I. 2006/2937\), arts. 1, 3\(a\)](#)
- F46** Sch. 8 words added (7.12.2006) by [The Pensions Act 2004 \(Disclosure of Restricted Information\) \(Amendment of Specified Persons\) Order 2006 \(S.I. 2006/2937\), arts. 1, 3\(b\)](#)

SCHEDULE 9

Section 206

REVIEWABLE MATTERS

Modifications etc. (not altering text)

- C31** Sch. 9 modified (6.4.2005) by [The Pension Protection Fund \(Reviewable Matters\) Regulations 2005 \(S.I. 2005/600\), regs. 1\(1\), 2, 3, Sch.](#)

- 1 The issue of a determination notice under section 123 approving a notice issued under section 122.

Commencement Information

- I200** Sch. 9 para. 1 in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

- 2 The failure to issue a determination notice under section 123.

Commencement Information

- I201** Sch. 9 para. 2 in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

- 3 The issue of, or failure to issue, a notice under section 122 by the Board by virtue of section 124 (Board's duty where failure to comply with section 122).

Commencement Information

- I202** Sch. 9 para. 3 in force at 6.4.2005 by [S.I. 2005/275, art. 2\(7\), Sch. Pt. 7](#)

- [^{F47}3A The issue of, or failure to issue, a validation notice under regulation 2(5) of the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I.2005/590) (determination to validate or not to validate an estimate and statement provided by the actuary).]

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F47 Sch. 9 para. 3A inserted (6.4.2005) by [The Pension Protection Fund \(Reviewable Matters\) Regulations 2005 \(S.I. 2005/600\)](#), regs. 1(1), **4(a)**

- [^{F48}3B The provision of information by the Board under—
- (a) regulation 3(2) of the Pension Protection Fund (Provision of Information) Regulations 2005 (S.I.2005/674) (provision of information following receipt of a notice under section 120(2)),
 - (b) regulation 3(2A) of those Regulations (provision of information following receipt of a notice under section 120(2) where the scheme or section is not eligible), or
 - (c) regulation 3(9) of those Regulations (provision of information following receipt of an application under section 129(1) or a notice under section 129(4)),
- or the failure to provide information under those provisions.]

Textual Amendments

F48 Sch. 9 para. 3B inserted (6.4.2006) by [The Pension Protection Fund \(Reviewable Matters and Review and Reconsideration of Reviewable Matters\) \(Amendment\) Regulations 2006 \(S.I. 2006/685\)](#), regs. 1(1), **2(a)**

- 4 The issue of, or failure to issue—
- (a) a scheme failure notice under subsection (2) of section 130 (scheme rescue not possible), or
 - (b) a withdrawal notice under subsection (3) of that section (scheme rescue has occurred).

Commencement Information

I203 Sch. 9 para. 4 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 5 Any direction given under subsection (2) of section 134 (directions during an assessment period) or any variation or revocation of such a direction under subsection (4) of that section.

Commencement Information

I204 Sch. 9 para. 5 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 6 The issue of a notice under section 136(2) (power to validate contraventions of section 135).

Commencement Information

I205 Sch. 9 para. 6 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 7 The making of a loan under section 139(2) (loans to pay scheme benefits), the amount of any such loan or the failure to make such a loan.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I206 Sch. 9 para. 7 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

[^{F49}7A. Any determination by the Board under section 141(2) (determination on a review of an ill health pension that compensation in respect of the pension is to be determined in the prescribed manner).]

Textual Amendments

F49 Sch. 9 para. 7A inserted (19.8.2005) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(1), **3**

8 The failure by the Board to obtain an actuarial valuation of a scheme under section 143(2).

Commencement Information

I207 Sch. 9 para. 8 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

9 The approval of, or failure to approve, a valuation in respect of an eligible scheme under section 144(2).

Commencement Information

I208 Sch. 9 para. 9 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

10 The issue of, or failure to issue, a withdrawal notice under or by virtue of—
(a) section 146 (schemes which become eligible schemes), or
(b) section 147 (new schemes created to replace existing schemes).

Commencement Information

I209 Sch. 9 para. 10 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

11 The issue of, or failure to issue, a withdrawal notice under section 148 (no insolvency event has occurred or is likely to occur).

Commencement Information

I210 Sch. 9 para. 11 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

12 The issue of, or failure to issue, a determination notice under section 152(3) (whether value of scheme assets less than aggregate of liabilities etc).

Commencement Information

I211 Sch. 9 para. 12 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

Status: Point in time view as at 26/11/2008.

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- 13 The issue of, or failure to issue, a determination notice under section 153(6) (authorisation to continue as closed scheme).

Commencement Information

I212 Sch. 9 para. 13 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 14 Any direction given under section 154(7) (directions about winding up of scheme with sufficient assets to meet protected liabilities) and any variation or revocation of such a direction.

Commencement Information

I213 Sch. 9 para. 14 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 15 The failure by the Board to give a transfer notice under section 160.

Commencement Information

I214 Sch. 9 para. 15 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 16 Any determination by the Board of a person's entitlement to compensation under the pension compensation provisions or the failure in any case to make such a determination.

Commencement Information

I215 Sch. 9 para. 16 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- [^{F50}16A Any step taken by the Board under section 163(4)(a) (adjustments to be made where Board assumes responsibility for a scheme) to recover the amount of any excess from future pension compensation payments.

Textual Amendments

F50 Sch. 9 paras. 16A, 16B inserted (6.4.2006) by [The Pension Protection Fund \(Reviewable Matters and Review and Reconsideration of Reviewable Matters\) \(Amendment\) Regulations 2006 \(S.I. 2006/685\)](#), regs. 1(1), **2(b)**

- 16B Any determination by the Board, or the failure to make a determination, under regulation 6(2) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 ([S.I.2006/580](#)) (circumstances where the Board is not required to recover overpaid scheme benefits).]

Textual Amendments

F50 Sch. 9 paras. 16A, 16B inserted (6.4.2006) by [The Pension Protection Fund \(Reviewable Matters and Review and Reconsideration of Reviewable Matters\) \(Amendment\) Regulations 2006 \(S.I. 2006/685\)](#), regs. 1(1), **2(b)**

Status: Point in time view as at 26/11/2008.

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- 17 Any failure by the Board to make a payment required by section 163(4)(b) (adjustments to be made where Board assumes responsibility for a scheme).

Commencement Information

I216 Sch. 9 para. 17 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- [^{F51}17A The making of a payment under section 166(2) (amount of any pensions or other benefits which a person had become entitled to payment of under the scheme rules), the amount of any such payment or the failure to make such a payment.]

Textual Amendments

F51 Sch. 9 para. 17A inserted (6.4.2005) by [The Pension Protection Fund \(Reviewable Matters\) Regulations 2005 \(S.I. 2005/600\)](#), regs. 1(1), **4(b)**

- [^{F52}17B Any determination made by the Board under regulation 16(2) or (5)(b) of the Pension Protection Fund (General and Miscellaneous Amendments) Regulations 2006 ([S.I.2006/580](#)) (recovery of PPF compensation overpayments).]

Textual Amendments

F52 Sch. 9 para. 17B inserted (6.4.2006) by [The Pension Protection Fund \(Reviewable Matters and Review and Reconsideration of Reviewable Matters\) \(Amendment\) Regulations 2006 \(S.I. 2006/685\)](#), regs. 1(1), **2(c)**

- 18 Any determination by the Board under section 181(3)(a) (the eligible schemes in respect of which the initial levy or the pension protection levy is imposed) or the failure to make such a determination.

Commencement Information

I217 Sch. 9 para. 18 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- 19 The amount of the initial levy or any pension protection levy payable in respect of an eligible scheme determined by the Board under section 181(3)(b).

Commencement Information

I218 Sch. 9 para. 19 in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), **Sch. Pt. 7**

- [^{F53}19A. Any determination by the Board of an application for the grant of a waiver under regulation 3 of the Pension Protection Fund (Waiver of Pension Protection Levy and Consequential Amendments) Regulations 2007 ([S.I. 2007/771](#)) (waiver of payment of the pension protection levy) or the failure to make such a determination.]

Textual Amendments

F53 Sch. 9 para. 19A inserted (30.3.2007) by [The Pension Protection Fund \(Waiver of Pension Protection Levy and Consequential Amendments\) Regulations 2007 \(S.I. 2007/771\)](#), regs. 1(2), **8**

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 20 The making of a fraud compensation payment under section 182(1), the amount of any such payment or the failure to make such a payment.

Commencement Information

I219 Sch. 9 para. 20 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 21 The issue of, or failure to issue, a notice under section 183(2) (scheme rescue not possible or having occurred in case of scheme which is not eligible etc).

Commencement Information

I220 Sch. 9 para. 21 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 22 Any settlement date determined by the Board under section 184(2) (recovery of value) or the failure to determine a settlement date under that provision.

Commencement Information

I221 Sch. 9 para. 22 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 23 Any determination by the Board under section 184(4) (recovery of value: whether amount received in respect of particular act or omission) or the failure to make such a determination.

Commencement Information

I222 Sch. 9 para. 23 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 24 The making of a payment under section 186(1) (interim payments), the amount of any such payment or the failure to make such a payment.

Commencement Information

I223 Sch. 9 para. 24 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 25 Any term or condition imposed by the Board—
 (a) under section 185(2) on the making of a fraud compensation payment, or
 (b) under subsection (4) of section 186 (interim payments) on the making of a payment under subsection (1) of that section.

Commencement Information

I224 Sch. 9 para. 25 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

- 26 Any determination by the Board under section 186(3)(b) (interim payments) that the amount of a payment was excessive.

*Status: Point in time view as at 26/11/2008.**Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)***Commencement Information****I225** Sch. 9 para. 26 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

VALID FROM 06/04/2010

27 Any date determined by the Board under section 187(4) (earliest date for making a fraud compensation transfer payment).

VALID FROM 06/04/2010

28 Any determination by the Board under section 187(6) (fraud compensation transfer payments: whether payment is received in respect of particular act or omission).

29 Any determination by the Board under section 189(7)(a) (occupational pension schemes in respect of which any fraud compensation levy is imposed) or the failure to make such a determination.

Commencement Information**I226** Sch. 9 para. 29 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

30 The amount of any fraud compensation levy payable in respect of an occupational pension scheme determined by the Board under section 189(7)(b).

Commencement Information**I227** Sch. 9 para. 30 in force at 1.9.2005 by [S.I. 2005/1720](#), [art. 2\(16\)](#), [Sch. Pt. 3](#) (with [art. 4](#))

SCHEDULE 10

Section 236

USE AND SUPPLY OF INFORMATION: PRIVATE PENSIONS POLICY AND RETIREMENT PLANNING

Use of information held by Secretary of State etc

- 1 (1) Section 3 of the Social Security Act 1998 (c. 14) (use of information) is amended as follows.
- (2) In subsection (1), for the words from “social security” to “training” substitute “ any of the matters specified in subsection (1A) below ”.
- (3) After subsection (1) insert—
- “(1A) The matters are—
- (a) social security, child support or war pensions;
 - (b) employment or training;

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) private pensions policy;
- (d) retirement planning.”

(4) In subsection (2)(a), for the words from “social security” to “training” substitute “any of the matters specified in subsection (1A) above”.

(5) After subsection (4) insert—

“(5) In this section—

“private pensions policy” means policy relating to occupational pension schemes or personal pension schemes (within the meaning given by section 1 of the Pension Schemes Act 1993);

“retirement planning” means promoting financial planning for retirement.”

Supply of information held by tax authorities

- 2 (1) This paragraph applies to information which is held—
- (a) by the Commissioners of Inland Revenue;
 - (b) by a person providing services to the Commissioners of Inland Revenue, in connection with the provision of those services;
 - (c) by the Commissioners of Customs and Excise;
 - (d) by a person providing services to the Commissioners of Customs and Excise, in connection with the provision of those services.

(2) Information to which this paragraph applies may be supplied—

- (a) to the Secretary of State or the Northern Ireland Department, or
- (b) to a person providing services to the Secretary of State or the Northern Ireland Department,

for use for the purposes of functions relating to private pensions policy or retirement planning.

(3) In this paragraph—

“private pensions policy” means policy relating to occupational pension schemes or personal pension schemes;

“retirement planning” means promoting financial planning for retirement;

“the Northern Ireland Department” means the Department for Social Development in Northern Ireland.

Supply of housing benefit and council tax benefit information

- 3 (1) Section 122D of the Social Security Administration Act 1992 (c. 5) (supply of information by authorities administering housing benefit or council tax benefit) is amended as follows.

(2) In subsection (1) for “or employment or training” substitute “employment or training, private pensions policy or retirement planning”.

(3) After subsection (2) insert—

“(2A) Information supplied under subsection (2) may be used for any purpose relating to private pensions policy or retirement planning.”

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) After subsection (5) insert—

“(6) In this section—

“private pensions policy” means policy relating to occupational pension schemes or personal pension schemes (within the meaning given by section 1 of the Pension Schemes Act 1993);

“retirement planning” means promoting financial planning for retirement.”

SCHEDULE 11

Section 297

DEFERRAL OF RETIREMENT PENSIONS AND SHARED ADDITIONAL PENSIONS

PART 1

PRINCIPAL AMENDMENTS OF SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (C. 4)

Commencement Information

I228 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

1 In this Part of this Schedule “the principal Act” means the Social Security Contributions and Benefits Act 1992.

Commencement Information

I229 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

2 Schedule 5 to the principal Act (increase of pension where entitlement is deferred) is amended as follows.

Commencement Information

I230 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

3 For the heading, substitute “ PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED ”.

Commencement Information

I231 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

4 Before paragraph 1 insert—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“Choice between increase of pension and lump sum where pensioner’s entitlement is deferred

- A1 (1) Where a person’s entitlement to a Category A or Category B retirement pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—
- (a) that paragraph 1 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
 - (b) that paragraph 3A (entitlement to lump sum) is to apply in relation to the period of deferment.
- (2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).
- (3) Regulations—
- (a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
 - (b) if they enable a person to make an election under sub-paragraph (1) (b) in respect of a period of deferment after receiving any increase of pension under paragraph 1 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 3A.
- (4) Where the Category A or Category B retirement pension includes any increase under paragraphs 5 to 6, no election under sub-paragraph (1) applies to so much of the pension as consists of that increase (an entitlement to an increase of pension in respect of such an increase after a period of deferment being conferred either by paragraphs 1 and 2 or by paragraph 2A).”

Commencement Information

I232 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 5 For paragraph 1 (increase of pension where pensioner’s entitlement is deferred) substitute—
- “1 (1) This paragraph applies where a person’s entitlement to a Category A or Category B retirement pension is deferred and one of the following conditions is met—
- (a) the period of deferment is less than 12 months, or

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) the person has made an election under paragraph A1(1)(a) in relation to the period of deferment.

(2) The rate of the person's Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under paragraph 2, but only if that amount is enough to increase the rate of the pension by at least 1 per cent."

Commencement Information

I233 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 6 (1) In paragraph 2 (calculation of increment), in sub-paragraph (5)(b), for "83 or" substitute " 83A or "
- (2) In relation to any incremental period (within the meaning of Schedule 5 to the principal Act) beginning before 6th April 2010, the reference in paragraph 2(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

Commencement Information

I234 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 7 After paragraph 2 insert—
- "2A (1) This paragraph applies where—
- (a) a person's entitlement to a Category A or Category B retirement pension is deferred,
 - (b) the pension includes an increase under paragraphs 5 to 6, and
 - (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.
- (2) The rate of the person's Category A or Category B retirement pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under sub-paragraph (3).
- (3) For each complete incremental period in the person's period of deferment, the amount of the increment shall be 1/5th per cent. of the weekly rate of the increase to which the person would have been entitled under paragraphs 5 to 6 for the period if his entitlement to the Category A or Category B retirement pension had not been deferred."

Commencement Information

I235 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 8 (1) After paragraph 3 insert—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“Lump sum where pensioner’s entitlement is deferred

- 3A (1) This paragraph applies where—
- (a) a person’s entitlement to a Category A or Category B retirement pension is deferred, and
 - (b) the person has made (or is treated as having made) an election under paragraph A1(1)(b) in relation to the period of deferment.
- (2) The person is entitled to an amount calculated in accordance with paragraph 3B (a “lump sum”).

Calculation of lump sum

- 3B (1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.
- (2) In this paragraph—
- ‘accrued amount’ means the amount calculated in accordance with sub-paragraph (3);
- ‘accrual period’ means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.
- (3) The accrued amount for an accrual period for a person is—

$$(A + P) \times \sqrt[52]{\left(1 + \frac{R}{100}\right)}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the Category A or Category B retirement pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
 - (b) if regulations so provide, such higher rate as may be prescribed.
- (4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—
- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
 - (b) if regulations so provide, at such other time as may be prescribed.
- (5) For the purposes of the calculation of the lump sum, the amount of Category A or Category B retirement pension to which the person would have been entitled for an accrual period—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
 - (b) does not include—
 - (i) any increase under section 83A or 85 or paragraphs 5 to 6 of this Schedule,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.
- (6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 46(5) of the Pensions Act were disregarded.”
- (2) In relation to any accrual period (within the meaning of Schedule 5 to the principal Act as amended by this paragraph) ending before 6th April 2010 the reference in paragraph 3B(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

Commencement Information

I236 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

9 After paragraph 3B (inserted by paragraph 8 of this Schedule) insert—

“Choice between increase of pension and lump sum where pensioner’s deceased spouse has deferred entitlement

- 3C (1) Subject to paragraph 8, this paragraph applies where—
- (a) a widow or widower (“W”) is entitled to a Category A or Category B retirement pension,
 - (b) W was married to the other party to the marriage (“S”) when S died,
 - (c) S’s entitlement to a Category A or Category B retirement pension was deferred when S died, and
 - (d) S’s entitlement had been deferred throughout the period of 12 months ending with the day before S’s death.
- (2) W shall within the prescribed period elect in the prescribed manner either—
- (a) that paragraph 4 (entitlement to increase of pension) is to apply in relation to S’s period of deferment, or
 - (b) that paragraph 7A (entitlement to lump sum) is to apply in relation to S’s period of deferment.
- (3) If no election under sub-paragraph (2) is made within the period prescribed under that sub-paragraph, W is to be treated as having made an election under sub-paragraph (2)(b).
- (4) Regulations—
- (a) may enable a person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- paragraph (3) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
- (b) if they enable a person to make an election under sub-paragraph (2) (b) in respect of a period of deferment after receiving any increase of pension under paragraph 4 by reference to that period, may for the purpose of avoiding duplication of payment—
- (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
- (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 7A.
- (5) The making of an election under sub-paragraph (2)(b) does not affect the application of paragraphs 5 to 6 (which relate to an increase in pension where the pensioner’s deceased spouse had deferred an entitlement to a guaranteed minimum pension).”

Commencement Information

I237 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 10 (1) Paragraph 4 (increase of pension where pensioner’s deceased spouse has deferred entitlement) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) Subject to paragraph 8, this paragraph applies where a widow or widower (“W”) is entitled to a Category A or Category B retirement pension and was married to the other party to the marriage (“S”) when S died and one of the following conditions is met—
- (a) S was entitled to a Category A or Category B retirement pension with an increase under this Schedule,
- (b) W is a widow or widower to whom paragraph 3C applies and has made an election under paragraph 3C(2)(a), or
- (c) paragraph 3C would apply to W but for the fact that the condition in sub-paragraph (1)(d) of that paragraph is not met.
- (1A) Subject to sub-paragraph (3), the rate of W’s pension shall be increased—
- (a) in a case falling within sub-paragraph (1)(a), by an amount equal to the increase to which S was entitled under this Schedule, apart from paragraphs 5 to 6,
- (b) in a case falling within sub-paragraph (1)(b), by an amount equal to the increase to which S would have been entitled under this Schedule, apart from paragraphs 5 to 6, if the period of deferment had ended immediately before S’s death and S had then made an election under paragraph A1(1)(a), or
- (c) in a case falling within sub-paragraph (1)(c), by an amount equal to the increase to which S would have been entitled under this

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Schedule, apart from paragraphs 5 to 6, if the period of deferment had ended immediately before S’s death.”

Commencement Information

I238 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

11 (1) After paragraph 7 insert—

“Entitlement to lump sum where pensioner’s deceased spouse has deferred entitlement

- 7A (1) This paragraph applies where a person to whom paragraph 3C applies (“W”) has made (or is treated as having made) an election under paragraph 3C(2)(b).
- (2) W is entitled to an amount calculated in accordance with paragraph 7B (a “widowed person’s lump sum”).

Calculation of widowed person’s lump sum

- 7B (1) The widowed person’s lump sum is the accrued amount for the last accrual period beginning during the period which—
- (a) began at the beginning of S’s period of deferment, and
- (b) ended on the day before S’s death.
- (2) In this paragraph—
- ‘S’ means the other party to the marriage;
- ‘accrued amount’ means the amount calculated in accordance with sub-paragraph (3);
- ‘accrual period’ means any period of seven days beginning with a prescribed day of the week, where that day falls within S’s period of deferment.
- (3) The accrued amount for an accrual period for W is—

$$(A + P) \times \sqrt[52]{1 + \frac{R}{100}}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period mentioned in sub-paragraph (1), zero);

P is—

- (a) the basic pension, and
- (b) half of the additional pension,

to which S would have been entitled for the accrual period if his entitlement had not been deferred during the period mentioned in sub-paragraph (1);

R is—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
 - (b) if regulations so provide, such higher rate as may be prescribed.
- (4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—
- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
 - (b) if regulations so provide, at such other time as may be prescribed.
- (5) For the purposes of the calculation of the widowed person’s lump sum, the amount of Category A or Category B retirement pension to which S would have been entitled for an accrual period—
- (a) includes any increase under section 47(1) and any increase under paragraph 4 of this Schedule, but
 - (b) does not include—
 - (i) any increase under section 83A or 85 or paragraphs 5 to 6 of this Schedule,
 - (ii) any graduated retirement benefit, or
 - (iii) in prescribed circumstances, such other amount of Category A or Category B retirement pension as may be prescribed.
- (6) The reference in sub-paragraph (5)(a) to any increase under subsection (1) of section 47 shall be taken as a reference to any increase that would take place under that subsection if subsection (2) of that section and section 46(5) of the Pensions Act were disregarded.
- (7) In any case where—
- (a) there is a period between the death of S and the date on which W becomes entitled to a Category A or Category B retirement pension, and
 - (b) one or more orders have come into force under section 150 of the Administration Act during that period,
- the amount of the lump sum shall be increased in accordance with that order or those orders.”
- (2) In relation to any accrual period (within the meaning of Schedule 5 to the principal Act) ending before 6th April 2010 the reference in paragraph 7B(5)(b) of that Schedule to section 83A of that Act is to be read as a reference to section 83 or 84 of that Act.

Commencement Information

I239 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“Supplementary

- 7C (1) Any lump sum calculated under paragraph 3B or 7B must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny above.
- (2) In prescribing a percentage rate for the purposes of paragraphs 3B and 7B, the Secretary of State must have regard to—
- (a) the national economic situation, and
 - (b) any other matters which he considers relevant.”

Commencement Information

I240 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 13 For the heading immediately preceding paragraph 8 substitute “Married couples”.

Commencement Information

I241 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 14 In paragraph 8 (married couples)—
- (a) in sub-paragraph (3) for “the reference in paragraph 2(3) above” substitute “ the references in paragraphs 2(3) and 3B(3) and (5) ”, and
 - (b) for sub-paragraph (4) substitute—
 - “(4) The conditions in paragraph 3C(1)(c) and 4(1)(a) are not satisfied by a Category B retirement pension to which S was or would have been entitled by virtue of W’s contributions.
 - (5) Where the Category A retirement pension to which S was or would have been entitled includes an increase under section 51A(2) attributable to W’s contributions, the increase or lump sum to which W is entitled under paragraph 4(1A) or 7A(2) is to be calculated as if there had been no increase under that section.
 - (6) In sub-paragraphs (4) and (5), “W” and “S” have the same meaning as in paragraph 3C, 4 or 7A, as the case requires.”

Commencement Information

I242 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 15 After Schedule 5 to the principal Act insert—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“SCHEDULE
5A

PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT
TO SHARED ADDITIONAL PENSION IS DEFERRED

*Choice between pension increase and lump sum where
entitlement to shared additional pension is deferred*

- 1 (1) Where a person’s entitlement to a shared additional pension is deferred and the period of deferment is at least 12 months, the person shall, on claiming his pension or within a prescribed period after claiming it, elect in the prescribed manner either—
 - (a) that paragraph 2 (entitlement to increase of pension) is to apply in relation to the period of deferment, or
 - (b) that paragraph 4 (entitlement to lump sum) is to apply in relation to the period of deferment.
- (2) If no election under sub-paragraph (1) is made within the period prescribed under that sub-paragraph, the person is to be treated as having made an election under sub-paragraph (1)(b).
- (3) Regulations—
 - (a) may enable a person who has made an election under sub-paragraph (1) (including one that the person is treated by sub-paragraph (2) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
 - (b) if they enable a person to make an election under sub-paragraph (1) (b) in respect of a period of deferment after receiving any increase of pension under paragraph 2 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 4.

Increase of pension where entitlement deferred

- 2 (1) This paragraph applies where a person’s entitlement to a shared additional pension is deferred and either—
 - (a) the period of deferment is less than 12 months, or
 - (b) the person has made an election under paragraph 1(1)(a) in relation to the period of deferment.
- (2) The rate of the person’s shared additional pension shall be increased by an amount equal to the aggregate of the increments to which he is entitled under

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

paragraph 3, but only if that amount is enough to increase the rate of the pension by at least 1 per cent.

Calculation of increment

- 3 (1) A person is entitled to an increment under this paragraph for each complete incremental period in his period of deferment.
- (2) The amount of the increment for an incremental period shall be 1/5th per cent. of the weekly rate of the shared additional pension to which the person would have been entitled for the period if his entitlement had not been deferred.
- (3) Amounts under sub-paragraph (2) shall be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.
- (4) Where an amount under sub-paragraph (2) would, apart from this sub-paragraph, be a sum less than 1/2p, the amount shall be taken to be zero, notwithstanding any other provision of this Act, the Pensions Act or the Administration Act.
- (5) In this paragraph “incremental period” means any period of six days which are treated by regulations as days of increment for the purposes of this paragraph in relation to the person and pension in question.
- (6) Where one or more orders have come into force under section 150 of the Administration Act during the period of deferment, the rate for any incremental period shall be determined as if the order or orders had come into force before the beginning of the period of deferment.
- (7) The sums which are the increases in the rates of shared additional pension under this paragraph are subject to alteration by order made by the Secretary of State under section 150 of the Administration Act.

Lump sum where entitlement to shared additional pension is deferred

- 4 (1) This paragraph applies where—
- (a) a person’s entitlement to a shared additional pension is deferred, and
- (b) the person has made (or is treated as having made) an election under paragraph 1(1)(b) in relation to the period of deferment.
- (2) The person is entitled to an amount calculated in accordance with paragraph 5 (a “lump sum”).

Calculation of lump sum

- 5 (1) The lump sum is the accrued amount for the last accrual period beginning during the period of deferment.
- (2) In this paragraph—
- ‘accrued amount’ means the amount calculated in accordance with sub-paragraph (3);
- ‘accrual period’ means any period of seven days beginning with a prescribed day of the week, where that day falls within the period of deferment.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) The accrued amount for an accrual period for a person is—

$$(A + P) \times \sqrt[52]{\left(1 + \frac{R}{100}\right)}$$

where—

A is the accrued amount for the previous accrual period (or, in the case of the first accrual period beginning during the period of deferment, zero);

P is the amount of the shared additional pension to which the person would have been entitled for the accrual period if his entitlement had not been deferred;

R is—

- (a) a percentage rate two per cent. higher than the Bank of England base rate, or
- (b) if a higher rate is prescribed for the purposes of paragraphs 3B and 7B of Schedule 5, that higher rate.

(4) For the purposes of sub-paragraph (3), any change in the Bank of England base rate is to be treated as taking effect—

- (a) at the beginning of the accrual period immediately following the accrual period during which the change took effect, or
- (b) if regulations so provide, at such other time as may be prescribed.

(5) For the purpose of the calculation of the lump sum, the amount of the shared additional pension to which the person would have been entitled for an accrual period does not include, in prescribed circumstances, such amount as may be prescribed.

(6) The lump sum must be rounded to the nearest penny, taking any 1/2p as nearest to the next whole penny.”

Commencement Information

I243 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

PART 2

CONSEQUENTIAL AMENDMENTS

Commencement Information

I244 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Social Security Contributions and Benefits Act 1992 (c. 4)

Commencement Information

I245 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

16 The Social Security Contributions and Benefits Act 1992 is amended as follows.

Commencement Information

I246 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

17 In section 62(1) (graduated retirement benefit)—

- (a) in paragraph (a), for “paragraphs 1 to 3” substitute “ paragraphs A1 to 3B and 7C ”, and
- (b) after paragraph (b) insert—
 - “(c) for amending that section in order to make provisions corresponding to those of paragraphs 3C, 4(1) and (1A) and 7A to 7C of Schedule 5 to this Act enabling a widowed person to elect to receive a lump sum, rather than an increase in the weekly rate of retirement pension, in respect of the graduated retirement benefit of his or her deceased spouse.”

Commencement Information

I247 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

18 In section 122(1) (interpretation of Parts 1 to 6)—

- (a) before the definition of “beneficiary” insert—
 - ““Bank of England base rate” means—
 - (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
 - (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section;”, and
- (b) for the definitions of “deferred” and “period of deferment” substitute—
 - ““deferred” and “period of deferment”—
 - (a) in relation to a Category A or Category B retirement pension, have the meanings given by section 55(3), and
 - (b) in relation to a shared additional pension, have the meanings given by section 55C(3);”.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I248 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

19 In section 176 (parliamentary control of subordinate legislation) in subsection (1) (affirmative procedure), after paragraph (b) insert—

- “(bb) regulations prescribing a percentage rate for the purposes of—
 (i) paragraph 3B(3) or 7B(3) of Schedule 5, or
 (ii) paragraph 5(3) of Schedule 5A;”.

Commencement Information

I249 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Social Security Administration Act 1992 (c. 5)

Commencement Information

I250 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

20 The Social Security Administration Act 1992 is amended as follows.

Commencement Information

I251 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

21 In section 150 (annual up-rating of benefits)—

- (a) in subsection (1), after paragraph (d) insert—
 “(dza) which are lump sums to which surviving spouses will become entitled under paragraph 7A of that Schedule on becoming entitled to a Category A or Category B retirement pension;”,
 (b) in subsection (1)(da), for “section 55C of” substitute “ paragraph 2 of Schedule 5A to ”, and
 (c) in subsection (3)(b), after “(d),” insert “ (dza), ”.

Commencement Information

I252 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

22 In section 151 (up-rating—supplementary) in subsection (2)—

- (a) for “subsection (1)(d) or (e)” substitute “ subsection (1)(d), (dza) or (e) ”,
 and

Status: Point in time view as at 26/11/2008.

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- (b) after “apart from the order and” insert “ , in the case of the sums mentioned in subsection (1)(d) or (e) of that section, ”.

Commencement Information

I253 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Welfare Reform and Pensions Act 1999 (c. 30)

Commencement Information

I254 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 23 The Welfare Reform and Pensions Act 1999 is amended as follows.

Commencement Information

I255 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 24 In section 50, omit subsection (2) (which amends provisions relating to the deferment of shared additional pensions and is superseded by Part 1 of this Schedule).

Commencement Information

I256 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 25 In section 52(2) (power to make regulations preserving rights in respect of additional pensions), in paragraph (b)—
- (a) after “increase of pension” insert “ or payment of lump sum ”, and
 - (b) after “constituent element of an increase” insert “ or of a lump sum ”.

Commencement Information

I257 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Status: Point in time view as at 26/11/2008.

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PART 3

TRANSITIONAL PROVISIONS

Commencement Information

I258 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Widowers' [^{F54}and surviving civil partners'] entitlement to increase of pension or widowed person's [^{F54}or surviving civil partner's] lump sum

Textual Amendments

F54 Words in Sch. 11 para. 26 heading inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 28(a)**

- 26 In the case of a widower [^{F55}or surviving civil partner] who attains pensionable age before 6th April 2010, paragraphs 3C, 4 and 7A of Schedule 5 to the Social Security Contributions and Benefits Act 1992 (c. 4) (entitlement to increase of pension or widowed person's [^{F56}or surviving civil partner's] lump sum) shall not apply unless [^{F57}the widower or surviving civil partner was over pensionable age when his wife or, as the case may be, his or her civil partner, died] .

Textual Amendments

- F55** Words in Sch. 11 para. 26 inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 28(b)**
- F56** Words in Sch. 11 para. 26 inserted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 28(c)**
- F57** Words in Sch. 11 para. 26 substituted (5.12.2005) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(3), **Sch. para. 28(d)**

Commencement Information

I259 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

Transitional provision

Commencement Information

I260 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

- 27 (1) The Secretary of State may by regulations make such transitional provision as he thinks fit in connection with the coming into force of this Schedule.
- (2) Regulations under this paragraph may, in particular, modify the preceding provisions of this Schedule in relation to cases where the retirement pension or shared additional

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pension of a person is deferred and the period of deferment begins before 6th April 2005 and continues on or after that day.

- (3) In this paragraph “deferred” and “period of deferment” are to be read in accordance with section 55 or 55C of the Social Security Contributions and Benefits Act 1992, as the case requires.

Commencement Information

I261 Sch. 11 wholly in force at 6.4.2005; Sch. 11 in force at Royal Assent for specified purposes and otherwise at 6.4.2005 see s. 322

SCHEDULE 12

Section 319

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table in paragraph 3 insert at the appropriate place—
- “The Pensions Regulator.”
 - “The Board of the Pension Protection Fund.”
 - “The Ombudsman for the Board of the Pension Protection Fund.”

Commencement Information

I262 Sch. 12 para. 1 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Superannuation Act 1972 (c. 11)

- 2 (1) Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which pension schemes may be made) is amended as follows.
- (2) At the appropriate place in the list of “Other Bodies” insert— “ The Board of the Pension Protection Fund. ”, “ Employment by the Ombudsman for the Board of the Pension Protection Fund. ”, and “ The Pensions Regulator. ”
- (3) At the appropriate place in the list of “Offices” insert— “ Chairman of the Board of the Pension Protection Fund. ”, “ Chairman of the Pensions Regulator. ”, “ A deputy to the Ombudsman for the Board of the Pension Protection Fund. ”, “ A deputy to the Pensions Ombudsman. ”, and “ The Ombudsman for the Board of the Pension Protection Fund. ”

Commencement Information

I263 Sch. 12 para. 2 in force at 10.2.2005 by S.I. 2005/275, art. 2(4), Sch. Pt. 4

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Matrimonial Causes Act 1973 (c. 18)

- 3 After section 25D of the Matrimonial Causes Act 1973 (pensions: supplementary) insert—

“25E The Pension Protection Fund

- (1) The matters to which the court is to have regard under section 25(2) include—
- (a) in the case of paragraph (a), any PPF compensation to which a party to the marriage is or is likely to be entitled, and
 - (b) in the case of paragraph (h), any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to,
- and, accordingly, in relation to PPF compensation, section 25(2)(a) shall have effect as if “in the foreseeable future” were omitted.
- (2) Subsection (3) applies in relation to an order under section 23 so far as it includes provision made by virtue of section 25B(4) which—
- (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility in accordance with Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter, and
 - (b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.
- (3) The order is to have effect from the time when the trustees or managers of the scheme receive the transfer notice—
- (a) as if, except in prescribed descriptions of case—
 - (i) references in the order to the trustees or managers of the scheme were references to the Board, and
 - (ii) references in the order to any pension or lump sum to which the party with pension rights is or may become entitled under the scheme were references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum, and
 - (b) subject to such other modifications as may be prescribed.
- (4) Subsection (5) applies to an order under section 23 if—
- (a) it includes provision made by virtue of section 25B(7) which requires the party with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
 - (b) before the requirement is complied with the Board has assumed responsibility for the scheme as mentioned in subsection (2)(a).
- (5) From the time the trustees or managers of the scheme receive the transfer notice, the order is to have effect with such modifications as may be prescribed.

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- (6) Regulations may modify section 25C as it applies in relation to an occupational pension scheme at any time when there is an assessment period in relation to the scheme.
- (7) Where the court makes a pension sharing order in respect of a person's shareable rights under an occupational pension scheme, or an order which includes provision made by virtue of section 25B(4) or (7) in relation to such a scheme, the Board subsequently assuming responsibility for the scheme as mentioned in subsection (2)(a) does not affect—
- (a) the powers of the court under section 31 to vary or discharge the order or to suspend or revive any provision of it, or
 - (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.
- (8) Regulations may make such consequential modifications of any provision of, or made by virtue of, this Part as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this section.
- (9) In this section—
- “assessment period” means an assessment period within the meaning of Part 2 of the Pensions Act 2004 (pension protection) (see sections 132 and 159 of that Act) or an equivalent period under any provision in force in Northern Ireland corresponding to that Part;
 - “the Board” means the Board of the Pension Protection Fund;
 - “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;
 - “prescribed” means prescribed by regulations;
 - “PPF compensation” means compensation payable under Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter;
 - “regulations” means regulations made by the Lord Chancellor;
 - “shareable rights” are rights in relation to which pension sharing is available under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 or any provision in force in Northern Ireland corresponding to that Chapter;
 - “transfer notice” has the same meaning as in section 160 of the Pensions Act 2004 or any corresponding provision in force in Northern Ireland.
- (10) Any power to make regulations under this section is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

1264 Sch. 12 para. 3 in force at 1.1.2006 by S.I. 2005/3331, art. 2(3), Sch. Pt. 3

Matrimonial and Family Proceedings Act 1984 (c. 42)

- 4 (1) The Matrimonial and Family Proceedings Act 1984 is amended as follows.

Status: Point in time view as at 26/11/2008.

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- (2) In section 18 (matters to which the court is to have regard in exercising its powers under section 17)—
- (a) in subsection (3A)—
- (i) in paragraph (a) after “have” insert “ and any PPF compensation to which a party to the marriage is or is likely to be entitled, ”,
- (ii) in paragraph (b) after “include” insert “—
- (i)”,
- and
- (iii) at the end of that paragraph insert “, and
- (ii) any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to”, and
- (b) in subsection (7), after paragraph (b) insert “, and
- (c) “PPF compensation” means compensation payable under Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter.”
- (3) In section 21 (application to orders under sections 14 and 17 of certain provisions of Part 2 of the Matrimonial Causes Act 1973), after subsection (1)(be) insert—
- “(bf) section 25E(2) to (10) (the Pension Protection Fund);”.

Commencement Information

I265 Sch. 12 para. 4 in force at 1.1.2006 by S.I. 2005/3331, art. 2(3), Sch. Pt. 3

Companies Act 1985 (c. 6)

- 5 (1) The Companies Act 1985 is amended as follows.
- (2) In section 449 (provision for security of information obtained by the Secretary of State under section 447), for subsection (1)(dg) substitute—
- “(dg) for the purpose of enabling or assisting the Pensions Regulator to exercise the functions conferred on it by or by virtue of the Pension Schemes Act 1993, the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments;
- (dh) for the purpose of enabling or assisting the Board of the Pension Protection Fund to exercise the functions conferred on it by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part;”.
- (3) In Schedule 15D (permitted disclosures of information) (as inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004)—
- (a) for paragraph 13 substitute—
- “13 A disclosure for the purpose of enabling or assisting the Pensions Regulator to exercise the functions conferred on it by or by virtue of any of the following—
- (a) the Pension Schemes Act 1993;

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- (b) the Pensions Act 1995;
 - (c) the Welfare Reform and Pensions Act 1999;
 - (d) the Pensions Act 2004;
 - (e) any enactment in force in Northern Ireland corresponding to any of those enactments.”, and
- (b) after that paragraph insert—

“13A A disclosure for the purpose of enabling or assisting the Board of the Pension Protection Fund to exercise the functions conferred on it by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

Commencement Information

I266 Sch. 12 para. 5(1)(3) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

I267 Sch. 12 para. 5(2) in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

Companies Act 1989 (c. 40)

- 6 In section 87 of the Companies Act 1989 (exception from restriction on disclosure of information obtained from overseas regulatory authorities etc), in the table in subsection (4) for the entry relating to the Occupational Pensions Regulatory Authority substitute—

“The Pensions Regulator	Functions conferred by or by virtue of— <ul style="list-style-type: none">(a) the Pension Schemes Act 1993,(b) the Pensions Act 1995,(c) the Welfare Reform and Pensions Act 1999,(d) the Pensions Act 2004, or any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.
The Board of the Pension Protection Fund	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

Commencement Information

I268 Sch. 12 para. 6 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

Social Security Administration Act 1992 (c. 5)

- 7 In section 122AA of the Social Security Administration Act 1992 (disclosure of contributions etc information by Inland Revenue), in subsection (2)(d), for “Occupational Pensions Regulatory Authority” substitute “Pensions Regulator”.

Status: Point in time view as at 26/11/2008.

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Commencement Information

I269 Sch. 12 para. 7 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3)

Tribunals and Inquiries Act 1992 (c. 53)

- 8 (1) The Tribunals and Inquiries Act 1992 is amended as follows.
- (2) In section 7 (concurrency required for removal of members of certain tribunals), in subsection (2) for “(g) or (h)” substitute “ (i), (j), (k) or (l) ”.
- (3) In section 14 (restricted application of Act in relation to certain tribunals), for subsection (1A) substitute—
- “(1A) In this Act—
- (a) references to the working of the Pensions Regulator referred to in paragraph 35(i) of Schedule 1 are references to its working so far as relating to the exercise of its regulatory functions (within the meaning of section 93(2) of the Pensions Act 2004) or any corresponding function conferred by a provision in force in Northern Ireland, and
- (b) references to procedural rules for the Pensions Regulator are references to regulations under paragraph 19 of Schedule 1 to that Act (Secretary of State’s powers to make regulations in respect of Regulator’s procedure) so far as they relate to the procedure to be followed when exercising those functions.”
- (4) In Schedule 1, in Part 1, in paragraph 35, after paragraph (h) insert—

“

(i) the Pensions Regulator established by section 1 of the Pensions Act 2004;

(j) the Pensions Regulator Tribunal established by section 102 of that Act;

(k) the Board of the Pension Protection Fund established by section 107 of the Pensions Act 2004 in respect of its functions under or by virtue of section 207 of that Act or any enactment in force in Northern Ireland corresponding to that section;

(l) the Ombudsman for the Board of the Pension Protection Fund in respect of his functions under or by virtue of section 213 of that Act or any enactment in force in Northern Ireland corresponding to that section.”

Commencement Information

I270 Sch. 12 para. 8 in force at 10.2.2005 by S.I. 2005/275, art. 2(4), **Sch. Pt. 4**

Status: Point in time view as at 26/11/2008.

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Pension Schemes Act 1993 (c. 48)

9 The Pension Schemes Act 1993 is amended as follows.

Commencement Information

I271 Sch. 12 para. 9 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

10 In section 53 (supervision: former contracted-out schemes), after subsection (1B) insert—

“(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under section 23 of the Pensions Act 2004 in relation to the scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order—

- (a) is not binding as described in subsection (1), and
- (b) is not enforceable as described in subsection (1B).”

Commencement Information

I272 Sch. 12 para. 10 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

11 (1) Section 56 (provision supplementary to provision relating to payment of state scheme premiums) is amended as follows.

(2) In subsection (4) for the words from the beginning to “another scheme” substitute—

“(4) Where under the rules of the scheme, transfer credits have been allowed—

- (a) in respect of the earner’s rights under another scheme, or
- (b) in respect of the earner by reference to the payment of a cash transfer sum (within the meaning of Chapter 5 of Part 4) to the trustees or managers of the scheme by the trustees or managers of another occupational pension scheme,”.

(3) After subsection (6) insert—

“(7) Where a premium under section 55 is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the Pensions Act 2004 (effect of the Board assuming responsibility for an occupational pension scheme), then, subject to subsection (8), sections 55 to 68 apply with such modifications as may be prescribed in relation to that premium.

(8) A premium under section 55 in respect of an earner ceases to be payable if—

- (a) the liability to pay the premium is transferred to the Board of the Pension Protection Fund by virtue of section 161 of the Pensions Act 2004, and
- (b) prescribed requirements are met.”

Commencement Information

I273 Sch. 12 para. 11(1) in force at 6.4.2006 for specified purposes by S.I. 2006/560, art. 2(3), Sch. Pt. 3

I274 Sch. 12 para. 11(1)(3) in force at 1.10.2006 for specified purposes and 1.1.2007 in so far as not already in force by S.I. 2006/2272, art. 2(3)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

I275 Sch. 12 para. 11(2) in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

12 In section 61 (deduction of contributions equivalent premium from refund of scheme contributions), after subsection (9) insert—

“(9A) Where under section 101AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.”

Commencement Information

I276 Sch. 12 para. 12 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

13 (1) Section 94 (right to cash equivalent) is amended as follows.

(2) In subsection (2), for the definition of “the applicable rules” substitute—

““the applicable rules” means—

- (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 Chapter 1 of Part 4 of this Act;”.

(3) After that subsection insert—

“(2A) For the purposes of subsection (2)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
 - (ii) this Chapter or Chapters 2, 3 or 5 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
 - (iii) Part 4A of this Act or regulations made under that Part;
 - (iv) section 110(1) of this Act;
 - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
 - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
 - (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
- (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;

Status: Point in time view as at 26/11/2008.

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- (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.”

Commencement Information

I277 Sch. 12 para. 13 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 14 In section 99 (trustees' duties after exercise of option)—
- (a) in subsection (4) after “circumstances,” insert “by direction”, and
 - (b) in subsection (4A) for “in relation to applications for extensions under subsection (4)” substitute “ requiring applications for extensions under subsection (4) to meet prescribed requirements ”.

Commencement Information

I278 Sch. 12 para. 14 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 15 In section 101J (time for compliance with transfer notice)—
- (a) in subsection (2) after “circumstances,” insert “by direction”, and
 - (b) in subsection (6)(a) for “in relation to applications under subsection (2)” substitute “ requiring applications for extensions under subsection (2) to meet prescribed requirements ”.

Commencement Information

I279 Sch. 12 para. 15 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 16 In section 111A (monitoring of employers' payments to personal pension schemes) omit subsection (10).

Commencement Information

I280 Sch. 12 para. 16 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 17 In section 113 (disclosure of information about schemes to members etc), after subsection (2)(d) insert—
- “(e) persons of prescribed descriptions.”

Commencement Information

I281 Sch. 12 para. 17 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 18 After that section insert—

“113A Disclosure of information about transfers etc

Regulations may provide that, where—

- (a) a payment is made out of an occupational pension scheme to the trustees or managers of another occupational pension scheme, and

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(b) transfer credits are allowed to a member of that other scheme in respect of the payment,

the trustees or managers of the first scheme must, in prescribed circumstances and in the prescribed manner, provide to the trustees or managers of the other scheme prescribed information relating to the payment.”

Commencement Information

I282 Sch. 12 para. 18 in force at 1.1.2006 for specified purposes and 6.4.2006 in so far as not already in force by S.I. 2005/3331, art. 2(5), Sch. Pt. 5

- 19 In section 123 (interpretation of Chapter 2 of Part 7) omit—
- (a) the definition of “occupational pension scheme” in subsection (3), and
 - (b) subsection (4).

Commencement Information

I283 Sch. 12 para. 19 in force at 22.9.2005 by S.I. 2005/2447, art. 2(3)(a)

- 20 In section 124 (duty of Secretary of State to pay unpaid contributions), after subsection (5) insert—
- “(6) In this section “on his own account”, in relation to an employer, means on his own account but to fund benefits for, or in respect of, one or more employees.”

Commencement Information

I284 Sch. 12 para. 20 in force at 22.9.2005 by S.I. 2005/2447, art. 2(3)(a)

- 21 In section 129(1) (overriding requirements),—
- (a) for “and IV” substitute “, IV and V”, and
 - (b) after “under” insert “ any of those Chapters or ”.

Commencement Information

I285 Sch. 12 para. 21 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 22 In section 130(b) (extra-statutory benefits), for “or IV” substitute “, IV or V”.

Commencement Information

I286 Sch. 12 para. 22 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

PROSPECTIVE

- 23 In section 145 (the Pensions Ombudsman), after subsection (1) insert—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(1A) Provisions conferring power on the Pensions Ombudsman to conduct investigations as mentioned in subsection (1) are to be read as conferring power that—

- (a) in a case of a prescribed description, or
- (b) in a case involving a scheme that is prescribed or is of a prescribed description,

may be exercised whatever the extent of any connections with places outside the United Kingdom.

(1B) In subsection (1A) “scheme” means occupational pension scheme or personal pension scheme.

(1C) Subsection (1A) shall not be taken to prejudice any power of the Pensions Ombudsman apart from that subsection to conduct investigations in a case having connections with places outside the United Kingdom.”

24 In section 146 (functions of the Pensions Ombudsman)—

(a) for subsection (1)(f) substitute—

“(f) any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—

- (i) other trustees of the scheme, or
- (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, and”

(b) after subsection (6) insert—

“(6A) For the purposes of subsection (6)(c)—

- (a) a description of complaint may be framed (in particular) by reference to the person making the complaint or to the scheme concerned (or to both), and
- (b) a description of dispute may be framed (in particular) by reference to the person referring the dispute or to the scheme concerned (or to both).”, and

(c) in subsection (8), in paragraph (a) of the definition of “independent trustee” for the words from “section 23(1)(b)” to the end substitute “section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)”.

Commencement Information

I287 Sch. 12 para. 24(a)(c) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

25 In section 149 (procedure on investigation by Pensions Ombudsman), in subsection (6)—

(a) for paragraph (b) substitute—

“(b) the Board of the Pension Protection Fund,

Status: Point in time view as at 26/11/2008.

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- (ba) the Ombudsman for the Board of the Pension Protection Fund,” and
- (b) at the end insert—
- “(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.”

Commencement Information

I288 Sch. 12 para. 25 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(1))

- 26 (1) Section 158A (other disclosures by the Secretary of State) is amended as follows.
- (2) In subsection (1), for the words from “any information” to “Pensions Act 1995” substitute “ any regulated information ”.
- (3) In the Table in that subsection—
- (a) in the entry for the Regulatory Authority in the second column of the Table for the words from “or the” to the end substitute “ , the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments. ”, and
- (b) for the entry for the Pensions Compensation Board substitute—

“The Pensions Ombudsman.	Functions conferred by or by virtue of this Act or any enactment in force in Northern Ireland corresponding to it.
The Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.
The Ombudsman for the Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

- (4) After that subsection insert—
- “(1AA) In subsection (1), “regulated information” means information received by the Secretary of State in connection with his functions under—
- (a) this Act,
- (b) the Pensions Act 1995, or
- (c) the Pensions Act 2004,
- other than information supplied to him under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement planning purposes etc).”

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I289 Sch. 12 para. 26 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))

- 27 In section 168(4) (penalties for contravention of regulations) after “the provision” insert “ to be required by notice in writing ”.

Commencement Information

I290 Sch. 12 para. 27 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 28 In section 175 (levies)—
- (a) for subsection (8) substitute—
- “(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Secretary of State, and an amount so payable shall be recoverable by the Secretary of State accordingly or, if the Secretary of State so determines, by the Regulatory Authority on his behalf.”, and
- (b) in subsection (9) for “subsections (1) and (4)” substitute “ subsection (1) ”.

Commencement Information

I291 Sch. 12 para. 28 in force at 10.2.2005 for specified purposes and at 1.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(2), Sch. Pt. 2 (with art. 4) (with further transitional provisions and savings in S.I. 2006/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

- 29 In section 178 (power to make regulations as to the persons to be regarded as trustees or managers of schemes for certain purposes), in paragraph (b) for “to 26C” substitute “ to 26 ”.

Commencement Information

I292 Sch. 12 para. 29 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 30 (1) Section 179 (linked qualifying service) is amended as follows.
- (2) In subsection (1)(a)—
- (a) for “the rules of a scheme” substitute “ Chapter 4 or 5 of Part 4 or under the rules of a scheme ”,
- (b) for sub-paragraph (i) substitute—
- “(i) there was made a transfer of his rights (including any transfer credits allowed) under that scheme, or a transfer payment in respect of those rights, to, or to the trustees or managers of, another scheme applying to him in the later period of service;”,
- (c) for “and” at the end of sub-paragraph (ii), substitute “ or ”, and
- (d) after that sub-paragraph insert—
- “(iii) a cash equivalent (within the meaning of Chapter 4 of Part 4) or cash transfer sum (within the meaning

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

of Chapter 5 of that Part) was paid in respect of him to the trustees or managers of another scheme applying to him in the later period of service; and”.

- (3) In subsection (1)(b), after “second scheme,” insert “ or the payment to the trustees or managers of that scheme, ”.

Commencement Information

I293 Sch. 12 para. 30 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 31 In section 181(1) (general interpretation), in the definition of “transfer credits”, for the words following “by reference to” substitute “—
- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than rights attributable (directly or indirectly) to a pension credit, or
 - (b) a cash transfer sum paid under Chapter 5 of Part 4 in respect of him, to the trustees or managers of the scheme;”.

Commencement Information

I294 Sch. 12 para. 31 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 32 In section 183(3) (sub-delegation), after “97(1)” insert “ , 101AF(1) ”.

Commencement Information

I295 Sch. 12 para. 32 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 33 In section 192(2) (provisions extending to Northern Ireland)—
- (a) for “section 145 (except subsections (4))” substitute “ section 145 (except subsections (4A) to (4C) ”, and
 - (b) at the appropriate place insert— “ section 145A (except subsection (6)(b)), ”.

Commencement Information

I296 Sch. 12 para. 33 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

Pensions Act 1995 (c. 26)

- 34 The Pensions Act 1995 is amended as follows.

Commencement Information

I297 Sch. 12 para. 34 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 35 In section 4 (suspension orders), in subsections (3) and (5) for “class” substitute “description”.

Commencement Information

I298 Sch. 12 para. 35 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 36 In section 7 (appointment of trustees)—
- (a) in subsection (1) omit “a trustee of such a scheme ceases to be a trustee”, and
 - (b) in subsection (2) for “section 23(1)(b)” in both places substitute “section 23(1)”.

Commencement Information

I299 Sch. 12 para. 36 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 37 In section 9 (removal and appointment of trustees: property), after “exercise” insert “by order”.

Commencement Information

I300 Sch. 12 para. 37 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 38 In section 10 (civil penalties), in subsection (5)(a) omit “as a trustee of a trust scheme”.

Commencement Information

I301 Sch. 12 para. 38 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 39 In section 15(4) (failure to comply with Authority’s direction) for “sections 3 and 10 apply” substitute “section 10 applies”.

Commencement Information

I302 Sch. 12 para. 39 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 40 In section 22 (circumstances in which independent trustee provisions apply), in subsections (1) and (3) for “to 26A”, in each place, substitute “to 26”.

Commencement Information

I303 Sch. 12 para. 40 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 41 In section 25 (appointment and powers of independent trustees: further provisions)—
- (a) in subsection (1) for “section 23(1)(b)” substitute “section 23(1)”,
 - (b) in subsection (2)—

Status: Point in time view as at 26/11/2008.

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- (i) after “a scheme” insert “ and there is an independent trustee of the scheme appointed under section 23(1) ”, and
- (ii) omit from “but if” to the end,
- (c) in subsection (3) for “, no independent trustee of the scheme may” substitute “ and there is an independent trustee of the scheme appointed under section 23(1), the independent trustee may not ”, and
- (d) in subsection (4)—
 - (i) for “section 23(1)(b)” substitute “ section 23(1) ”, and
 - (ii) after “person” insert “ (within the meaning of section 23(3)) ”.

Commencement Information

I304 Sch. 12 para. 41 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 42 In section 26 (insolvency practitioner or official receiver to give information to trustees), in subsection (1) after “a scheme” insert “ by virtue of subsection (1) of that section ”.

Commencement Information

I305 Sch. 12 para. 42 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 43 Sections 26A to 26C are hereby repealed.

Commencement Information

I306 Sch. 12 para. 43 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 44 In section 28 (consequences of prohibition on trustee being auditor of scheme etc) omit subsection (4).

Commencement Information

I307 Sch. 12 para. 44 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 45 In section 29 (persons disqualified for being trustees), in subsection (5) for “class” substitute “ description ”.

Commencement Information

I308 Sch. 12 para. 45 in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

- 46 In section 30 (persons disqualified: consequences)—
- (a) in subsection (2), after “exercise” insert “ by order ”, and
 - (b) omit subsections (7) and (8).

Commencement Information

I309 Sch. 12 para. 46(a) in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

Status: Point in time view as at 26/11/2008.

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I310 Sch. 12 para. 46(b) in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

47 Omit section 30A (accessibility of register of disqualified trustees).

Commencement Information

I311 Sch. 12 para. 47 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

48 In section 32 (decisions of trustees by a majority)—
(a) in subsection (4) for “, 16(3)(b) and 25(2)” substitute “ and 25(2) of this Act and section 241(6) of the Pensions Act 2004 ”, and
(b) in subsection (5) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

Commencement Information

I312 Sch. 12 para. 48 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

49 In section 34 (powers of investment and delegation) in subsection (1) after “subject to” insert “ section 36(1) and to ”.

Commencement Information

I313 Sch. 12 para. 49 in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), Sch. Pt. 1

50 (1) Section 38 (power to defer winding up) is amended as follows.
(2) In subsection (2)—
(a) in paragraph (a) after “scheme” insert “ (other than those due to be paid before the determination is made) ”, and
(b) in paragraph (b) omit “new”.
(3) After subsection (3) insert—
“(4) This section also does not apply in relation to a trust scheme where the trustees are required to wind up, or continue the winding up, of the scheme under section 154(1) of the Pensions Act 2004 (requirement to wind up certain schemes with sufficient assets to meet protected liabilities).”

Commencement Information

I314 Sch. 12 para. 50 in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

51 In section 40 (restriction on employer-related investments), in subsection (4) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

Commencement Information

I315 Sch. 12 para. 51 in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), Sch. Pt. 1

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 52 In section 41 (provision of documents for members)—
- (a) for subsection (3) substitute—
- “(3) The documents referred to in subsection (1)(b) are—
- (a) any statement of funding principles prepared or revised under section 223 of the Pensions Act 2004,
- (b) any valuation or report prepared by the actuary under section 224 of that Act,
- (c) any certificate given by the actuary under section 225 or 227 of that Act.”, and
- (b) in subsection (5B) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

Commencement Information

I316 Sch. 12 para. 52 in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), Sch. Pt. 1

- 53 In section 47 (professional advisers), in subsections (3), (8) and (11) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

Commencement Information

I317 Sch. 12 para. 53 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

- 54 In section 49 (other responsibilities of trustees, employers, etc)—
- (a) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”, and
- (b) in subsection (10)—
- (i) omit paragraph (a) and the word “and” immediately after it, and
- (ii) in paragraph (b) for “such steps” substitute “ reasonable steps to secure compliance ”.

Commencement Information

I318 Sch. 12 para. 54 in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

- 55 In section 49A (record of winding up decisions) omit subsection (4).

Commencement Information

I319 Sch. 12 para. 55 in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

- 56 In section 68 (power of trustees to modify schemes by resolution), in subsection (2) —
- (a) in paragraph (b), for “section 16(1) or 17(2)” substitute “ section 241 of the Pensions Act 2004 ”, and
- (b) for paragraph (c) substitute—

Status: Point in time view as at 26/11/2008.

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- “(c) to enable the scheme to comply with such terms and conditions as may be imposed by the Board of the Pension Protection Fund in relation to any payment made by it under section 185 or 186 of the Pensions Act 2004.”.

Commencement Information

I320 Sch. 12 para. 56(a) in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

I321 Sch. 12 para. 56(b) in force at 1.9.2005 by S.I. 2005/1720, art. 2(16), Sch. Pt. 3

- 57 In section 69 (grounds for applying for modifications)—
- (a) in subsection (2) for “about the manner of dealing with applications under this section” substitute “ requiring applications under this section to meet prescribed requirements ”,
 - (b) in subsection (3) omit paragraph (a),
 - (c) in subsection (4)(a) omit “(a) or”, and
 - (d) in subsection (5)(a) omit “either of” and for “subsection (3)(a) or (b)” substitute “ subsection (3)(b) ”.

Commencement Information

I322 Sch. 12 para. 57 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 58 In section 71A(4)(d) (power to make provision in relation to applications for the purposes of that section)—
- (a) for “before such time as may be prescribed” substitute “ before an application is made for the purposes of this section ”, and
 - (b) for “an application for the purposes of this section” substitute “ the application ”.

Commencement Information

I323 Sch. 12 para. 58 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), Sch. Pt. 3

- 59 In section 72A (reports to Authority about winding up) omit subsection (9)(a) and “and” immediately after it.

Commencement Information

I324 Sch. 12 para. 59 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 60 In section 72C (duty to comply with directions for facilitating winding up) omit subsection (2).

Commencement Information

I325 Sch. 12 para. 60 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

- 61 In section 73 (preferential liabilities on winding up) in subsection (6), omit paragraph (a) and “and” immediately after it.
- 62 In section 76 (excess assets on winding up)—
- (a) in subsection (3), omit paragraph (c) (but not the word “and” immediately following it),
 - (b) omit subsection (5), and
 - (c) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

Commencement Information

I326 Sch. 12 para. 62(a)(b) in force at 6.4.2006 by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**

I327 Sch. 12 para. 62(c) in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), **Sch. Pt. 6**

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Textual Amendments

F58 Sch. 12 para. 63 repealed (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **18(3)**

- 64 In section 87 (schedules of payment to money purchase schemes) omit subsection (5)(a) and “and” immediately after it.

Commencement Information

I328 Sch. 12 para. 64 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**

- 65 In section 88 (provision supplementary to section 87) omit subsection (4)(a) and “and” immediately after it.

Commencement Information

I329 Sch. 12 para. 65 in force at 6.4.2006 by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**

- 66 In section 89 (application of further provisions to money purchase schemes)—
- (a) in subsection (1)(a)—
 - (i) for “sections 56 to 60” substitute “ Part 3 of the Pensions Act 2004 ”, and
 - (ii) for “those sections” substitute “ that Part ”, and
 - (b) in subsection (2) omit “insolvency”.

Commencement Information

I330 Sch. 12 para. 66 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3)

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 67 In section 118 (powers to modify Part 1 of the Pensions Act 1995)—
- (a) in subsection (2) for “to 26C” substitute “ to 26 ”, and
 - (b) omit subsection (3).

Commencement Information

I331 Sch. 12 para. 67 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 68 In section 119 (calculations etc under regulations: sub-delegation), for “73(3)” substitute “ 73B(4)(a) ”.

Commencement Information

I332 Sch. 12 para. 68 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 69 (1) Section 124 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1), in the definition of “transfer credits”, for the words following “by reference to” substitute “—
- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than pension credit rights, or
 - (b) a cash transfer sum paid under Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers) in respect of him, to the trustees or managers of the scheme,”.
- (3) In subsection (3A), after “(3E)” insert “ and to sections 28, 154 and 219 of the Pensions Act 2004 ”.
- (4) In subsection (3B), after “(3E)” insert “ and to sections 154 and 219 of the Pensions Act 2004 ”.

Commencement Information

I333 Sch. 12 para. 69 in force at 6.4.2006 by S.I. 2005/3331, art. 2(6), Sch. Pt. 6

Bank of England Act 1998 (c. 11)

- 70 In Schedule 7 to the Bank of England Act 1998 (restriction on disclosure of information), in the table in paragraph 3(1), for the entry relating to the Occupational Pensions Regulatory Authority substitute—

“The Pensions Regulator

Functions conferred by or by virtue of—

- (a) the Pension Schemes Act 1993,
- (b) the Pensions Act 1995,
- (c) the Welfare Reform and Pensions Act 1999,

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) the Pensions Act 2004, or
- (e) any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.”

Commencement Information

I334 Sch. 12 para. 70 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

Welfare Reform and Pensions Act 1999 (c. 30)

71 The Welfare Reform and Pensions Act 1999 is amended as follows.

Commencement Information

I335 Sch. 12 para. 71 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

PROSPECTIVE

72 In section 1 (stakeholder pension schemes), in subsection (6), after “members etc)” insert “ and of regulations under section 237 of the Pensions Act 2004 (combined pension forecasts) ”.

73 In section 2 (registration of stakeholder pension schemes)—

- (a) in subsection (1) for “Occupational Pensions Regulatory Authority (“the Authority”)” substitute “ Authority ”,
- (b) in subsection (3) after “may” insert “ by direction ”, and
- (c) in subsection (4) for the words from “Section 3” to “Act applies” substitute “ Section 10 of the Pensions Act 1995 (“the 1995 Act”) (civil penalties) applies to any trustee of a pension scheme which is or has been registered under this section, and ”.

Commencement Information

I336 Sch. 12 para. 73 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

74 In section 8(2)(a) (providing for stakeholder pension schemes to be treated as personal pension schemes), after “is” insert “ prescribed or is ”.

Commencement Information

I337 Sch. 12 para. 74 in force at 22.9.2005 by S.I. 2005/1720, art. 2(11)

75 In section 38 (treatment in winding up)—

- (a) in subsection (2), for “section 56 of the Pensions Act 1995” substitute “ this section ”, and
- (b) after that subsection insert—

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(2A) This section applies to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.”

Commencement Information

I338 Sch. 12 para. 75 in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), Sch. Pt. 1

76 (1) Paragraph 1 of Schedule 1 (application of enactments relating to occupational schemes to certain stakeholder schemes) is amended as follows.

(2) In sub-paragraph (2), in paragraph (b)—

- (a) in sub-paragraph (i) for the words from “except” to the end substitute “except sections 7(5A)(b), 8(1)(a) and (c) and (2), 11(3A) and (3B) and 15(1),
- (b) in sub-paragraph (ii) for “31” substitute “ 30 ”,
- (c) in sub-paragraph (iii) omit the words from “except” to the end,
- (d) for sub-paragraph (v) substitute—
“(v) section 47 (professional advisers);” and
- (e) in sub-paragraph (vii) for “section 50” substitute “ sections 50 to 50B ”.

(3) After that paragraph insert “; and

(c) the following provisions of the Pensions Act 2004—

- (i) section 67 (accessibility of register of prohibited trustees);
- (ii) Chapters 4 and 5 of Part 2 (fraud compensation and information gathering);
- (iii) sections 247 to 249 (requirements for knowledge and understanding); and
- (iv) section 318 (interpretation).”

(4) In sub-paragraph (5), after “1995 Act” insert “ , and section 318(1) of the Pensions Act 2004, ”.

(5) After sub-paragraph (5) insert—

“(6) Chapters 4 and 5 of Part 2 of the Pensions Act 2004 (as applied by sub-paragraph (1)) shall have effect with such modifications as the Secretary of State may prescribe by regulations.”

Commencement Information

I339 Sch. 12 para. 76(1)(2)(c) in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), Sch. Pt. 1

I340 Sch. 12 para. 76(2)(a)(4) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

I341 Sch. 12 para. 76(2)(b)(d) in force at 9.12.2005 by S.I. 2005/3331, art. 2(2), Sch. Pt. 2

I342 Sch. 12 para. 76(3) in force at 30.6.2005 for specified purposes in so far as it relates to sections 67 and 318 of the Act by S.I. 2005/1720, art. 2(12)

I343 Sch. 12 para. 76(3) in force at 1.9.2005 for specified purposes by S.I. 2005/1720, art. 2(16), Sch. Pt. 3

I344 Sch. 12 para. 76(3) in force at 1.9.2005 for specified purposes by S.I. 2005/2447, art. 2(4), Sch. Pt. 1

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- I345** Sch. 12 para. 76(3) in force at 6.4.2006 in so far as not already in force by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- I346** Sch. 12 para. 76(5) in force at 1.9.2005 for specified purposes by S.I. 2005/1720, **art. 2(3)(b)**
- I347** Sch. 12 para. 76(5) in force at 9.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(2), **Sch. Pt. 2**

- 77 (1) Schedule 5 (pension credits: mode of discharge) is amended as follows.
- (2) In paragraph 8(1)(b), for the words from “section 56” to “related schemes)” substitute “Part 3 of the Pensions Act 2004 (scheme funding)”.
- (3) After paragraph 13 insert—
- “13A The provisions of this Schedule are subject to—
- (a) section 73A(3) and (6) of the Pensions Act 1995 (prohibition on new members during winding up of scheme: exception for discharge of pension credit derived from the scheme), and
- (b) section 133(2) and (8) of the Pensions Act 2004 (prohibition on new members during an assessment period in relation to a scheme: exception for discharge of pension credit derived from the scheme).”

Commencement Information

- I348** Sch. 12 para. 77(1)(3) in force at 6.4.2005 by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3)
- I349** Sch. 12 para. 77(2) in force at 4.12.2005 for specified purposes and 30.12.2005 in so far as not already in force by S.I. 2005/3331, art. 2(1), **Sch. Pt. 1**

Terrorism Act 2000 (c. 11)

- 78 In Schedule 3A to the Terrorism Act 2000 (regulated sector and supervisory authorities), for paragraph 4(1)(f) substitute—
- “(f) the Pensions Regulator;”.

Commencement Information

- I350** Sch. 12 para. 78 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3)

Freedom of Information Act 2000 (c. 36)

- 79 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 6 insert at the appropriate place—
- “The Pensions Regulator.”
- “The Board of the Pension Protection Fund.”
- “The Ombudsman for the Board of the Pension Protection Fund.”

Commencement Information

- I351** Sch. 12 para. 79 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Proceeds of Crime Act 2002 (c. 29)

- 80 In Schedule 9 to the Proceeds of Crime Act 2002 (regulated sector and supervisory authorities), for paragraph 4(1)(f) substitute—
“(f) the Pensions Regulator;”.

Commencement Information

I352 Sch. 12 para. 80 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3)

SCHEDULE 13

Section 320

REPEALS AND REVOCATIONS

PART 1

REPEALS

Commencement Information

- I353** Sch. 13 Pt. 1 in force at 10.2.2005 for specified purposes and at 1.4.2005 for specified purposes by S.I. 2005/275, art. 2(2), **Sch. Pt. 2** (with transitional provisions and savings in S.I. 2005/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))
- I354** Sch. 13 Pt. 1 in force at 1.4.2005 for specified purposes by S.I. 2005/695, **art. 2(6)** (with arts. 4-6, Sch. 2, Sch. 3)
- I355** Sch. 13 Pt. 1 in force at 6.4.2005 for specified purposes, see s. 322(4)
- I356** Sch. 13 Pt. 1 in force at 6.4.2005 for specified purposes by S.I. 2005/1108, art. 2(2), **Sch.**
- I357** Sch. 13 Pt. 1 in force at 6.4.2005 for specified purposes by S.I. 2005/275, art. 2(7), **Sch. Pt. 7**
- I358** Sch. 13 Pt. 1 in force at 6.4.2005 for specified purposes by S.I. 2005/695, art. 2(7), **Sch. 1** (with arts. 4-6, Sch. 2, Sch. 3) (with further savings in S.I. 2005/695, art. 6A (as inserted by S.I. 2005/1108, art. 3(a))
- I359** Sch. 13 Pt. 1 in force at 1.9.2005 for specified purposes by S.I. 2005/2447, art. 2(4), **Sch. Pt. 1**
- I360** Sch. 13 Pt. 1 in force at 1.9.2005 for specified purposes by S.I. 2005/1720, art. 2(16), **Sch. Pt. 3** (with arts. 4, 5) (as amended (26.6.2009) by S.I. 2009/1583, art. 2)
- I361** Sch. 13 Pt. 1 in force at 22.9.2005 for specified purposes by S.I. 2005/2447, **art. 2(3)(b)**
- I362** Sch. 13 Pt. 1 in force at 4.12.2005 for specified purposes and 30.12.2005 for specified purposes by S.I. 2005/3331, art. 2(1), **Sch. Pt. 1**
- I363** Sch. 13 Pt. 1 in force at 9.12.2005 for specified purposes by S.I. 2005/3331, art. 2(2), **Sch. Pt. 2**
- I364** Sch. 13 Pt. 1 in force at 6.4.2006 for specified purposes by S.I. 2006/560, art. 2(3), **Sch. Pt. 3**
- I365** Sch. 13 Pt. 1 in force at 6.4.2006 for specified purposes by S.I. 2005/3331, art. 2(6), **Sch. Pt. 6**
- I366** Sch. 13 Pt. 1 in force at 6.4.2006 for specified purposes by S.I. 2005/1720, **art. 2(13)**
- I367** Sch. 13 Pt. 1 in force at 6.4.2007 for specified purposes by S.I. 2006/2272, art. 2(7), **Sch. Pt. 2** (with art. 3)

Short title and chapter

Parliamentary Commissioner Act 1967
(c. 13)

Extent of repeal

In Schedule 2, the entries relating to—
(a) the Occupational Pensions Regulatory Authority, and
(b) the Pensions Compensation Board.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 2, the entries relating to— (a) the Occupational Pensions Regulatory Authority, and (b) the Pensions Compensation Board.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 2, the entries relating to— (a) the Occupational Pensions Regulatory Authority, and (b) the Pensions Compensation Board.
Tribunals and Inquiries Act 1992 (c. 53)	Section 10(5)(ba) and the word “or” immediately preceding it. In Schedule 1, in Part 1, paragraph 35(g) and (h).
Pension Schemes Act 1993 (c. 48)	Section 6. In section 28— (a) in subsection (4), paragraphs (a) and (b) and the word “and” in paragraph (c), (b) subsections (4A) and (4B), and (c) in subsection (8), the words “, which must not be earlier than the member’s 60th birthday,” in the definition of “the starting date”. In section 29(1)(aa)(ii), the words from “and is not” to “75th birthday.”. In section 34(1)(a)(ii), the words “or category”. Section 99(6). Section 101J(3). Section 111. Section 111A(10). Section 111B. In section 123, the definition of “occupational pension scheme” in subsection (3), and subsection (4). In section 129— (a) in subsection (2) the words from “and Chapter IV” to the end, and (b) subsection (3)(b). In section 131(b), the words “payable at any earlier time or”. In section 132, the words from “or the voluntary” to third “requirements”. Section 148(5)(ba) and (bb). Section 149(1), (1A) and (1B). In section 149(3)— (a) paragraph (ba), and (b) paragraph (d) and the word “and” immediately preceding it. In section 149(6)— (a) paragraph (c), and

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the word “and” at the end of paragraph (k).
- Section 149(8).
- In section 151(1), paragraph (c) and the word “and” immediately preceding it.
- In section 151(3)—
- (a) paragraphs (ba) and (bb), and
 - (b) in paragraph (c) the words “any of paragraphs (a) to (bb)”.
- In section 158—
- (a) in subsection (6), the words “Subject to subsection (7)”, and
 - (b) subsection (7).
- Section 168A.
- In section 175—
- (a) in subsection (1), paragraph (a) and the word “or” at the end of paragraph (b), and
 - (b) subsections (4) to (7).
- In section 177(5)—
- (a) the word “and” at the end of paragraph (a), and
 - (b) paragraph (b).
- In section 181—
- (a) in subsection (1), the definitions of “the register”, “the Registrar”, and “voluntary contributions requirements”,
 - (b) in subsection (3), the words “section 6,”, and
 - (c) in subsection (4), the word “6,”.
- In section 192(2), the words “section 6(1) and (2) (except paragraph (a)(ii)), (3), (4), and (8),”.
- In Schedule 9, paragraphs 5 and 7(2).
- Pensions Act 1995 (c. 26)
- Sections 1 and 2.
- Section 5.
- In section 7(1), the words “a trustee of such a scheme ceases to be a trustee”.
- Section 7(4).
- In section 10(5)(a), the words “as a trustee of a trust scheme”.
- Section 11(3).
- Section 13.
- Sections 16 to 21.
- In section 22(1)(b), the word “or” at the end of sub-paragraph (i).
- In section 25(2), the words from “but if” to the end.
- Sections 26A to 26C.
- Section 28(4).
- In section 29—
- (a) subsections (3), (4) and (5)(b), and

Status: Point in time view as at 26/11/2008.

Changes to legislation: *Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in subsection (6), the words “or revocation made”.

In section 30—

(a) in subsection (2), paragraph (b) and the word “or” immediately preceding it, and

(b) subsections (7) and (8).

Section 30A.

Section 31.

Section 36(2).

In section 38(2)(b), the word “new”.

Section 41(2)(c).

Section 48.

In section 49, subsection (10)(a) and the word “and” immediately after it.

Section 49A(4).

In section 51(1), the word “and” at the end of sub-paragraph (i) of paragraph (a).

In section 54(3), the definition of “appropriate percentage”.

Sections 56 to 61.

In section 63(4)(c), the words “or category”.

In section 69—

(a) subsection (3)(a),

(b) in subsection (4)(a), the words “(a) or”, and

(c) in subsection (5)(a), the words “either of”.

In section 71A(4), paragraphs (f) and (g).

Section 72A(9)(a) and the word “and” immediately after it.

Section 72B(7) and (8)(b).

Section 72C(2).

Section 73(6)(a) and the word “and” immediately after it.

In section 74—

(a) in subsection (2) the words “(including increases in pensions)”,

(b) in subsection (4) the words “(including increases in pensions)”, and

(c) subsection (5)(b) and the word “or” immediately preceding it.

Section 75(9).

In section 76—

(a) subsection (3)(c) (but not the word “and” immediately following it), and

(b) subsection (5).

Section 77(2) and (3).

Sections 78 to 86.

Section 87(5)(a) and the word “and” immediately after it.

Section 88(4)(a) and the word “and” immediately after it.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	In section 89(2), the word “insolvency”.
	Sections 96 to 114.
	In section 117(2)—
	(a) at the end of paragraph (b), the word “or”, and
	(b) paragraph (c).
	Section 118(3).
	In section 119, the word “56(3)”.
	In section 124(1)—
	(a) in the definition of “employer”, the words “or category”,
	(b) the definitions of “member-nominated director”, “member-nominated trustee” and “minimum funding requirement”, and
	(c) in the definition of “pensionable service”, the words “or category”.
	Section 134(3).
	Section 142(5).
	In section 162(1), the word “and” at the end of paragraph (a).
	In section 175(2), the word “or” at the end of paragraph (c).
	In section 178(2), the words “1, 2, 21(3)” and “78, 79, 80(4)”.
	Schedules 1 and 2.
	In Schedule 3, paragraphs 12, 21, 23 and 44(a)(ii).
	In Schedule 4, paragraph 21(13) and (14).
	In Schedule 5—
	(a) paragraph 20, and
	(b) paragraph 77(b) (but not the word “and” immediately following it).
	In Schedule 6, paragraph 6(d).
	In Schedule 4, paragraph 98.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	
Employment Rights Act 1996 (c. 18)	In section 58(3)(b), the words “or category”.
Bank of England Act 1998 (c. 11)	In Part 4 of Schedule 5, paragraph 71.
Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2)	In Schedule 1, paragraphs 67 and 68.
Welfare Reform and Pensions Act 1999 (c. 30)	Section 2(5) and (6). Sections 4 and 5. Section 17. Section 38(1). In section 46(1), in the definition of “pensionable service”, the words “or category”.
	Section 50(2).
	In Schedule 1—
	(a) paragraph 1(2)(a),

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	(b) in paragraph 1(2)(b)(i) the word “, 13”, (c) in paragraph 1(2)(b)(iii), the words from “except” to the end, (d) paragraph 1(2)(b)(ix) and (xi) to (xiii), and (e) paragraphs 2 and 3. In Schedule 2, paragraphs 3(1)(a), 9 and 13 to 16. In Schedule 12, paragraphs 39(3), 44, 45 to 49, 53, 55 and 60.
Child Support, Pensions and Social Security Act 2000 (c. 19)	In section 42(7), the word “and” at the end of paragraph (c). Sections 43 to 46. Section 47(1), (2) and (4). Section 54. In Schedule 5— (a) paragraph 3(3) and (4), (b) paragraph 10, (c) paragraph 11, and (d) paragraph 12(2), (3) and (4). In Schedule 9, Part 3(10).
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6 the entries for— (a) the Occupational Pensions Regulatory Authority, (b) the Pensions Compensation Board, and (c) the Registrar of Occupational and Personal Pension Schemes.
Anti-terrorism, Crime and Security Act 2001 (c. 24)	In Part 1 of Schedule 4, paragraph 37.
Employment Act 2002 (c. 22)	In Schedule 6, paragraph 1(a) and (b).

Short title and chapter

Extent of repeal

Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to— (a) the Occupational Pensions Regulatory Authority, and (b) the Pensions Compensation Board.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 2, the entries relating to— (a) the Occupational Pensions Regulatory Authority, and (b) the Pensions Compensation Board.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 2, the entries relating to— (a) the Occupational Pensions Regulatory Authority, and (b) the Pensions Compensation Board.
Tribunals and Inquiries Act 1992 (c. 53)	Section 10(5)(ba) and the word “or” immediately preceding it.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Pension Schemes Act 1993 (c. 48)

In Schedule 1, in Part 1, paragraph 35(g) and (h).

Section 6.

In section 28—

- (a) in subsection (4), paragraphs (a) and (b) and the word “and” in paragraph (c),
- (b) subsections (4A) and (4B), and
- (c) in subsection (8), the words “, which must not be earlier than the member’s 60th birthday,” in the definition of “the starting date”.

In section 29(1)(aa)(ii), the words from “and is not” to “75th birthday.”

In section 34(1)(a)(ii), the words “or category”.

Section 99(6).

Section 101J(3).

Section 111.

Section 111A(10).

Section 111B.

In section 123, the definition of “occupational pension scheme” in subsection (3), and subsection (4).

In section 129—

- (a) in subsection (2) the words from “and Chapter IV” to the end, and
- (b) subsection (3)(b).

In section 131(b), the words “payable at any earlier time or”.

In section 132, the words from “or the voluntary” to third “requirements”.

Section 148(5)(ba) and (bb).

Section 149(1), (1A) and (1B).

In section 149(3)—

- (a) paragraph (ba), and
- (b) paragraph (d) and the word “and” immediately preceding it.

In section 149(6)—

- (a) paragraph (c), and
- (b) the word “and” at the end of paragraph (k).

Section 149(8).

In section 151(1), paragraph (c) and the word “and” immediately preceding it.

In section 151(3)—

- (a) paragraphs (ba) and (bb), and
- (b) in paragraph (c) the words “any of paragraphs (a) to (bb)”.

In section 158—

- (a) in subsection (6), the words “Subject to subsection (7)”, and
- (b) subsection (7).

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Pensions Act 1995 (c. 26)

Section 168A.

In section 175—

- (a) in subsection (1), paragraph (a) and the word “or” at the end of paragraph (b), and
- (b) subsections (4) to (7).

In section 177(5)—

- (a) the word “and” at the end of paragraph (a), and
- (b) paragraph (b).

In section 181—

- (a) in subsection (1), the definitions of “the register”, “the Registrar”, and “voluntary contributions requirements”,
- (b) in subsection (3), the words “section 6,”, and
- (c) in subsection (4), the word “6,”.

In section 192(2), the words “section 6(1) and (2) (except paragraph (a)(ii)), (3), (4), and (8),”.

In Schedule 9, paragraphs 5 and 7(2).

Sections 1 and 2.

Section 5.

In section 7(1), the words “a trustee of such a scheme ceases to be a trustee”.

Section 7(4).

In section 10(5)(a), the words “as a trustee of a trust scheme”.

Section 11(3).

Section 13.

Sections 16 to 21.

In section 22(1)(b), the word “or” at the end of sub-paragraph (i).

In section 25(2), the words from “but if” to the end.

Sections 26A to 26C.

Section 28(4).

In section 29—

- (a) subsections (3), (4) and (5)(b), and
- (b) in subsection (6), the words “or revocation made”.

In section 30—

- (a) in subsection (2), paragraph (b) and the word “or” immediately preceding it, and
- (b) subsections (7) and (8).

Section 30A.

Section 31.

Section 36(2).

In section 38(2)(b), the word “new”.

Section 41(2)(c).

Section 48.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

In section 49, subsection (10)(a) and the word “and” immediately after it.

Section 49A(4).

In section 51(1), the word “and” at the end of sub-paragraph (i) of paragraph (a).

In section 54(3), the definition of “appropriate percentage”.

Sections 56 to 61.

In section 63(4)(c), the words “or category”.

In section 69—

- (a) subsection (3)(a),
- (b) in subsection (4)(a), the words “(a) or”, and
- (c) in subsection (5)(a), the words “either of”.

In section 71A(4), paragraphs (f) and (g).

Section 72A(9)(a) and the word “and” immediately after it.

Section 72B(7) and (8)(b).

Section 72C(2).

Section 73(6)(a) and the word “and” immediately after it.

In section 74—

- (a) in subsection (2) the words “(including increases in pensions)”,
- (b) in subsection (4) the words “(including increases in pensions)”, and
- (c) subsection (5)(b) and the word “or” immediately preceding it.

Section 75(9).

In section 76—

- (a) subsection (3)(c) (but not the word “and” immediately following it), and
- (b) subsection (5).

Section 77(2) and (3).

Sections 78 to 86.

Section 87(5)(a) and the word “and” immediately after it.

Section 88(4)(a) and the word “and” immediately after it.

In section 89(2), the word “insolvency”.

Sections 96 to 114.

In section 117(2)—

- (a) at the end of paragraph (b), the word “or”, and
- (b) paragraph (c).

Section 118(3).

In section 119, the word “56(3),”.

In section 124(1)—

- (a) in the definition of “employer”, the words “or category”,
- (b) the definitions of “member-nominated director”, “member-nominated trustee”

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	and “minimum funding requirement”, and (c) in the definition of “pensionable service”, the words “or category”.
	Section 134(3).
	Section 142(5).
	In section 162(1), the word “and” at the end of paragraph (a).
	In section 175(2), the word “or” at the end of paragraph (c).
	In section 178(2), the words “1, 2, 21(3)” and “78, 79, 80(4)”.
	Schedules 1 and 2.
	In Schedule 3, paragraphs 12, 21, 23 and 44(a)(ii).
	In Schedule 4, paragraph 21(13) and (14).
	In Schedule 5—
	(a) paragraph 20, and
	(b) paragraph 77(b) (but not the word “and” immediately following it).
	In Schedule 6, paragraph 6(d).
	In Schedule 4, paragraph 98.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In section 58(3)(b), the words “or category”.
Employment Rights Act 1996 (c. 18)	In Part 4 of Schedule 5, paragraph 71.
Bank of England Act 1998 (c. 11)	In Schedule 1, paragraphs 67 and 68.
Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2)	Section 2(5) and (6).
Welfare Reform and Pensions Act 1999 (c. 30)	Sections 4 and 5.
	Section 17.
	Section 38(1).
	In section 46(1), in the definition of “pensionable service”, the words “or category”.
	Section 50(2).
	In Schedule 1—
	(a) paragraph 1(2)(a),
	(b) in paragraph 1(2)(b)(i) the word “, 13”,
	(c) in paragraph 1(2)(b)(iii), the words from “except” to the end,
	(d) paragraph 1(2)(b)(ix) and (xi) to (xiii), and
	(e) paragraphs 2 and 3.
	In Schedule 2, paragraphs 3(1)(a), 9 and 13 to 16.
	In Schedule 12, paragraphs 39(3), 44, 45 to 49, 53, 55 and 60.
Child Support, Pensions and Social Security Act 2000 (c. 19)	In section 42(7), the word “and” at the end of paragraph (c).
	Sections 43 to 46.

Status: Point in time view as at 26/11/2008.

Changes to legislation: Pensions Act 2004 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

	Section 47(1), (2) and (4). Section 54. In Schedule 5— (a) paragraph 3(3) and (4), (b) paragraph 10, (c) paragraph 11, and (d) paragraph 12(2), (3) and (4). In Schedule 9, Part 3(10).
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6 the entries for— (a) the Occupational Pensions Regulatory Authority, (b) the Pensions Compensation Board, and (c) the Registrar of Occupational and Personal Pension Schemes.
Anti-terrorism, Crime and Security Act 2001 (c. 24)	In Part 1 of Schedule 4, paragraph 37.
Employment Act 2002 (c. 22)	In Schedule 6, paragraph 1(a) and (b).

PROSPECTIVE

The repeals in sections 148, 149 and 151 of the Pension Schemes Act 1993 (c. 48) relate to those provisions as amended by section 54 of the Child Support, Pensions and Social Security Act 2000 (c. 19) to the extent that those amendments have been brought into force for the purpose of making regulations and rules.

PROSPECTIVE

PART 2

REVOCATIONS

<i>Title and number</i>	<i>Extent of revocation</i>
Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))	Article 78(4).

Status:

Point in time view as at 26/11/2008.

Changes to legislation:

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