



# Pensions Act 2011

## 2011 CHAPTER 19

An Act to make provision relating to pensions; and for connected purposes. [3rd November 2011]

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

### PART 1

#### STATE PENSION

#### **1 Equalisation of and increase in pensionable age for men and women**

- (1) In Schedule 4 to the Pensions Act 1995 (equalisation of and increase in pensionable age for men and women) paragraph 1 is amended as follows.
- (2) In sub-paragraph (1) for “6th April 1959” substitute “ 6th December 1953 ”.
- (3) Omit sub-paragraph (4).
- (4) In table 1 for the entries (in both columns) relating to each of the periods from “6th April 1953 to 5th May 1953” to “6th March 1955 to 5th April 1955” substitute—

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“6th April 1953 to 5th May 1953	6th July 2016
6th May 1953 to 5th June 1953	6th November 2016
6th June 1953 to 5th July 1953	6th March 2017
6th July 1953 to 5th August 1953	6th July 2017
6th August 1953 to 5th September 1953	6th November 2017
6th September 1953 to 5th October 1953	6th March 2018

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6th October 1953 to 5th November 1953	6th July 2018
6th November 1953 to 5th December 1953	6th November 2018”

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(5) For table 2 substitute—

“TABLE 2

<i>(1)</i> <b>Period within which birthday falls</b>	<i>(2)</i> <b>Day pensionable age attained</b>
6th December 1953 to 5th January 1954	6th March 2019
6th January 1954 to 5th February 1954	6th May 2019
6th February 1954 to 5th March 1954	6th July 2019
6th March 1954 to 5th April 1954	6th September 2019
6th April 1954 to 5th May 1954	6th November 2019
6th May 1954 to 5th June 1954	6th January 2020
6th June 1954 to 5th July 1954	6th March 2020
6th July 1954 to 5th August 1954	6th May 2020
6th August 1954 to 5th September 1954	6th July 2020
6th September 1954 to 5th October 1954	6th September 2020”

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(6) In sub-paragraph (6) for “5th April 1960” substitute “ 5th October 1954 ”.

(7) Schedule 1 (equalisation of and increase in pensionable age for men and women: consequential amendments) has effect.

## 2 Abolition of certain additions to the state pension

(1) In section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits)—

(a) in subsection (1)(e)(i) for “person who is also entitled to a Category A or Category B retirement pension” substitute “ relevant person ”;

(b) after subsection (1) insert—

“(1A) In subsection (1)(e)(i) “relevant person” means a person—

(a) who became entitled to a Category A or Category B retirement pension before the day on which section 2(1) of the Pensions Act 2011 comes into force, and

(b) to whom sums became payable by virtue of section 15(1) of the Pension Schemes Act 1993 (including sums payable by virtue of section 17(2)) before that day.

(1B) In subsection (1A)—

(a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;

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- (b) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.”

(2) In that section after subsection (10A) insert—

“(10B) Subsection (10A) does not have effect unless—

- (a) the member became entitled to a Category A or Category B retirement pension before the day on which section 2(2) of the Pensions Act 2011 comes into force, and
- (b) the member's postponed pension under the scheme became payable before that day.

(10C) In subsection (10B)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.”

(3) In section 151 of that Act (up-rating - supplementary) omit subsection (5).

(4) The repeal made by subsection (3) does not affect the application of section 151(5) of that Act in relation to a person who became entitled to a Category A or Category B retirement pension before the day on which subsection (3) comes into force.

<sup>F1</sup>(5) .....

<sup>F1</sup>(6) .....

<sup>F1</sup>(7) .....

<sup>F1</sup>(8) .....

<sup>F1</sup>(9) .....

(10) In this section a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day.

#### Textual Amendments

**F1** S. 2(5)-(9) repealed (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by Pensions Act 2014 (c. 19), s. 56(4), Sch. 12 para. 97(a)

#### Commencement Information

**I1** S. 2(1)-(4) (9) (10) in force at 6.4.2012 by S.I. 2011/3034, art. 4(a)

**I2** S. 2(7) in force at 6.4.2012 for specified purposes by S.I. 2011/3034, art. 4(d)

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PROSPECTIVE

### F23 Consolidation of additional pension

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#### Textual Amendments

- F2** S. 3 repealed (1.10.2014) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 97(b)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c)

## PART 2

### AUTOMATIC ENROLMENT

#### Commencement Information

- I3** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

## 4 Automatic re-enrolment where scheme membership interrupted

- (1) In section 2 (continuity of scheme membership) of the Pensions Act 2008 (“the 2008 Act”) for subsection (3) substitute—

“(3) Subsection (1) is not contravened if by virtue of section 5 the jobholder becomes an active member of an automatic enrolment scheme with effect from—

- “(a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or  
(b) a day within the prescribed period (if a period is prescribed).”

- (2) In section 5 of the 2008 Act (automatic re-enrolment) after subsection (1) insert—

“(1A) This section also applies to a jobholder who—

- (a) is aged at least 22,  
(b) has not reached pensionable age, and  
(c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder's automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).

(1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.”

- (3) For subsection (4) of that section substitute—

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- “(4) Regulations may provide for subsection (2) not to apply in relation to a jobholder who in prescribed circumstances—
- (a) has ceased to be an active member of a qualifying scheme because of any action or omission by the jobholder, or by the employer at the jobholder's request, or
  - (b) is treated as not being an active member of a qualifying scheme because the jobholder has given notice under section 8.”
- (4) In subsection (8) of that section omit “, after the automatic enrolment date,”.
- (5) In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (4)—
- (a) in paragraph (a) omit “at any time after the jobholder's automatic enrolment date,”;
  - (b) in that paragraph omit “or a qualifying scheme of which the jobholder is an active member ceases to be such a scheme”;
  - (c) in paragraph (b) omit “or the employer”;
  - (d) in paragraph (c) for “time” substitute “ event ”.
- (6) In section 54 of the 2008 Act (inducements)—
- (a) in subsection (1)(a) for “within the period prescribed under section 2(3)” substitute “with effect from—
    - (i) the day after the membership is given up, or
    - (ii) a day within the prescribed period (if a period is prescribed)”;
  - (b) in subsection (1)(b) for “within the period prescribed under section 2(3)” substitute “with effect from—
    - (i) the day on which the jobholder became an active member of the scheme to which the notice relates, or
    - (ii) a day within the prescribed period (if a period is prescribed)”.

#### Commencement Information

- I4** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).
- I5** S. 4 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(1)(a)

## 5 Earnings trigger for automatic enrolment and re-enrolment

- (1) In section 3 of the 2008 Act (automatic enrolment) for subsection (1) substitute—
- “(1) This section applies to a jobholder—
- (a) who is aged at least 22,
  - (b) who has not reached pensionable age, and
  - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”
- (2) After subsection (6) of that section insert—
- “(6A) In this section “earnings” has the meaning given in section 13(3).

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(6B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

(3) In section 5 of the 2008 Act (automatic re-enrolment) for subsection (1) substitute—

“(1) This section applies to a jobholder—

- (a) who is aged at least 22,
- (b) who has not reached pensionable age, and
- (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”

(4) After subsection (7) of that section insert—

“(7A) In this section “earnings” has the meaning given in section 13(3).

(7B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

#### **Commencement Information**

**16** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**17** S. 5 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(2)(a)

## **6 Postponement or disapplication of automatic enrolment**

(1) In section 3 of the 2008 Act (automatic enrolment) at the end of subsection (7) insert—

“This is subject to section 4.”

(2) For section 4 of the 2008 Act substitute—

### **“4 Postponement or disapplication of automatic enrolment**

(1) Where—

- (a) an employer (E) gives to a person employed by E on E's staging date (“the worker”) notice that E intends to defer automatic enrolment for the worker until a date specified in the notice (“the deferral date”), and
  - (b) any prescribed requirements in relation to the notice are met,
- the worker's automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(2) Where—

- (a) a person (“the worker”) begins to be employed by an employer (E) after E's staging date,
- (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
- (c) any prescribed requirements in relation to the notice are met,

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the worker's automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(3) Where—

- (a) a person (“the worker”) employed by an employer (E) becomes, after E's staging date, a jobholder to whom section 3 applies,
- (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
- (c) any prescribed requirements in relation to the notice are met,

the worker's automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.

(4) Where this subsection applies, section 3(2) does not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.

(5) A notice under this section may be given on or before the starting day or within a prescribed period after that day.

(6) The deferral date may be any date in the period of three months after the starting day.

(7) An employer who gives a worker a notice under subsection (1) or (2) may not give the worker a notice under subsection (3) in relation to any occasion on or before the deferral date specified in the notice on which the worker becomes a jobholder to whom section 3 applies.

(8) In this section—

“staging date”, in relation to an employer of a particular description, means the date prescribed under section 12 in relation to employers of that description;

“starting day” means—

- (a) E's staging date, in the case of a notice under subsection (1);
- (b) the day on which the worker begins to be employed by E, in the case of a notice under subsection (2);
- (c) the day on which the worker becomes a jobholder to whom section 3 applies, in the case of a notice under subsection (3).”

(3) In section 5 of the 2008 Act (automatic re-enrolment) omit subsection (5).

(4) In section 6 of the 2008 Act (timing of automatic re-enrolment)—

- (a) omit subsections (3) and (6);
- (b) in subsection (4) for “second case” substitute “ first case ”;
- (c) in subsection (5) for “third case” substitute “ second case ”.

(5) In section 7 of the 2008 Act (jobholder's right to opt in) omit paragraph (b) of subsection (2) and the “or” before it.

(6) In section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) in subsection (7)—

- (a) for “applies, section” substitute “applies—

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- (a) section”;
- (b) for “day on which” substitute “ day with effect from which ”;
- (c) at the end insert—
  - “(b) section 4 applies as if—
    - (i) the reference in subsection (1) to the employer's staging date were a reference to the employer's first enrolment date;
    - (ii) in that subsection, for “the workers's automatic enrolment date is the deferral date” there were substituted “ the day with effect from which arrangements fall to be made by virtue of section 30 in respect of the jobholder is changed to the deferral date ”;
    - (iii) in subsections (4) to (6), references to the starting day were references to the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”

#### Commencement Information

**I8** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I9** S. 6 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(1)(b)

## 7 Timing of automatic re-enrolment

In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (1)(b) for “three years” substitute “ 2 years and 9 months ”.

#### Commencement Information

**I10** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I11** S. 7 in force at 1.4.2015 in so far as not already in force by S.I. 2015/676, art. 2

## 8 Review of earnings trigger and qualifying earnings band

(1) For section 14 of the 2008 Act (review of qualifying earnings band) substitute—

### “14 Review of earnings trigger and qualifying earnings band

- (1) The Secretary of State must in each tax year consider whether any of the amounts in sections 3(1)(c), 5(1)(c) and 13(1)(a) and (b) should be increased or decreased.
- (2) If the Secretary of State considers that any of those amounts should be increased or decreased, the Secretary of State may make an order substituting in the provisions in question the amounts that the Secretary of State thinks appropriate.



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- (3) For the purposes of subsection (1) the Secretary of State may take into account any of the factors specified in subsection (4) (as well as any others that the Secretary of State thinks relevant).
- (4) The factors are—
  - (a) the amounts for the time being specified in Chapter 2 of Part 3 (personal allowances) of the Income Tax Act 2007;
  - (b) the amounts for the time being specified in regulations under section 5 of the Social Security Contributions and Benefits Act 1992 (earnings limits and thresholds for Class 1 national insurance contributions);
  - (c) the amount for the time being specified in section 44(4) of that Act (rate of basic state pension);
  - (d) the general level of prices in Great Britain, and the general level of earnings there, estimated in such manner as the Secretary of State thinks fit.”
- (2) For the italic heading before section 13 of the 2008 Act substitute— “ Qualifying earnings and earnings trigger ”.
- (3) In section 143(5) of the 2008 Act (statutory instruments subject to affirmative resolution procedure) in paragraph (c) after “section” insert “ 14(2), ”.

#### Commencement Information

- I12** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).
- I13** S. 8 in force at 3.1.2012 in so far as not already in force by S.I. 2011/3034, art. 3(a)

## 9 Rounded figures for earnings trigger and qualifying earnings band

After section 15 of the 2008 Act insert—

### “15A Power to specify rounded figures

- (1) The Secretary of State may by order specify rounded figures for the purposes of section 3(6B), 5(7B) or 13(2) in the case of pay reference periods of any length specified in the order.
- (2) A rounded figure so specified applies in place of the amount that would otherwise apply (“the exact amount”).
- (3) The Secretary of State must decide in relation to any particular amount whether to specify—
  - (a) a figure that is a whole number of pounds, or
  - (b) a figure that is divisible by 10 pence, or
  - (c) a figure that includes a whole number of pennies.
- (4) It is for the Secretary of State to decide whether to round any particular amount up or down.

Accordingly, a figure specified under this section may be the figure within paragraph (a) or (b) or (c) of subsection (3) that is closest to the exact amount

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or the one that is next closest to it (or, if two figures are joint closest, it may be either of those).”

#### Commencement Information

- I14** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).  
**I15** S. 9 in force at 6.3.2012 in so far as not already in force by S.I. 2012/682, art. 2(a)

### <sup>F3</sup>10 Qualifying schemes: administration charges

#### Textual Amendments

- F3** S. 10 repealed (11.9.2014) by Pensions Act 2014 (c. 19), s. 56(1), Sch. 18 para. 12; S.I. 2014/2377, art. 2(1)(a)(i)(2)(k)

### 11 Test scheme standard for schemes that produce sum of money for provision of benefits

(1) In section 22 of the 2008 Act (test scheme standard) after subsection (7) insert—

“(8) In the case of a scheme under which a sum of money is made available for the provision of benefits to a relevant member, references in this section to pensions are to be read as references to such sums.”

(2) For section 23 of the 2008 Act substitute—

#### “23 Test scheme

- (1) A test scheme is an occupational pension scheme which satisfies—
- (a) the requirement in subsection (2),
  - (b) the requirement in subsection (4) or requirements prescribed under subsection (6) (as appropriate), and
  - (c) any further requirements that are prescribed.
- (2) The scheme must either—
- (a) provide for a member to be entitled to a pension commencing at the appropriate age and continuing for life, or
  - (b) provide for a sum of money to be made available for the provision of benefits to a member commencing at the appropriate age and continuing for life.
- (3) The appropriate age is 65 or any higher age prescribed.
- (4) In the case of a scheme that provides entitlement to a pension as mentioned in subsection (2)(a), the annual rate of the pension at the appropriate age must be—
- (a) 1/120th of average qualifying earnings in the last three tax years preceding the end of pensionable service,

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- multiplied by
- (b) the number of years of pensionable service, up to a maximum of 40.
- (5) Section 13(1) (qualifying earnings) applies for the purposes of subsection (4) as if the reference to a pay reference period were a reference to a tax year.
- (6) In the case of a scheme that provides for a sum of money to be made available as mentioned in subsection (2)(b), regulations must prescribe requirements relating to that sum.”

#### Commencement Information

- I16** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).
- I17** S. 11 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(1)(c)

## 12 Certification that alternative to quality requirement is satisfied

- (1) Section 28 of the 2008 Act (sections 20, 24 and 26: certification that quality requirement is satisfied) is amended as follows.
- (2) For the heading substitute “ **Certification that quality requirement or alternative requirement is satisfied** ”.
- (3) In subsection (1) for “any jobholder of an employer” substitute “ each of an employer's relevant jobholders ”.
- (4) After subsection (1) insert—
- “(1A) In this section—
- (a) “relevant jobholder” means a jobholder to whom the certificate in question applies;
- (b) a reference to a scheme includes a reference to part of a scheme.”
- (5) In subsection (2)—
- (a) for “state that” substitute “state—
- (a) that”;
- (b) for “the jobholders” substitute “ relevant jobholders ”;
- (c) at the end insert “, or
- (b) that, in relation to those jobholders, the scheme is in that person's opinion able to satisfy a prescribed alternative requirement throughout the certification period.”
- (6) After subsection (2) insert—
- “(2A) Alternative requirements must be such that, assuming all jobholders to be active members of schemes to which this section applies, for at least 90% of jobholders—
- (a) employer contributions, and
- (b) total contributions,

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would be likely to be no less if every scheme satisfied an alternative requirement applicable to it than if every scheme satisfied the relevant quality requirement.

(2B) In subsection (2A)—

“alternative requirement” means a requirement prescribed under subsection (2)(b);

“employer contributions”, in relation to an active member of a scheme, means the amount of contributions that have to be paid under the scheme in respect of the member by the employer;

“total contributions”, in relation to an active member of a scheme, means the total amount of contributions that have to be paid under the scheme in respect of the member by the employer and by the member.

(2C) The Secretary of State—

(a) must apply the test in subsection (2A) when regulations under subsection (2)(b) are first made, and

(b) must carry out subsequent reviews of whether the test continues to be satisfied.

A review under paragraph (b) must be carried out during 2017, and after that each review must be completed no more than three years after the completion of the previous one.”

(7) In subsection (6)—

(a) in paragraph (e) for “any jobholder” substitute “any relevant jobholder”;

(b) in paragraph (f) for “jobholders” substitute “relevant jobholders”.

(8) In section 32 of the 2008 Act (power to modify by resolution) in subsection (1)(b) for the words after “the scheme” substitute “to satisfy—

(i) the requirements contained in section 20(1),

(ii) those requirements as modified under section 24(1)(a), or

(iii) a requirement prescribed under section 28(2)(b).”

#### Commencement Information

**I18** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I19** S. 12 in force at 6.3.2012 in so far as not already in force by S.I. 2012/682, art. 2(b)

### 13 Certification for non-UK schemes

(1) Section 28 of the 2008 Act is amended as follows.

(2) After subsection (3) insert—

“(3A) This section also applies to—

(a) a money purchase scheme that is an occupational pension scheme within section 18(b);

(b) a personal pension scheme of a prescribed description for which provision is made under section 27;

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- (c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.”
- (3) In subsection (4) at the end insert—
- “(d) for a scheme within subsection (3A), means a prescribed requirement.”
- (4) In paragraphs (e) and (f) of subsection (6) for “section 26 agreements” substitute “contribution agreements”.
- (5) In subsection (8)—
- (a) for ““section 26 agreements” means the agreement” substitute ““contribution agreements” means—
- “(a) the agreement”;
- (b) at the end insert “, or
- (b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.”

#### Commencement Information

**I20** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I21** S. 13 in force at 6.3.2012 in so far as not already in force by S.I. 2012/682, art. 2(c)

### 14 Transitional period for defined benefits and hybrid schemes to be optional

- (1) Section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (2) In subsection (3) for “Where this subsection applies” substitute “ If by the end of the prescribed period the employer has given the jobholder notice that the employer intends to defer automatic enrolment until the end of the transitional period for defined benefits and hybrid schemes ”.
- (3) In subsection (4) for “at any time” substitute “ a notice is given under subsection (3) and at any later time ”.
- (4) After subsection (7) insert—
- “(7A) The Secretary of State may by regulations make provision about the form and content of a notice under subsection (3).”

#### Commencement Information

**I22** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I23** S. 14 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(1)(d)

### 15 Arrangements where transitional conditions cease to be satisfied

- (1) Section 30 of the 2008 Act is amended as follows.

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(2) In subsection (5) after “money purchase scheme” insert “ or personal pension scheme”.

(3) In subsection (6)(b) omit “(in accordance with section 20(1))”.

#### Commencement Information

**I24** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I25** S. 15 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(1)(e)

### 16 Power of managers to modify by resolution

In section 32 of the 2008 Act (power of trustees to modify by resolution) in subsection (1) and in the heading after “trustees” insert “ or managers”.

#### Commencement Information

**I26** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I27** S. 16 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(2)(b)

### 17 No indemnification for civil penalties

In section 256 of the Pensions Act 2004 (no indemnification for fines or civil penalties) in subsection (1)(b)—

(a) for “or section” substitute “, section”;

(b) after “1993 (c. 48)” insert “ or section 40 or 41 of the Pensions Act 2008”.

#### Commencement Information

**I28** Pt. 2 (ss. 4-18) partly in force; Pt. 2 (ss. 4-18) in force at 3.11.2011 in so far as it confers power to make subordinate legislation see s. 38(1).

**I29** S. 17 in force at 30.6.2012 in so far as not already in force by S.I. 2012/1681, art. 2(2)(c)

### <sup>F4</sup>18 Power to exempt certain cross-border employment from enrolment duty

.....

#### Textual Amendments

**F4** S. 18 repealed (11.9.2014) by Pensions Act 2014 (c. 19), ss. 38(3)(c), 56(1); S.I. 2014/2377, art. 2(1)(a)(i)(2)(c)

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## PART 3

### OCCUPATIONAL PENSION SCHEMES

#### *Indexation and revaluation*

#### **19 Indexation and revaluation**

- (1) Section 84 of the Pension Schemes Act 1993 (basis of revaluation of accrued benefits) is amended as follows.
- (2) In subsection (5)(b) for the words from “maintains” to “index” substitute “, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain ”.
- (3) Omit subsection (6).
- (4) Schedule 3 to the 1993 Act (which sets out methods for revaluing accrued benefits for the purposes of section 84 of the 1993 Act) is amended as follows.
- (5) After paragraph 1(4) insert—
  - “(5) The sub-paragraphs above are subject to sub-paragraph (6).
  - (6) If paragraph 2A applies to the pension or other benefit, the final salary method is to apply the requirement of the rules of the scheme mentioned in paragraph 2A(1).”
- (6) After paragraph 2 insert—
  - “2A
    - (1) This paragraph applies to the pension or other benefit if the rules of the scheme under which it is payable contain a requirement that the accrued benefit be revalued by adding to the accrued benefit an amount of at least the relevant amount.
    - (2) “The accrued benefit” has the same meaning as in paragraph 1.
    - (3) “The relevant amount” means the amount which, ignoring paragraph 1(5) and (6), would be the additional amount specified in paragraph 1(1A), (1B), (1C) or (1D) (as the case may be) were the appropriate higher revaluation percentage and the appropriate lower revaluation percentage to be determined on the following basis.
    - (4) The higher revaluation percentage and the lower revaluation percentage for the revaluation period mentioned in paragraph 2(7) are to be taken to be the percentages which would have been specified in the Secretary of State's order—
      - (a) had the following been substituted for paragraph 2(3)(a)—
        - “(a) the percentage increase in the retail prices index for the reference period in relation to the revaluation period (“the inflation percentage”), and”,
      - (b) had, in paragraph 2(3A)(a), the words “the percentage which appears to the Secretary of State to be” been omitted,
      - (c) had paragraph 2(4) been omitted,

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- (d) had, in paragraph 2(5), the words “sub-paragraph (3)(a)” been substituted for “that sub-paragraph”,
  - (e) had, in paragraph (b) of the definitions of “the higher maximum rate” and “the lower maximum rate” in paragraph 2(6), the words “retail prices index” been substituted for “general level of prices”, and
  - (f) had the following been inserted after paragraph 2(6)—
    - “(6A) In this paragraph “retail prices index” means—
      - (a) the general index of retail prices (for all items) published by the Statistics Board (or any predecessor), or
      - (b) where that index is not published for a month, any substituted index or figures published by the Board (or any predecessor).”
- (7) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.
- (8) For subsections (3) and (4) substitute—
- “(3) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being being increased at intervals of not more than twelve months by at least the relevant percentage.
  - (4) For the purposes of subsection (3) the relevant percentage is—
    - (a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
    - (b) if lower, the default percentage for that period.
- (4ZA) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if subsection (4ZB) applies to the rate or part.
- (4ZB) Subject to subsection (4ZD), this subsection applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being being increased, and since the relevant time has always been increased, at intervals of not more than twelve months by at least—
- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
  - (b) if lower, the default percentage for that period.
- (4ZC) In subsection (4ZB) “the relevant time” means—
- (a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
  - (b) if the pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.
- (4ZD) If the pension was transferred to the scheme as mentioned in subsection (4ZC) (b), subsection (4ZB) does not apply to the rate or part unless, immediately before the transfer, subsection (4ZB) (read with this subsection if relevant) applied to the rate or part by reference to the scheme from which the pension



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was transferred (or would have applied had subsection (4ZB) been in force immediately before the transfer).

(4ZE) If only part of the pension is attributable to pensionable service or, as the case may be, to payments in respect of employment carried on on or after the appointed day, in subsections (3) to (4ZD) references to the annual rate of the pension are references to so much of that rate as is attributable to that part.

(4ZF) For the purposes of subsections (4) and (4ZB) the default percentage for a period is the percentage for that period which corresponds to—

- (a) in the case of a category X pension, 5% per annum, and
- (b) in the case of a category Y pension, 2.5% per annum.

(4ZG) In subsections (4) and (4ZB)—

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.”

(9) Section 40 of the Welfare Reform and Pensions Act 1999 (indexation of certain pensions giving effect to pension credit rights) is amended as follows.

(10) In subsection (1) for “increases in the retail prices index” substitute “ relevant percentage increases ”.

(11) After subsection (2A) insert—

“(2AA) In subsection (1) “relevant percentage increases” means percentage increases estimated by the Secretary of State from time to time for the purposes of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.”

#### Commencement Information

I30 S. 19 in force at 3.1.2012 by S.I. 2011/3034, art. 3(b)

## 20 Pension compensation: annual increases in periodic compensation

(1) In Schedule 7 to the Pensions Act 2004 (pension compensation provisions) paragraph 28 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (3) in paragraph (a) of the definition of “appropriate percentage” for “retail prices index” substitute “ general level of prices in Great Britain ”.

(3) After sub-paragraph (3) insert—

“(3A) For the purposes of paragraph (a) of the definition of “appropriate percentage” in sub-paragraph (3), the Secretary of State may (from time to time) decide,

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as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.

(3B) The Secretary of State must publish any decision made under sub-paragraph (3A).”

(4) In paragraph 37(1) of that Schedule (definitions) omit the definition of “retail prices index”.

(5) In Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) paragraph 17 (annual increase in periodic compensation) is amended as follows.

(6) In sub-paragraph (4) in paragraph (a) of the definition of “the appropriate percentage” for “retail prices index” substitute “ general level of prices in Great Britain ”.

(7) After sub-paragraph (4) insert—

“(4A) For the purposes of paragraph (a) of the definition of “the appropriate percentage” in sub-paragraph (4), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.

(4B) The Secretary of State must publish any decision made under sub-paragraph (4A).”

#### Commencement Information

I31 S. 20 in force at 1.1.2012 by S.I. 2011/3034, art. 2

## 21 Indexation requirements for cash balance benefits

(1) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.

(2) In subsection (1) for “subsection (6)” substitute “ subsections (6) and (7) ”.

(3) After subsection (6) insert—

“(7) This section does not apply to any pension (or part of a pension) under a relevant occupational pension scheme which—

- (a) is a cash balance benefit (see section 51ZB), and
- (b) first comes into payment on or after the day on which section 21 of the Pensions Act 2011 comes into force.

(8) An occupational pension scheme is a “relevant occupational pension scheme” if—

- (a) it has not, on or after the appointed day, been contracted-out by virtue of satisfying section 9(2) of the Pension Schemes Act 1993, or
- (b) it has, on or after the appointed day, been so contracted-out, but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to the period on or after that day when it was so contracted-out.”

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(4) After section 51ZA of the Pensions Act 1995 insert—

**“51ZB Meaning of “cash balance benefit”**

- (1) For the purposes of section 51(7)(a), a pension provided to or in respect of a member of an occupational pension scheme is a “cash balance benefit” if conditions 1 and 2 are met.
- (2) Condition 1 is that the rate of the pension is calculated by reference to a sum of money (“the available sum”) which is available under the scheme for the provision of benefits to or in respect of the member.
- (3) Condition 2 is that under the scheme—
  - (a) there is a promise about the amount of the available sum, but
  - (b) there is no promise about the rate or amount of the benefits to be provided.
- (4) The promise mentioned in subsection (3)(a) includes in particular a promise about the change in the value of, or the return from, payments made under the scheme by the member or by any other person in respect of the member.
- (5) The promise mentioned in subsection (3)(b) includes a promise that—
  - (a) the amount of the available sum will be sufficient to provide benefits of a particular rate or amount;
  - (b) the rate or amount of a benefit will represent a particular proportion of the available sum.
- (6) But a pension is not prevented from being a cash balance benefit merely because under the scheme there is a promise that—
  - (a) the rate or amount of a benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of a benefit which was (or would have been) payable to the member;
  - (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.”

**Commencement Information**

**I32** S. 21 in force at 3.1.2012 by S.I. 2011/3034, art. 3(c)

*Pension Protection Fund*

**22 Pension Protection Fund**

Schedule 4 (which makes provision relating to the Pension Protection Fund) has effect.

**Commencement Information**

**I33** S. 22 in force at 3.1.2012 for specified purposes by S.I. 2011/3034, art. 3(d)

**I34** S. 22 in force at 23.7.2012 for specified purposes by S.I. 2012/1681, art. 3(a)

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**I35** S. 22 in force at 13.3.2013 in so far as not already in force by S.I. 2013/585, art. 2(a)

### *Financial assistance scheme*

## **23 Financial assistance scheme: amount of payments**

(1) In section 286 of the Pensions Act 2004 (financial assistance scheme) after subsection (1B) insert—

“(1C) Regulations under subsection (1) may prescribe circumstances in which subsection (1A) does not apply.”

(2) In section 18 of the Pensions Act 2007 (financial assistance scheme: increased levels of payments) after subsection (9) insert—

“(9A) The Secretary of State may by regulations—

- (a) prescribe circumstances in which subsections (5) and (6) do not apply where the scheme manager has made a determination as specified in subsection (4), and
- (b) make alternative provision for the amount of any initial payment payable to the member or the survivor of the member in those circumstances,

and, accordingly, subsection (8) does not apply in those circumstances.”

(3) In that section in subsection (10) (affirmative resolution procedure) after “subsection (9)” insert “or (9A)”.

#### **Commencement Information**

**I36** S. 23 in force at 3.1.2012 by S.I. 2011/3034, art. 3(e)

## **24 Financial assistance scheme: transfer of assets**

In section 286 of the Pensions Act 2004 (financial assistance scheme) in subsection (3) (c) (power to make provision for property, rights and liabilities of qualifying pension schemes to be transferred to the scheme manager) for “the scheme manager” substitute “a prescribed person”.

#### **Commencement Information**

**I37** S. 24 in force at 3.1.2012 by S.I. 2011/3034, art. 3(e)

### *Miscellaneous*

## **25 Payment of surplus to employer: transitional power to amend scheme**

(1) Section 251 of the Pensions Act 2004 (payment of surplus to employer: transitional power to amend scheme) is amended as follows.

(2) In subsection (1) after “scheme” insert—

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- “(a) which is one to which section 37 of the Pensions Act 1995 applies,  
and
- (b)”.

(3) After subsection (2) insert—

“(2A) But subsection (2) does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”

(4) In subsection (3) for “then applied” substitute “ applied immediately before the commencement of section 250 ”.

(5) In subsection (6)—

(a) after paragraph (a) insert—

“(aa) may be exercised even if the payments to which it relates are, to any extent, payments to which subsection (2) does not apply,”;

(b) in paragraph (b) for “only be exercised once” substitute “ be exercised, after the commencement of section 25 of the Pensions Act 2011, only once (whether or not also exercised before 6 April 2011) ”;

(c) in paragraph (c) for “five years after the commencement of this section” substitute “ on 6 April 2016 ”.

(6) After subsection (6) insert—

“(6A) A resolution passed under this section after the commencement of section 25 of the Pensions Act 2011 may amend or revoke a resolution passed under this section before 6 April 2011.”

(7) The amendments made by this section do not affect the continued operation of any resolution passed under section 251(3) or (4) of the 2004 Act before 6 April 2011.

## **26 Contribution notices and financial support directions**

(1) Section 38 of the Pensions Act 2004 (contribution notices where avoidance of employer debt) is amended as follows.

(2) In subsections (5)(c)(i) and (6)(b)(ii) for “determination by the Regulator to exercise the power to issue” substitute “ giving of a warning notice in respect of ”.

(3) After subsection (13) insert—

“(14) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”

(4) Section 43 of the Pensions Act 2004 (financial support directions) is amended as follows.

(5) In subsection (9) for “determination by the Regulator to exercise the power to issue” substitute “ giving of a warning notice in respect of ”.

(6) After subsection (11) insert—

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“(12) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”

(7) In section 96 of the Pensions Act 2004 (exercise of regulatory functions: standard procedure) after subsection (6) insert—

“(6A) Subsection (6B) applies in relation to a warning notice given to a person—

- (a) in respect of a contribution notice under section 38, or
- (b) in respect of a financial support direction under section 43.

(6B) Regulations may provide that no determination notice in respect of the contribution notice or the financial support direction may be given after the end of the prescribed period beginning with the day on which the warning notice is given.”

#### Commencement Information

**I38** S. 26 in force at 3.1.2012 by S.I. 2011/3034, art. 3(f)

## 27 Technical amendment to Schedule 4 to the Pensions Act 2007

In Schedule 4 to the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes) in paragraph 60(4) for paragraphs (b) and (c) substitute—

- “(b) in the definition of “the percentage for contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”;
- (c) in the definition of “the percentage for non-contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme,”;
  - (ii) omit paragraph (b) and the preceding “and”.

## 28 Technical amendment to section 42(6) of the Pension Schemes Act 1993

(1) In section 42 of the Pension Schemes Act 1993 (review and alteration of rates of contributions applicable under section 41) in subsection (6) for “paragraph 2(3)” substitute “the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)”.

(2) After that subsection insert—

“(7) Until paragraph 60(4) of Schedule 4 to the Pensions Act 2007 comes into force, subsection (6) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.”

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## PART 4

### MONEY PURCHASE BENEFITS

#### Modifications etc. (not altering text)

- C1** Pt. 4 excluded (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), 6, 41, 44(1), 47(1), 72(1), 76(1); coming into force immediately after s. 29 of Pensions Act 2011 - see S.I. 2014/1683, art. 2

## 29 Definition of money purchase benefits

- (1) In section 181 of the Pension Schemes Act 1993 (interpretation), in the definition of “money purchase benefits” in subsection (1), for “which are not average salary benefits” substitute “ which fall within section 181B ”.
- (2) After section 181A of that Act insert—

#### “181B Money purchase benefits: supplementary

- (1) This section applies for the purposes of the definition of “money purchase benefits” in section 181(1).
  - (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.
  - (3) A benefit which is a pension in payment falls within this section if—
    - (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
    - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
  - (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
  - (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004).”
- (3) In section 99 of the Pensions Act 2008 (interpretation) in the definition of “money purchase benefits” for “which are not average salary benefits” substitute “ which fall within section 99A ”.
  - (4) After that section insert—

#### “99A Money purchase benefits: supplementary

- (1) This section applies for the purposes of the definition of “money purchase benefits” in section 99.

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- (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.
- (3) A benefit which is a pension in payment falls within this section if—
- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
- (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."
- (5) In paragraph 1(2) of Schedule 10A to the Building Societies Act 1986 (disclosures about directors etc), in the definition of "money purchase benefits", for "which are not average salary benefits" substitute " which fall within paragraph 1A "
- (6) In that Schedule, after paragraph 1 insert—
- "1A (1) This paragraph applies for the purposes of the definition of "money purchase benefits" in paragraph 1(2).
- (2) A benefit other than a pension in payment falls within this paragraph if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the director.
- (3) A benefit which is a pension in payment falls within this paragraph if—
- (a) its provision to or in respect of the director is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this paragraph by virtue of sub-paragraph (2).
- (4) For the purposes of sub-paragraph (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this paragraph references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."
- (7) The amendments made by subsections (1) and (2) are to be regarded as having come into force on 1 January 1997.
- (8) The amendments made by subsections (3) and (4) are to be regarded as having come into force at the same time as section 99 of the Pensions Act 2008.



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#### **Modifications etc. (not altering text)**

- C2** S. 29 restricted (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **69(2)** (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1)); coming into force immediately after s. 29 of 2011 c 19 - see S.I. 2014/1683, art. 2

#### **Commencement Information**

- I39** S. 29 in force at 24.7.2014 by [S.I. 2014/1683](#), **art. 2**

### **30 Transitional**

- (1) The Secretary of State may by regulations make transitional provision in relation to the coming into force of the amendments in section 29.
- (2) That provision includes in particular—
  - (a) provision disapplying the amendments in section 29 in relation to an occupational or personal pension scheme which is wound up before the coming into force of that section;
  - (b) provision disapplying the amendments in section 29 to any extent, or as regards any period, in respect of an occupational or personal pension scheme in relation to which those amendments would otherwise have applied on the coming into force of that section;
  - (c) provision modifying the application of an enactment in respect of an occupational or personal pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section;
  - (d) provision requiring trustees or managers of an occupational pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section to obtain an actuarial valuation of a description specified in the regulations.
- (3) In subsection (2) “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act 1993.

### **31 Consequential and supplementary**

- (1) The Secretary of State may by regulations make consequential or supplementary provision in relation to the amendments made by section 29.
- (2) In section 307 of the Pensions Act 2004 (modification of Act) in subsection (2) after paragraph (b) insert—

“(ba) Part 3 (scheme funding),”.

### **32 Power to make further provision**

- (1) The Secretary of State may by regulations amend for any [<sup>F5</sup>purpose—
  - (a) the] definition of “money purchase benefit” in the Pension Schemes Act 1993, the Pensions Act 2008 or Schedule 10A to the Building Societies Act 1986 [<sup>F6</sup>, or
  - (b) section 2 of the Pension Schemes Act 2021 (collective money purchase benefits: meaning of “qualifying benefits”).]

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- (2) Regulations under subsection (1) may in particular amend the provisions inserted by section 29 above [<sup>F7</sup>or by Schedule 1 to the Pension Schemes Act 2021].
- (3) Regulations under this section may include transitional, consequential or supplementary provision.

#### Textual Amendments

- F5** Words in s. 32(1)(a) substituted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), ss. 6(2)(a)(i), 131(1)(3)(a); S.I. 2022/721, regs. 1(2), 3(a)
- F6** S. 32(1)(b) and word inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), ss. 6(2)(a)(ii), 131(1)(3)(a); S.I. 2022/721, regs. 1(2), 3(a)
- F7** Words in s. 32(2) inserted (11.2.2021 for specified purposes, 1.8.2022 in so far as not already in force) by Pension Schemes Act 2021 (c. 1), ss. 6(2)(b), 131(1)(3)(a); S.I. 2022/721, regs. 1(2), 3(a)

### 33 Regulations

- (1) Regulations under this Part may—
  - (a) make different provision for different cases (including different provision for pension schemes of different descriptions);
  - (b) provide for a person to exercise a discretion in dealing with any matter;
  - (c) amend Acts (as well as other enactments);
  - (d) have retrospective effect.
- (2) Regulations under this Part must be made by statutory instrument.
- (3) A statutory instrument containing regulations under this Part which amend an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument containing any other regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

## PART 5

### JUDICIAL PENSIONS

### 34 Contributions towards cost of judicial pensions etc

- (1) After section 9 of the Judicial Pensions and Retirement Act 1993 insert—

#### *“Contributions*

##### **9A Contributions towards cost of judicial pension etc**

- (1) The appropriate Minister may, by regulations made with the concurrence of the Treasury, make provision for and in connection with requiring contributions to be made towards the cost of the liability for relevant benefits.
- (2) The prescribed contributions are to be—

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- (a) made by the person to or in respect of whom the relevant benefits are to be, or may be, provided;
  - (b) made for the person's period of service in qualifying judicial office;
  - (c) in the form of deductions from the salary payable for that service.
- (3) But no contribution is to be made by a person—
- (a) for any period of service during which an election under section 13 is in force in respect of the person;
  - (b) for any period of service after the person has completed, in the aggregate, 20 years' service in qualifying judicial office;
  - (c) for any other prescribed period of service;
  - (d) in any prescribed circumstances.
- (4) For the purposes of subsection (3)(b), it does not matter whether the person's service in qualifying judicial office was service before or after the commencement of section 34(1) of the Pensions Act 2011 (but no contribution is to be made for a person's service before that commencement).
- (5) In this section—
- “prescribed” means specified in, or determined in accordance with, regulations;
  - “relevant benefits” means—
    - (a) a pension under section 2;
    - (b) a lump sum under section 4;
    - (c) payments by way of pension or lump sum under section 19, so far as relating to a pension or lump sum within paragraph (a) or (b).”
- (2) Schedule 5 (which makes provision for contributions towards the cost of certain other judicial pensions etc) has effect.

#### Commencement Information

**I40** S. 34 in force at 3.1.2012 by S.I. 2011/3034, art. 3(g)

## PART 6

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **35 Grants by the Secretary of State to advisory bodies etc**

- (1) Section 174 of the Pension Schemes Act 1993 (grants by the Pensions Regulator to advisory bodies etc) is amended as follows.
- (2) After subsection (2) insert—
- “(3) The Secretary of State may make grants on such terms and conditions as the Secretary of State thinks fit to any person or body of persons providing advice

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or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.”

- (3) For the heading substitute “ Grants to advisory bodies etc ”.

#### Commencement Information

**I41** S. 35 in force at 3.1.2012 by S.I. 2011/3034, art. 3(h)

### 36 Service of documents and electronic working

- (1) After section 144 of the Pensions Act 2008 insert—

#### “144A Service of documents and electronic working

In sections 303 to 305 of the Pensions Act 2004 (service of documents and electronic working) references to that Act are to be treated as including references to the following provisions of this Act—

Chapters 2 and 3 of Part 1;  
section 60(1)(c);  
Chapter 1 of Part 3.”

- (2) In section 60 of that Act (requirement to keep records) in subsection (1)(c) for “, on request, to the Regulator” substitute “ to the Regulator on receiving a notification requesting them ”.
- (3) In section 150 of that Act (extent) in subsection (2)(f) for “143 to 146” substitute “ 143, 144, 145 and 146 ”.

#### Commencement Information

**I42** S. 36 in force at 30.6.2012 by S.I. 2012/1681, art. 2(2)(d)

### General

### 37 Extent

An amendment or repeal by this Act has the same extent as the enactment amended or repealed.

### 38 Commencement

- (1) Any provision of Part 2 that amends another Act so as—
- to modify a power to make an order or regulations, or
  - to confer any such power,
- comes into force, for the purposes of the exercise of the power, on the day on which this Act is passed.
- (2) The following provisions of this Act come into force on that day—
- sections 30 to 33;

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- (b) section 37;
  - (c) this section;
  - (d) section 39.
- (3) The following provisions of this Act come into force at the end of the period of 2 months beginning with that day—
- (a) section 1 (and Schedule 1);
  - (b) section 25;
  - (c) section 27;
  - (d) section 28.
- (4) The other provisions of this Act come into force in accordance with provision made by order by the Secretary of State.
- (5) An order under subsection (4) may appoint different days for different purposes.
- (6) The Secretary of State may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.
- (7) An order under subsection (4) or (6) is to be made by statutory instrument.

### **39 Short title**

This Act may be cited as the Pensions Act 2011.

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## SCHEDULES

### SCHEDULE 1

Section 1

#### EQUALISATION OF AND INCREASE IN PENSIONABLE AGE FOR MEN AND WOMEN: CONSEQUENTIAL AMENDMENTS

##### *Gas Act 1986 (c. 44)*

- 1 In section 48 of the Gas Act 1986 (interpretation of Part 1) in subsection (2B)(b) for “6th April 1955” substitute “ 6th December 1953 ”.

##### *Social Security Administration Act 1992 (c. 5)*

- 2 The Social Security Administration Act 1992 is amended as follows.
- 3 In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview) in subsection (1A) for “6 April 1955” substitute “ 6 December 1953 ”.
- 4 In section 2AA (full entitlement to certain benefits conditional on work-focused interview for partner) in subsection (1A) for “6 April 1955” substitute “ 6 December 1953 ”.
- 5 In section 2D (work-related activity) in subsection (9)(e) for “6 April 1955” substitute “ 6 December 1953 ”.

##### *Pensions Act 1995 (c. 26)*

- 6 In section 126 of the Pensions Act 1995 (equalisation of and increase in pensionable age etc) in paragraph (a) for the words from “progressively” (where it appears first) to the end of the paragraph substitute “ and then to increase it ”.

##### *Consumers, Estate Agents and Redress Act 2007 (c. 17)*

- 7 In section 6 of the Consumers, Estate Agents and Redress Act 2007 (general provision about functions of National Consumer Council) in subsection (10)(b) for “6 April 1955” substitute “ 6 December 1953 ”.

##### *Pensions Act 2007 (c. 22)*

- 8 The Pensions Act 2007 is amended as follows.
- 9 In section 13 (increase in pensionable age for men and women)—
- (a) in subsection (1) omit from “progressively” to the end;
- (b) in subsection (3) for “6th April 2024” substitute “ 6th December 2018 ”.
- 10 In Schedule 3 (increase in pensionable age for men and women) omit paragraph 4(4).

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**F8**SCHEDULE 2

Section 2

**Textual Amendments**

**F8** Sch. 2 repealed (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 97(a)**

**F9**SCHEDULE 3

Section 3

CONSOLIDATION OF ADDITIONAL PENSION

**Textual Amendments**

**F9** Sch. 3 repealed (1.10.2014) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 97(b)**; S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c)

*F9* Social Security Contributions and Benefits Act 1992 (c. 4)

- 1 .....
- 2 .....
- 3 .....
- 4 .....
- 5 .....
- 6 .....
- 7 .....

*F9* Social Security Administration Act 1992 (c. 5)

- 8 .....

*F9* Pension Schemes Act 1993 (c. 48)

- 9 .....
- 10 .....
- 11 .....

*F9* Pensions Act 2008 (c. 30)

- 12 .....
- 13 .....

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## SCHEDULE 4

Section 22

## PENSION PROTECTION FUND

*Requirements to obtain actuarial valuations*

1 The Pensions Act 2004 is amended as follows.

**Commencement Information**

- I43** Sch. 4 para. 1 in force at 3.1.2012 for specified purposes by S.I. 2011/3034, art. 3(i)(i)  
**I44** Sch. 4 para. 1 in force at 23.7.2012 for specified purposes by S.I. 2012/1681, art. 3(b)(i)  
**I45** Sch. 4 para. 1 in force at 13.3.2013 in so far as not already in force by S.I. 2013/585, art. 2(b)(i)

- 2 In section 58(3) (right to apply under section 423 of the Insolvency Act 1986)—
- (a) for the words from “an actuarial” to the first “scheme” substitute “ a determination made, or actuarial valuation obtained, in respect of the scheme by the Board of the Pension Protection Fund under section 143(2) ”, and
  - (b) for “that section” substitute “ section 143 ”.

**Commencement Information**

- I46** Sch. 4 para. 2 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 3 (1) Section 141 (effect of review of ill-health pension) is amended as follows.
- (2) In subsection (4) after “which” insert “ a determination under section 143(2)(a) or ”.
  - (3) In subsection (5)(a) after “first” insert “ makes a determination under section 143(2) (a) or ”.

**Commencement Information**

- I47** Sch. 4 para. 3 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 4 In section 142(1) (interpretation) in the definition of “scheme valuation” for “143” substitute “ 143(2)(b) ”.

**Commencement Information**

- I48** Sch. 4 para. 4 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 5 (1) Section 143 (Board's obligation to obtain valuation of assets and protected liabilities) is amended as follows.
- (2) For subsection (2) substitute—
    - “(2) The Board must, as soon as reasonably practicable—
      - (a) determine whether the condition in subsection (2)(a) of the section in question is satisfied, or



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- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation of the scheme as at the relevant time.
- (2A) Before doing so, it must give a notice stating whether it will make a determination under subsection (2)(a) or obtain an actuarial valuation under subsection (2)(b) to—
  - (a) the trustees or managers of the scheme, and
  - (b) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.”
- (3) In subsection (3) for “those purposes” substitute “ the purposes of this section ”.
- (4) In subsection (4) for “this section” substitute “ a determination made under subsection (2)(a) or an actuarial valuation obtained under subsection (2)(b) ”.
- (5) In subsection (5B) for “mentioned in subsection (2)” substitute “ of this section ”.
- (6) After subsection (5B) insert—

“(5C) The Board must issue a statement setting out how (subject to any provision made under subsection (4)) it will make determinations under subsection (2) (a).”
- (7) In subsection (6)—
  - (a) after “subsection (4),” insert “ for the purposes of an actuarial valuation obtained under subsection (2)(b) ”, and
  - (b) for “paragraphs (a) and (b) of that subsection” substitute “ subsection (4)(a) and (b) ”.
- (8) In subsection (9)—
  - (a) for “requires the” substitute “ requires a determination to be made, or an ”, and
  - (b) after “purposes of” insert “ the determination or ”.
- (9) In subsection (10) for “requires the” substitute “ requires a determination to be made, or an ”.
- (10) In subsection (11)(b)(ii) after “first” insert “ makes a determination under subsection (2)(a) or ”.

#### Commencement Information

**I49** Sch. 4 para. 5 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

6 After section 143 insert—

#### “143A Determinations under section 143

- (1) Where the Board makes a determination under section 143(2)(a) it must give a copy of the determination to—
  - (a) the Regulator,
  - (b) the trustees or managers of the scheme, and
  - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.

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- (2) For the purposes of this Chapter a determination under section 143(2)(a) is not binding until—
- (a) the period within which the determination may be reviewed by virtue of Chapter 6 has expired, and
  - (b) if the determination is so reviewed—
    - (i) the review and any reconsideration,
    - (ii) any reference to the PPF Ombudsman in respect of the determination, and
    - (iii) any appeal against the PPF Ombudsman's determination or directions,
 has been finally disposed of.
- (3) For the purposes of determining whether or not the condition in section 127(2)(a) or, as the case may be, section 128(2)(a) (condition that scheme assets are less than protected liabilities) is satisfied in relation to a scheme, a binding determination under section 143(2)(a) is conclusive.
- This subsection is subject to section 172(3) and (4) (treatment of fraud compensation payments).
- (4) Where a determination under section 143(2)(a) becomes binding under this section the Board must as soon as reasonably practicable give a notice to that effect together with a copy of the binding determination to—
- (a) the Regulator,
  - (b) the trustees or managers of the scheme, and
  - (c) any insolvency practitioner in relation to the employer or, if there is no such insolvency practitioner, the employer.
- (5) A notice under subsection (4) must be in the prescribed form and contain the prescribed information.”

**Commencement Information**

**I50** Sch. 4 para. 6 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 7 (1) Section 144 (approval of valuation) is amended as follows.
- (2) In subsection (1) for “143” substitute “ 143(2)(b) ”.
- (3) In subsection (2) for “that section” substitute “ section 143 ”.

**Commencement Information**

**I51** Sch. 4 para. 7 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 8 In section 145(1) (binding valuations) for “143” substitute “ 143(2)(b) ”.

**Commencement Information**

**I52** Sch. 4 para. 8 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

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- 9 (1) Section 151 (application for Board to assume responsibility for schemes) is amended as follows.
- (2) In subsections (2)(b) and (3)(b) for the words from “the valuation” to “scheme” substitute “ the determination made by the Board or valuation obtained by the Board in respect of the scheme under section 143(2) ”.
- (3) In subsection (6)—
- (a) in paragraphs (a)(ii) and (b)(ii) after “binding” insert “ determination or ”, and
- (b) in paragraph (a)(ii) for “section” substitute “ subsection ”.
- (4) In subsection (10) for “under that section” substitute “ under section 143(2)(b) ”.

**Commencement Information**

**I53** Sch. 4 para. 9 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 10 In section 154(5)(b) (requirement to wind up scheme) after “that the” insert “ determination made by the Board or ”.

**Commencement Information**

**I54** Sch. 4 para. 10 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

- 11 (1) Section 158 (Board's duty to assume responsibility for closed schemes) is amended as follows.
- (2) For subsection (3) substitute—
- “(3) The Board must, as soon as reasonably practicable—
- (a) determine whether the condition in subsection (1) is satisfied, or
- (b) for the purposes of determining whether that condition is satisfied, obtain an actuarial valuation (within the meaning of section 143) of the scheme as at the relevant time.
- (3A) Before doing so, it must give the trustees or managers of the scheme a notice stating whether it will make a determination under subsection (3)(a) or obtain an actuarial valuation under subsection (3)(b).”
- (3) In subsection (4) for “those purposes as it applies for the purposes mentioned in subsection (2)” substitute “ the purposes of this section as it applies for the purposes ”.
- (4) In subsection (5)—
- (a) for “a valuation obtained under subsection (3)” substitute “ a determination made under subsection (3)(a) and a valuation obtained under subsection (3)(b) ”,
- (b) for “a valuation obtained under section 143” substitute “ a determination made under section 143(2)(a) and a valuation obtained under section 143(2)(b) ”, and
- (c) after paragraph (a) insert—

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“(aa) section 143A (determinations under section 143), other than subsections (1)(c) and (4)(c) (duty to give copy of determinations to employer's insolvency practitioner);”.

(5) In subsection (6)—

- (a) after “sections 143” insert “, 143A ”,
- (b) omit “and” at the end of paragraph (a), and
- (c) after that paragraph insert—

“(aa) subsection (3) of section 143A applies as if the reference to section 128(2)(a) included a reference to subsection (1) of this section, and”.

#### Commencement Information

**I55** Sch. 4 para. 11 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

12 (1) Section 160 (transfer notice) is amended as follows.

(2) In subsection (3) for “valuation obtained under section 143” substitute “determination made or valuation obtained under section 143(2)”.

(3) In subsection (4) after “until the” insert “determination made or”.

#### Commencement Information

**I56** Sch. 4 para. 12 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

13 (1) Schedule 9 (reviewable matters) is amended as follows.

(2) For paragraph 8 substitute—

“7B A notice under section 143(2A) (whether Board will make a determination or obtain an actuarial valuation).

7C The failure by the Board either to—

- (a) make a determination under section 143(2)(a), or
- (b) obtain an actuarial valuation under section 143(2)(b).

7D A determination by the Board under section 143(2)(a) (whether condition in section 127(2)(a) or 128(2)(a) satisfied).”

(3) After paragraph 14 insert—

“14A A notice under section 158(3A) (whether Board will make a determination or obtain an actuarial valuation).

14B The failure by the Board either to—

- (a) make a determination under section 158(3)(a), or
- (b) obtain an actuarial valuation under section 158(3)(b).

14C A determination by the Board under section 158(3)(a) (whether condition in section 158(1) satisfied).”

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#### Commencement Information

**I57** Sch. 4 para. 13 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(ii)

#### *Requirement to obtain protected benefits quotation*

- 14 In section 151(4)(a) of the Pensions Act 2004 (application for Board to assume responsibility for scheme) after “form,” insert “ or evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, ”.

#### Commencement Information

**I58** Sch. 4 para. 14 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(iii)

- 15 (1) Section 152 of the Pensions Act 2004 (Board's duty to assume responsibility for scheme) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Subsection (2) applies where the application is accompanied by a protected benefits quotation.”
- (3) After subsection (2) insert—
- “(2A) Subsection (2B) applies where—
- (a) the application is accompanied by evidence in the prescribed form which shows that the trustees or managers of the scheme have taken all reasonable steps to obtain a protected benefits quotation but were unable to do so, and
- (b) the Board is satisfied that that is the case.
- (2B) The Board must assume responsibility for the scheme in accordance with this Chapter if it is satisfied that the value of the assets of the scheme at the reconsideration time is less than the amount of the protected liabilities at that time.”
- (4) In subsection (3)—
- (a) after “subsection (2)” insert “ or (2B) ”, and
- (b) for “a determination notice” substitute “ a notice to that effect (a “determination notice”) ”.
- (5) Omit subsection (4).
- (6) In subsection (5)—
- (a) after “in subsection (2)” insert “ or (2B) ”, and
- (b) for “under subsection (2)” substitute “ under that subsection ”.
- (7) Omit subsection (8).
- (8) In subsection (10) for “Regulations” substitute “ Where subsection (2) applies, regulations ”.
- (9) After subsection (10) insert—

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- “(10A) The Board may, for the purposes of subsection (2B), obtain its own valuation of the assets of the scheme and the protected liabilities of the scheme as at the reconsideration time (within the meaning of section 151).
- (10B) A valuation under subsection (10A) must be prepared in accordance with such requirements as may be prescribed.
- (10C) Section 143(3) to (6) applies in relation to a determination under subsection (2B) and a valuation under subsection (10A) as it applies in relation to a determination under section 143(2)(a) and an actuarial valuation obtained under section 143(2)(b).
- (10D) In the application of section 143 by virtue of subsection (10C)—
- (a) references to the relevant time are to be read as references to the reconsideration time (within the meaning of section 151), and
  - (b) references to the pre-approval period are to be read as references to the period which begins immediately after the reconsideration time, and ends immediately before the Board first issues a determination notice under this section.”

**Commencement Information**

**I59** Sch. 4 para. 15 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(iii)

- 16 In the following provisions of the Pensions Act 2004 after “152(2)” insert “or (2B)”
- (a) section 154(2)(c) (requirement to wind up certain schemes), and
  - (b) section 172(4) and (5)(c) (fraud compensation regime).

**Commencement Information**

**I60** Sch. 4 para. 16 in force at 23.7.2012 by S.I. 2012/1681, art. 3(b)(iii)

*Removal of restriction on transfer notices*

- 17 (1) The Pensions Act 2004 is amended as follows.
- (2) In section 160(7) (transfer notice)—
- (a) for “172(1) and (2)” substitute “ 172(2) ”, and
  - (b) omit “within first 12 months of assessment period or”.
- (3) Omit section 172(1) (no transfer notice within first 12 months of assessment period).

**Commencement Information**

**I61** Sch. 4 para. 17 in force at 3.1.2012 by S.I. 2011/3034, art. 3(i)(ii)

*Parliamentary control of subordinate legislation*

- 18 (1) Section 316(2) of the Pensions Act 2004 (subordinate legislation subject to affirmative procedure) is amended as follows.

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- (2) Omit paragraph (a) (the administration levy).
- (3) In paragraph (f) (the levy ceiling) after “ceiling” insert “ which is made by virtue of section 178(8) ”.
- (4) In paragraph (s) (the compensation cap) after “Fund)” insert “ except an order which is made by virtue of paragraph 27 of that Schedule ”.

#### Commencement Information

**I62** Sch. 4 para. 18 in force at 3.1.2012 by S.I. 2011/3034, art. 3(i)(iii)

#### *Pension credit members*

- 19 (1) Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.
  - (2) For paragraph 21 (pension credit members under normal benefit age at assessment date) substitute—

“21 (1) This paragraph applies to a person who—

    - (a) is a pension credit member of the scheme immediately before the assessment date, but
    - (b) has not attained normal benefit age before that date.

(2) But it applies only to the extent that the member's pension credit rights do not involve the member being credited by the scheme with notional pensionable service.

(3) Paragraphs 15, 18 and 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.

(4) In paragraph 15—

    - (a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,
    - (b) in sub-paragraph (4) for the words from “the aggregate of” to the end substitute “ the accrued amount ”, and
    - (c) for sub-paragraph (5) substitute—

“(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 the member attained normal benefit age on the transfer day.”

(5) In paragraph 18—

    - (a) for sub-paragraph (1)(b) substitute—

“(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.”, and

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- (b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.
- (6) In paragraph 19—
- (a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age,
  - (b) in sub-paragraph (4) for the words from “the aggregate of” to the end substitute “the accrued amount”,
  - (c) for sub-paragraph (5) substitute—
    - “(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 the member attained normal benefit age on the transfer day.”, and
  - (d) omit sub-paragraph (6).
- (7) In this paragraph “transfer day” has the meaning given by section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits).
- 21A(1) This paragraph applies to a person who—
- (a) is a pension credit member of the scheme immediately before the assessment date, but
  - (b) has not attained normal benefit age before that date.
- (2) But it applies only to the extent that the member's pension credit rights involve the member being credited by the scheme with notional pensionable service.
- (3) Paragraphs 15 to 19 apply to the pension credit member as they apply to a deferred member who has not attained normal pension age before the assessment date, subject to the following modifications.
- (4) In paragraph 15—
- (a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and
  - (b) for sub-paragraph (5) substitute—
    - “(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 the member attained normal benefit age on the transfer day.”
- (5) In paragraph 16(2)(a) for the words from “day after” to “ended” substitute “transfer day”.
- (6) In paragraph 17(2)(b) the reference to normal pension age is to be read as a reference to normal benefit age.
- (7) In paragraph 18—
- (a) for sub-paragraph (1)(b) substitute—
    - “(b) the pension was attributable (directly or indirectly) to a pension credit to which the deferred member



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became entitled under section 29(1)(b) of the Welfare Reform and Pensions Act 1999.”, and

(b) in sub-paragraph (3) the references to normal pension age are to be read as references to normal benefit age.

(8) In paragraph 19—

(a) in sub-paragraphs (1) and (2) the references to normal pension age are to be read as references to normal benefit age, and

(b) for sub-paragraph (5) substitute—

“(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 the member attained normal benefit age on the transfer day.”

(9) In this paragraph “transfer day” has the meaning given by section 29 of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits).”

(3) In each of the following after “21” insert “ or 21A ”

(a) paragraph 25(1) (early payment of compensation),

(b) paragraph 25(3) (as amended by paragraph 12 of Schedule 8 to the Pensions Act 2008),

(c) in paragraph 25B(4) (terminal illness lump sum) paragraph (b) of the definition of “relevant age”, and

(d) paragraph 28(8)(c) (annual increase in periodic compensation).

(4) In paragraph 36(5)(a) (meaning of “pensionable service”) after “credit” insert “ (except for the purposes of paragraphs 21 and 21A) ”.

**Commencement Information**

**I63** Sch. 4 para. 19 in force at 3.1.2012 by S.I. 2011/3034, art. 3(i)(iv)

20 In the Pensions Act 2008 omit paragraphs 10 and 11 of Schedule 8 (which amend paragraph 21 of Schedule 7 to the Pensions Act 2004).

**Commencement Information**

**I64** Sch. 4 para. 20 in force at 3.1.2012 by S.I. 2011/3034, art. 3(i)(iv)

*Postponement of compensation*

21 Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

**Commencement Information**

**I65** Sch. 4 para. 21 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

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- 22 For paragraph 25A (deferral of compensation) and the heading before it substitute—

*“Postponement of compensation*

- 25A(1) Regulations may prescribe circumstances in which, and conditions subject to which—
- (a) a person who becomes entitled to periodic compensation under paragraph 5, 8, 11 or 15 may elect to postpone the commencement of periodic compensation under that paragraph, and
  - (b) a person who becomes entitled to lump sum compensation under paragraph 7, 10, 14 or 19 may elect to postpone the payment of lump sum compensation under that paragraph.
- (2) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 ceases to be postponed, the Board must determine—
- (a) the amount mentioned in sub-paragraph (3)(a) of that paragraph, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and
  - (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.
- (3) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to periodic compensation, are to the difference between the amounts in sub-paragraphs (2)(a) and (2)(b).
- (4) Where the payment of lump sum compensation under paragraph 7, 10, 14 or 19 ceases to be postponed, the Board must determine—
- (a) the relevant amount, as at the time the lump sum compensation would have been payable if its payment had not been postponed, and
  - (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.
- (5) References in this Schedule to the amount of an actuarial increase under this paragraph, in relation to lump sum compensation, are to the difference between the amounts in sub-paragraphs (4)(a) and (4)(b).
- (6) In sub-paragraph (4) the “relevant amount” means (as appropriate)—
- (a) the amount mentioned in paragraph 7(2)(a),
  - (b) the aggregate of the amounts mentioned in paragraph 10(2)(a) and (b),
  - (c) the amount mentioned in paragraph 14(3)(a), or
  - (d) the amount mentioned in paragraph 19(3)(a).”

**Commencement Information**

**I66** Sch. 4 para. 22 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

- 23 (1) In paragraph 5(3) (periodic compensation for postponed pensioner at assessment date)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—

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- “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.
- (2) In paragraph 7(2) (lump sum compensation for postponed pensioner at assessment date) for the words from “the amount” to the end substitute “the aggregate of—
- (a) the amount of the scheme lump sum which would have been payable had the postponement ceased immediately before the assessment date, and
  - (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”
- (3) In paragraph 8(3) (periodic compensation for active member over pension age at assessment date)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—
    - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.
- (4) In paragraph 10(2) (lump sum compensation for active member over pension age at assessment date)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after paragraph (b) insert “, and
  - (c) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”
- (5) In paragraph 11(3) (periodic compensation for active member under pension age at assessment date)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—
    - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.
- (6) In paragraph 14(3) (lump sum compensation for active member under pension age at assessment date) for “the protected amount” substitute “the aggregate of—
- (a) the protected amount, and
  - (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”
- (7) In paragraph 15(3) (periodic compensation for deferred member under pension age at assessment date)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—

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- “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph, and”.
- (8) In paragraph 19(3) (lump sum compensation for deferred member under pension age at assessment date) for “the protected amount” substitute “the aggregate of—
- (a) the protected amount, and
  - (b) if the payment of compensation under this paragraph has been postponed for any period by virtue of paragraph 25A, the amount of the actuarial increase under that paragraph.”
- (9) In paragraph 26 (compensation cap)—
- (a) in sub-paragraphs (3)(c) and (6)(e) for “14(3)” substitute “ 14(3)(a) ”, and
  - (b) in sub-paragraphs (3)(e) and (6)(g) for “19(3)” substitute “ 19(3)(a) ”.

#### Commencement Information

**I67** Sch. 4 para. 23 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

- 24 (1) In paragraph 6 (periodic compensation for widow or widower of postponed pensioner at assessment date)—
- (a) in sub-paragraph (3) after “including” insert “ any actuarial increase under paragraph 25A and ”, and
  - (b) after sub-paragraph (3) insert—
 

“(3A) If, on the day the postponed pensioner (“P”) died, commencement of P’s periodic compensation under paragraph 5 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of P’s death.”
- (2) In paragraph 9 (periodic compensation for widow or widower of active member over pension age at assessment date)—
- (a) in sub-paragraph (3) after “including” insert “ any actuarial increase under paragraph 25A and ”, and
  - (b) after sub-paragraph (3) insert—
 

“(3A) If, on the day the active member (“A”) died, commencement of A’s periodic compensation under paragraph 8 was postponed by virtue of paragraph 25A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of A’s death.”
- (3) In paragraph 13 (periodic compensation for widow or widower of active member under pension age at assessment date)—
- (a) in sub-paragraph (3)(a) after “including” insert “ any actuarial increase under paragraph 25A and ”,
  - (b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—
 

“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and
  - (c) after sub-paragraph (3) insert—

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“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the active member (“A”) died commencement of A's periodic compensation under paragraph 11 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of A's death.”

(4) In paragraph 18 (periodic compensation for widow or widower of deferred member under pension age at assessment date)—

(a) in sub-paragraph (3)(a) after “including” insert “ any actuarial increase under paragraph 25A and ”,

(b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 25A).”, and

(c) after sub-paragraph (3) insert—

“(3ZA) For the purposes of sub-paragraph (3)(a), if on the day the deferred member (“D”) died commencement of D's periodic compensation under paragraph 15 was postponed by virtue of paragraph 25A, assume that the periodic compensation commenced immediately before the date of D's death.”

#### Commencement Information

**I68** Sch. 4 para. 24 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

25 In paragraph 24(1) (commutation of periodic compensation) for “becomes payable” substitute “ commences ”.

#### Commencement Information

**I69** Sch. 4 para. 25 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

26 (1) In paragraph 25B (eligibility for terminal illness lump sum)—

(a) in sub-paragraph (4) in the definition of “relevant age”—

(i) in paragraph (a) omit “or deferred” and “or (as the case may be) 25A”, and

(ii) in paragraph (b) omit “or deferred”, and

(b) after sub-paragraph (4) insert—

“(5) Sub-paragraph (6) applies where—

(a) the commencement of a person's periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or

(b) the payment of a person's lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph.

(6) This paragraph applies as if—

(a) the person first becomes entitled to compensation under the paragraph in question immediately after the period of postponement ends, and

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- (b) in sub-paragraph (1)(b), for “if the person lived to the relevant age, the person would become entitled on attaining that age” there were substituted “ if the period of postponement ended, the person would become entitled ”.”
- (2) In paragraph 25E (effect of successful application for terminal illness lump sum) after sub-paragraph (6) insert—

“(7) Where on the granting of the application—

- (a) the commencement of a person's periodic compensation under paragraph 11 or 15 is postponed by virtue of paragraph 25A, or
- (b) the payment of a person's lump sum compensation under paragraph 14 or 19 is postponed by virtue of that paragraph,

this paragraph applies as if the references to the person attaining the relevant age were references to the period of postponement ending.”

#### Commencement Information

**170** Sch. 4 para. 26 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

- 27 (1) Paragraph 28 (annual increase in periodic compensation) is amended as follows.
- (2) In sub-paragraph (3)—
- (a) in the definition of “underlying rate” for “any of the paragraphs mentioned in sub-paragraph (1)” substitute “ paragraph 3 or 22 ”, and
- (b) after that definition insert—
- ““underlying rate” means, in the case of periodic compensation under paragraph 5, 8, 11 or 15, 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,
- (b) so much of the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question as is attributable to post-1997 service, and
- (c) the amount within sub-paragraph (3)(b) of that paragraph immediately before the indexation date.”
- (3) In sub-paragraph (5)—
- (a) in paragraph (a) for the second “the” substitute “ each ”,
- (b) omit the “and” at the end of that paragraph, and
- (c) after paragraph (b) insert—
- “(c) for the purposes of sub-paragraph (2), the definition of “underlying rate” in the case of periodic compensation under paragraph 5, 8, 11 or 15 applies as if the reference in paragraph (b) of the definition to the amount mentioned in sub-paragraph (3)(aa) of the paragraph in question was a reference to that amount reduced by the commutation percentage, and
- (d) that amount (as so reduced) is attributable to post-1997 service and pre-1997 service in the same proportions as that

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amount would have been so attributable had no part of the periodic compensation been commuted.”

(4) After sub-paragraph (5) insert—

“(5A) The amount mentioned in sub-paragraph (3)(aa) of paragraph 5, 8, 11 or 15 is attributable—

- (a) to post-1997 service, in so far as it relates to 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) to pre-1997 service, in so far as it relates to so much of that amount as is attributable to pre-1997 service.

(5B) Where the commencement of periodic compensation under paragraph 5, 8, 11 or 15 has been postponed by virtue of paragraph 25A, this paragraph applies as if the person first becomes entitled to periodic compensation under the paragraph in question on the day on which the periodic compensation commences.”

#### Commencement Information

I71 Sch. 4 para. 27 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

28 (1) In paragraph 29 (Board's powers to alter rates of revaluation and indexation) after sub-paragraph (6) insert—

“(6A) A determination under sub-paragraph (2) which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of periodic compensation to a person is postponed by virtue of paragraph 25A, the determination applies as if the person first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

(2) In paragraph 30 (Secretary of State's powers to vary percentage paid as compensation) after sub-paragraph (6) insert—

“(6A) An order under this paragraph which has effect as mentioned in sub-paragraph (6)(b)(ii) may provide that, where the payment of compensation to a person is postponed by virtue of paragraph 25A, the order applies as if the person first becomes entitled to the compensation immediately after the period of postponement ends.”

#### Commencement Information

I72 Sch. 4 para. 28 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(ii)

#### *Pension compensation sharing: postponement of compensation*

29 Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) is amended as follows.

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#### Commencement Information

**I73** Sch. 4 para. 29 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 30 (1) Omit paragraph 11 (deferral of compensation).  
(2) In Part 4 after the Part heading insert—

*“Postponement of compensation*

- 16A(1) Regulations may prescribe circumstances in which, and conditions subject to which, a person who becomes entitled to periodic compensation under paragraph 4 or 6 may elect to postpone the commencement of periodic compensation under that paragraph.
- (2) Where the commencement of periodic compensation under paragraph 4 or 6 ceases to be postponed, the Board must determine—
- (a) the relevant amount, as at the time the periodic compensation would have commenced if its commencement had not been postponed, and
  - (b) the amount in paragraph (a), increased in accordance with actuarial factors published by the Board.
- (3) References in this Schedule to the amount of an actuarial increase under this paragraph are to the difference between the amounts in sub-paragraphs (2) (a) and (2)(b).
- (4) In sub-paragraph (2) the “relevant amount” means (as appropriate)—
- (a) the amount mentioned in paragraph 4(3)(a), or
  - (b) the aggregate of the amounts mentioned in paragraph 6(3)(a) and (b).”

#### Commencement Information

**I74** Sch. 4 para. 30 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 31 (1) In paragraph 4(3) (periodic compensation for transferee over pension compensation age on transfer day)—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—
    - “(aa) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.
- (2) In paragraph 4(4) (provisions to which paragraph 4 is subject) after “subject to” insert “ paragraph 16A (postponement of compensation) and ”.
- (3) In paragraph 6(3) (periodic compensation for transferee under pension compensation age on transfer day)—
- (a) omit “and” at the end of paragraph (b), and
  - (b) after that paragraph insert—



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“(ba) if the commencement of periodic compensation under this paragraph has been postponed for any period by virtue of paragraph 16A, the amount of the actuarial increase under that paragraph, and”.

- (4) In paragraph 6(4) (provisions to which paragraph 6 is subject)—
- (a) omit the entry for paragraph 11,
  - (b) omit “and” at the end of the entry for paragraph 15, and
  - (c) after that entry insert— “ paragraph 16A (postponement of compensation), and ”.

#### Commencement Information

**I75** Sch. 4 para. 31 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 32 (1) In paragraph 5 (periodic compensation for widow etc of transferee over pension compensation age on transfer day)—

- (a) in sub-paragraph (3) after “(including” insert “ any actuarial increase under paragraph 16A and ”, and
- (b) after sub-paragraph (3) insert—

“(3A) If, on the day the transferee (“T”) died, commencement of T’s periodic compensation under paragraph 4 was postponed by virtue of paragraph 16A, assume for the purposes of sub-paragraph (3) that the periodic compensation commenced immediately before the date of T’s death.”

- (2) In paragraph 7 (periodic compensation for widow etc of transferee under pension compensation age on transfer day)—

- (a) in sub-paragraph (3)(a) after “(see paragraph 8)” insert “ , any actuarial increase under paragraph 16A ”,
- (b) in sub-paragraph (3)(b) after sub-paragraph (ii) insert—

“(assuming commencement of the periodic compensation was not postponed by virtue of paragraph 16A).”, and

- (c) after sub-paragraph (3) insert—

“(3A) For the purposes of sub-paragraph (3)(a), if on the day the transferee (“T”) died commencement of T’s periodic compensation under paragraph 6 was postponed by virtue of paragraph 16A, assume that the periodic compensation commenced immediately before the date of T’s death.”

#### Commencement Information

**I76** Sch. 4 para. 32 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 33 In paragraph 9(1) (commutation of periodic compensation) for “becomes payable” substitute “ commences ”.

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#### Commencement Information

**I77** Sch. 4 para. 33 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 34 (1) In paragraph 12 (eligibility for terminal illness lump sum)—
- (a) in sub-paragraph (4) in the definition of “relevant age”—
    - (i) in paragraph (a) omit “or deferred” and “or (as the case may be) 11”, and
    - (ii) in paragraph (b) omit “or deferred”, and
  - (b) after sub-paragraph (4) insert—
    - “(5) Sub-paragraph (6) applies where the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A.
    - (6) This paragraph applies as if—
      - (a) the person first becomes entitled to compensation under paragraph 6 immediately after the period of postponement ends, and
      - (b) in sub-paragraph (1)(b), for “if the transferee lived to the relevant age, he or she would become entitled on attaining that age” there were substituted “ if the period of postponement ended, the transferee would become entitled ”.”
- (2) In paragraph 15 (effect of successful application for terminal illness lump sum) after sub-paragraph (3) insert—
- “(4) Where on the granting of the application the commencement of a person's periodic compensation under paragraph 6 is postponed by virtue of paragraph 16A, this paragraph applies as if the references to the transferee attaining the relevant age were references to the period of postponement ending.”

#### Commencement Information

**I78** Sch. 4 para. 34 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

- 35 (1) Paragraph 17 (annual increase in periodic compensation) is amended as follows.
- (2) In sub-paragraph (4) in the definition of “the underlying rate”—
- (a) omit “and” at the end of paragraph (a), and
  - (b) after that paragraph insert—
    - “(aa) so much of any actuarial increase under paragraph 16A as relates to the amount in paragraph (a), and”.
- (3) In sub-paragraph (7)—
- (a) after “references in” insert “ paragraph (a) of ”, and
  - (b) at the end insert “ (and paragraph (aa) of the definition applies accordingly). ”
- (4) After sub-paragraph (7) insert—

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“(7A) Where the commencement of periodic compensation has been postponed by virtue of paragraph 16A, this paragraph applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

**Commencement Information**

**I79** Sch. 4 para. 35 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

36 In paragraph 20 (Board's power to alter rates of revaluation and indexation) after sub-paragraph (5) insert—

“(5A) A determination under sub-paragraph (1)(b) which has effect as mentioned in sub-paragraph (5)(b)(ii) may provide that, where the payment of periodic compensation to the transferee is postponed by virtue of paragraph 16A, the determination applies as if the transferee first becomes entitled to the periodic compensation on the day on which the periodic compensation commences.”

**Commencement Information**

**I80** Sch. 4 para. 36 in force at 13.3.2013 by S.I. 2013/585, art. 2(b)(iii)

*Calculation of compensation: admissible rules etc*

37 (1) Schedule 7 to the Pensions Act 2004 (pension compensation provisions) is amended as follows.

(2) In paragraph 3(6) (pensions in payment at assessment date) for “35(3)” substitute “35(3A)”.

(3) In paragraph 5(5) (pensions postponed at assessment date) for “35(3)” substitute “35(3A)”.

(4) In paragraph 35 (admissible rules, recent discretionary increases etc)—  
(a) for sub-paragraph (3) substitute—

“(3) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent rule changes is that those liabilities are greater than they otherwise would be.

(3A) This sub-paragraph applies to a scheme if, in calculating the protected liabilities in relation to the scheme at the relevant time, the effect of taking into account any recent discretionary increases is that those liabilities are greater than they otherwise would be.”, and

(b) in sub-paragraph (4) for “sub-paragraph (3)” substitute “ sub-paragraphs (3) and (3A) ”.

**Commencement Information**

**I81** Sch. 4 para. 37 in force at 3.1.2012 by S.I. 2011/3034, art. 3(i)(v)

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## SCHEDULE 5

Section 34

### CONTRIBUTIONS TOWARDS COST OF JUDICIAL PENSIONS ETC

#### PART 1

#### CONTRIBUTIONS TOWARDS COST OF JUDICIAL PENSIONS

*District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960 (c. 2 (N.I.))*

- 1 (1) The District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960 is amended as follows.
- (2) Before section 9 (and after the heading “Contributions”) insert—

#### **Contributions towards cost of pension etc**

“8A (1) The Lord Chancellor may, by regulations made with the consent of the Treasury, make provision for and in connection with requiring contributions to be made towards the cost of the liability for relevant benefits.

- (2) The prescribed contributions are to be—
- (a) made by the person to or in respect of whom the relevant benefits are to be, or may be, provided;
  - (b) made for the person's period of relevant service;
  - (c) in the form of deductions from the salary payable for that service.
- (3) But no contribution is to be made by a person—
- (a) for any period of service during which an election under section 2A is in force in respect of the person;
  - (b) for any period of service after the person has completed, in the aggregate, 20 years' relevant service;
  - (c) for any other prescribed period of service;
  - (d) in any prescribed circumstances.
- (4) For the purposes of subsection (3)(b), it does not matter whether the person's relevant service was service before or after the commencement of paragraph 1 of Schedule 5 to the Pensions Act 2011 (but no contribution is to be made for a person's service before that commencement).
- (5) In this section—
- “prescribed” means specified in, or determined in accordance with, regulations;
- “relevant benefits” means—
- (a) a pension under section 2;
  - (b) a lump sum under section 3;
- “relevant service” means service as a district judge (magistrates' courts) in Northern Ireland.
- (6) Regulations under this section may make provision for consequential, transitional and incidental matters.

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(7) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”

(3) In section 10(a) (district judges (magistrates' courts) serving again after retirement) after “any contribution” insert “ by virtue of section 9 ”.

#### Commencement Information

**182** Sch. 5 para. 1 in force at 3.1.2012 by S.I. 2011/3034, art. 3(j)

#### *Judicial Pensions Act 1981 (c. 20)*

- 2 (1) The Judicial Pensions Act 1981 is amended as follows.
- (2) In section 25(1)(a) (persons serving again after retirement) after “any contribution” insert “ by virtue of section 23 ”.
- (3) After section 33 insert—

#### **“33ZA Contributions towards cost of certain judicial pensions etc**

- (1) The appropriate Minister may, by regulations made with the concurrence of the Treasury, make provision for and in connection with requiring contributions to be made towards the cost of the liability for relevant benefits.
- (2) The prescribed contributions are to be—
- (a) made by the person to or in respect of whom the relevant benefits are to be, or may be, provided;
  - (b) made for the person's period of relevant service;
  - (c) in the form of deductions from the salary payable for that service.
- (3) But no contribution is to be made by a person—
- (a) for any period of service during which an election under section 14A is in force in respect of the person;
  - (b) for any period of service after the person has completed, in the aggregate, 20 years' relevant service;
  - (c) for any other prescribed period of service;
  - (d) in any prescribed circumstances.
- (4) For the purposes of subsection (3)(b), it does not matter whether the person's relevant service was service before or after the commencement of paragraph 2 of Schedule 5 to the Pensions Act 2011 (but no contribution is to be made for a person's service before that commencement).
- (5) In this section—
- “the appropriate Minister” means—
- (a) in relation to offices existing only in Scotland, the Secretary of State, or
  - (b) subject to paragraph (a), the Lord Chancellor;
- “prescribed” means specified in, or determined in accordance with, regulations;

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“relevant benefits” means—

- (a) a pension under section 7 or Schedule 1;
- (b) a pension for a sheriff (but not a sheriff principal) under section 1 of the Sheriffs' Pensions (Scotland) Act 1961;
- (c) a lump sum under section 17, so far as relating to a pension within paragraph (a) or (b);

“relevant service”—

- (a) in relation to a pension under section 7 or a lump sum under section 17 so far as relating to such a pension, means service as a stipendiary magistrate in England or Wales;
- (b) in relation to a pension for service in an office in paragraph 1 of Schedule 1 (except where under paragraph 3 of that Schedule this section does not apply) or a lump sum under section 17 so far as relating to such a pension, means relevant service as defined in paragraph 2 of that Schedule in relation to the office;
- (c) in relation to a pension for a sheriff (but not a sheriff principal) under section 1 of the Sheriffs' Pensions (Scotland) Act 1961 or a lump sum under section 17 so far as relating to such a pension, means service as a sheriff (but not a sheriff principal).

(6) Regulations under this section—

- (a) are to be made by statutory instrument;
- (b) may make different provision for different cases or classes of case;
- (c) may make provision for consequential, transitional and incidental matters.

(7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) In Schedule 1 (certain Senior Courts and county court officers and President of Transport Tribunal) in paragraph 3(2)(b) after “Part II” insert “ and section 33ZA ”.

#### **Commencement Information**

**183** Sch. 5 para. 2 in force at 3.1.2012 by S.I. 2011/3034, art. 3(j)

#### *Constitutional Reform Act 2005 (c. 4)*

- 3 (1) Paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (Lord Chancellor's protected functions) is amended as follows.
- (2) In the entries relating to the Judicial Pensions Act 1981 at the appropriate place insert “ Section 33ZA. ”
- (3) In the entries relating to the Judicial Pensions and Retirement Act 1993 at the appropriate place insert “ Section 9A. ”
- (4) In the entries relating to the District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960 at the appropriate place insert “ Section 8A. ”

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**Commencement Information**

**184** Sch. 5 para. 3 in force at 3.1.2012 by S.I. 2011/3034, art. 3(j)

**PART 2**

MINOR AMENDMENTS RELATING TO JUDICIAL PENSIONS

*Sheriffs' Pensions (Scotland) Act 1961 (c. 42)*

- 4 In section 9A of the Sheriffs' Pensions (Scotland) Act 1961 (appeals) after subsection (4) insert—

“(4A) Regulations under subsection (3) are to be made by statutory instrument.

(4B) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**185** Sch. 5 para. 4 in force at 3.1.2012 by S.I. 2011/3034, art. 3(j)

*Judicial Pensions Act 1981 (c. 20)*

- 5 In section 32A of the Judicial Pensions Act 1981 (appeals) after subsection (5) insert—

“(5A) Regulations under subsection (4) are to be made by statutory instrument.

(5B) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**186** Sch. 5 para. 5 in force at 3.1.2012 by S.I. 2011/3034, art. 3(j)

**Status:**

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**Changes to legislation:**

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