



EXPLANATORY NOTES

Pension Schemes Act 2017

Chapter 17

£10.00

PENSION SCHEMES ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Pension Schemes Act 2017 (c. 17) which received Royal Assent on 27 April 2017.

- These Explanatory Notes have been prepared by the Department for Work and Pensions in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The Act's focus is on protecting savers and maintaining confidence in pension savings.
- 2 The introduction of automatic enrolment into workplace pension schemes under the Pensions Act 2008 made it compulsory for employers to automatically enroll eligible workers into a qualifying workplace pension scheme.
- 3 The pensions market has responded to this and the Master Trust market has developed. This Act aims to ensure that those saving into a Master Trust, a form of multi-employer occupational pension scheme which employers are able to select for their workers rather than needing to set up their own pension scheme, are protected.
- 4 The Act also amends existing legislation to support the Government's intention to cap early exit charges and ban member-borne commission charges in certain occupational pension schemes.
- 5 The Act covers:
 - Master Trust Authorisation
 - Administration charges

Policy background

- 6 The Pension Schemes Act aims to build on recent pension reforms such as automatic enrolment in workplace pensions.
- 7 Once automatic enrolment is fully rolled out in 2018, the Government estimates that ten million people will be newly saving or saving more for their retirement¹. This Act seeks to ensure that these savers are appropriately protected, regardless of the sort of pension scheme they are saving in, by increasing the regulation of Master Trusts which account for over 4 million members and £8.5bn assets in 84 schemes (as at January 2016).
- 8 Following the coming into force of the pension freedoms in April 2015, many members of pension schemes aged 55 and over were able to access their retirement savings more flexibly. The government sought to protect these people from excessive exit fees through the Bank of England Act 2016, which gave the Financial Conduct Authority powers in this respect, from April 2017. This Act seeks to provide members of occupational pension schemes with a level of protection equivalent to that of members of personal pension schemes.

¹ DWP (2016) Workplace pensions: Update of analysis on Automatic Enrolment 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560356/workplace-pensions-update-analysis-auto-enrolment-2016.pdf

Master Trust Authorisation

- 9 The Act provides that:
 - An authorisation and supervision regime for Master Trusts will be introduced, so that Master Trusts would have to demonstrate to the Pensions Regulator that they meet certain key criteria on establishment, and then continue to do so.
 - Existing Master Trusts will be brought into the regime and required to meet the new criteria.
 - Requirements will be placed on trustees to act in certain ways in the event of wind up or closure of a Master Trust to protect members in those circumstances.
- 10 The Pensions Regulator is provided with greater powers to take action where the key criteria are not met.
- 11 The authorisation regime and criteria aim to target specific areas of risk that arise from the structures and dynamics in Master Trusts compared to other occupational pension schemes - including employer engagement with the scheme, the profit motive for most Master Trusts, and the volume of savers involved in these schemes, and the potential impact on confidence in pension savings should a scheme fail and exit not be managed. The provisions in the Act focus on the authorisation regime process and the Pensions Regulator's powers to operate it, the authorisation criteria, and the introduction of measures intended to ensure an orderly exit where a scheme fails or otherwise chooses to leave the market. The focus on an orderly exit is aimed at providing continuity of member saving and support to employers in continuing to fulfill their automatic enrolment duties where applicable.

Administration Charges (cap on early exit charges and ban on member-borne commission charges)

- 12 The Act amends existing legislation to allow regulations to be made which override terms of certain contracts which conflict with the regulations. This seeks to support the government's intention to introduce a cap on early exit charges in certain occupational pension schemes.
- 13 This change will also support the commitment the government made in March 2014 to ban member-borne commission charges arising under existing arrangements in certain occupational pension schemes. Member-borne commission charges under new arrangements were banned from April 2016.

Legal background

- 14 The following notes give a brief overview of significant existing legislation in private pensions that is referenced by this Act. Further explanation, where required, is given in the section-by-section commentary.
- 15 The Pension Schemes Act 1993 is a consolidation Act that sets out various provisions in relation to classification of pension schemes, contracting out, early leavers (including preservation, revaluation and the right to take a transfer), the Pensions Ombudsman and other miscellaneous requirements.

- 16 The Pensions Act 1995 contains provisions relating to the Pensions Regulator, as well as provisions relating to the role and responsibilities of trustees, professionals and employers. It also provides requirements in respect of scheme administration, indexation of pensions in payment, protection against detrimental modifications, employer debt and winding up.
- 17 The Welfare Reform and Pensions Act 1999 makes provision for pension sharing on divorce.
- 18 The Pensions Act 2004 makes provision with regard to the Pensions Regulator and the Pension Protection Fund. It also makes provision in relation to scheme funding, and contains other miscellaneous provisions applying to pension schemes including internal controls, pension protection where there is a TUPE transfer and employer consultation requirements.
- 19 The Pensions Act 2008 makes provision for automatic enrolment, under which employers are required to enrol qualifying employees into a suitable pension scheme and to make pension contributions on their behalf.
- 20 The Public Service Pensions Act 2013 makes provision for the reform of public sector pensions.
- 21 The Pensions Act 2014 makes provision for restricting charges and imposing requirements in relation to pension schemes.
- 22 The Pension Schemes Act 2015 makes provision allowing members to access their pension savings flexibly on retirement. It also makes provision in relation to defined ambition schemes and collective benefits (yet to be commenced).

Territorial extent and application

- 23 Section 43 sets out the territorial extent of the Act. The matters in this Act are Great Britain-only measures. Northern Ireland has powers to bring forward parallel legislation.

Commentary on provisions of Act

Part 1: Master Trusts

Chapter 1: Definition of a Master Trust

Section 1: Master Trusts: definition

- 24 These sections define in legislation a type of occupational pension scheme, known as a 'Master Trust'.
- 25 Section 1 sets out the criteria that must be met by an occupational pension scheme for it to constitute a Master Trust. The scheme must provide money purchase benefits (whether alone or in conjunction with other benefits), as defined in the Pension Schemes Act 1993. Money purchase benefits are generally derived from a pot of contributions, together with any investment returns on those contributions.
- 26 Under subsection (1) (b) the scheme must be used by, or be intended to be used by, two or more employers. Employer for these purposes is defined in subsection (4) as a person who employs or engages persons who are, or are entitled to become, members of the scheme.

- 27 Subsection (1)(c) excludes from the definition of Master Trust any scheme which is used, or intended to be used, only by employers that are connected to each other. Subsection (3) sets out the circumstances in which an employer is connected to another employer. An employer will be connected to another employer if they are, or have been, “group undertakings” in relation to each other within the meaning of section 1161(5) of the Companies Act 2006. Two employers will also be connected if they are connected in a way specified in regulations made by the Secretary of State. Subsection (1) (d) excludes relevant public service pension schemes (as defined under section 2) from the Master Trust definition.
- 28 Subsection (2) sets out that where a Master Trust provides money purchase benefits and other benefits, it is only insofar as the scheme relates to money purchase benefits that it falls under the provisions in the Act. This is subject to a few exceptions as set out in section 39(2) to (4). Section 39(2) provides that references to scheme accounts are to the accounts of the scheme as a whole. Section 39 (3) provides that in section 10 “activities that relate directly to the scheme” means activities relating to the scheme as a whole and not just the money purchase part of the scheme, ensuring that the scheme funder is able to engage in activities in relation to any part of the scheme. Section 39(4) makes provision so that where a scheme provides money purchase benefits and other benefits and has no power to wind up the part of the scheme that relates to money purchase benefits only, references to winding up the scheme are to be read as references to that part of the scheme ceasing to operate.
- 29 Subsection (6) provides that any regulations made under this section are subject to the affirmative resolution procedure.

Section 2: Relevant public service pension schemes

- 30 Section 2 defines public service pension schemes by reference to existing legislation in the Pension Schemes Act 1993, Pensions Act 2004 and Public Service Pensions Act 2013.

Chapter 2: Authorisation: applications etc.

Section 3: Prohibition on operating a scheme unless authorised

- 31 Section 3 sets out a general prohibition - that a person cannot operate a Master Trust unless that scheme is authorised. To become authorised the Pensions Regulator must be satisfied that the scheme meets certain criteria which are set out in section 5(3). A scheme is considered to be operating in the market when it takes pension contributions from employers and employees, receives fees or enters into contracts with employers (section 3(5)). An example of this is where a scheme agrees to provide a scheme for automatic enrolment purposes to an employer.
- 32 Section 3(2) provides that if an individual does operate a Master Trust that is not authorised, they may be subject to a civil penalty under section 10 of the Pensions Act 1995.
- 33 Subsections (3) and (4) of section 3 provide that where the Pensions Regulator becomes aware that a Master Trust is operating without authorisation, it is required to issue a notice to the trustees of the scheme. This notice must set out that the scheme is not authorised and as a result there has been a triggering event (see section 22) and that the scheme is required to pursue the first continuity option (see section 24).

Section 4: Application for authorisation

- 34 Section 4 makes provision regarding the application for authorisation, which is to be made to the Pensions Regulator, and the information which must be included in the application. The Section also provides a power for the Secretary of State to make regulations setting out other information to be provided in an application and setting the application fee payable to the Pensions Regulator. In order for a Master Trust to become authorised, the trustees will need to apply for authorisation according to the process specified by the Pensions Regulator. This could, for example be through a standard application pack or an online portal.
- 35 Subsection (3) provides that after an application has been made, the Pensions Regulator may, if it considers it appropriate to do so, take into account additional information or changes to information made in the application.
- 36 Subsection (6) provides that any regulations made under this section would be subject to the negative resolution procedure.

Section 5: Decision on application

- 37 Section 5 sets out that where the Pensions Regulator receives an application from a Master Trust to be authorised, it must make its decision regarding authorisation within six months of receiving the application. The Pensions Regulator will need to decide if it is satisfied that the Master Trust has met the five authorisation criteria set out in subsection (3), which are further expanded in later sections of the Act. The criteria relate to: the individuals who are involved in the scheme; the scheme's financial position; requirements on the scheme funder; the scheme's systems and processes; and its strategy if the scheme withdraws from the market or fails. All of the authorisation criteria must be met for a Master Trust to be authorised, and they must continue to be met for the Master Trust to remain authorised. Sections 7 to 12 set out further detail about each of the criteria and the matters that the Pensions Regulator must take into account when satisfying itself as to whether the scheme meets the criteria.
- 38 Where the Pensions Regulator is satisfied that the criteria have been met, it is required to authorise the scheme and notify the trustees of its decision. The scheme will also be included on the Pensions Regulator's published list of authorised Master Trusts (see Section 13).
- 39 If the Pensions Regulator is not satisfied that the criteria have been met, it is required to refuse authorisation of the scheme and to notify the trustees of its decision, the reasons for it and the right of referral to the First-tier or Upper Tribunal.

Section 6: Referral to Tribunal of refusal to grant authorisation

- 40 Section 6 sets out the process whereby a refusal to grant authorisation by the Pensions Regulator can be appealed to the First Tier or Upper Tier Tribunal in accordance with the Tribunal Procedure Rules.
- 41 A referral to the Tribunal can be made by the trustees of the scheme, or any other person that the Tribunal considers is directly affected by the Pensions Regulator's decision not to grant authorisation.

Chapter 3: Authorisation criteria

Section 7: Fit and proper persons requirement

- 42 Section 7 sets out a requirement that the Pensions Regulator must decide if key individuals in the scheme are fit and proper to act in their roles. These roles are: the person who establishes the scheme; trustee of the scheme, individuals who have the power to appoint and remove trustees and individuals who have the power to amend the scheme; scheme funder and the scheme strategist. Additional roles subject to a fit and proper test may be added by regulations under subsection (2) (h).
- 43 In addition, subsection (3) enables the Pensions Regulator to determine the fitness and propriety of further individuals in capacities mentioned in that subsection. The Pensions Regulator may assess individuals who promote or market a Master Trust and other roles that may be set out in regulations made under (3)(b).
- 44 Under subsection (4) (a) in assessing whether the person meets the criteria, the Pensions Regulator must take into account any matters specified in regulations, and under subsection (4) (b) may take into account other matters, including matters relating to a person who is connected with that person. Persons are considered to be connected in line with definitions set out in sections 251 and 453 of the Insolvency Act 1986. Subsection (5) sets out the circumstances in which persons can be considered to be connected with each other, for example, individuals who are directors, or shadow directors, of the same company or where a trustee is able to exercise a power under the trust to benefit a specific individual.
- 45 Subsection (7) provides that any first regulations made under subsection (4) are subject to the affirmative resolution procedure.
- 46 Subsection (8) provides that any subsequent regulations made under subsection (4) and any regulations made under subsections (2) and (3) are subject to the negative resolution procedure.

Section 8: Financial sustainability requirement

- 47 Section 8 provides that the Pensions Regulator must be satisfied that a Master Trust has sound business strategy and sufficient financial resources to meet the costs of setting up and running the scheme, and to comply with requirements to protect members where an event occurs that may lead to the scheme closing or winding up (see sections 20 to 33 in relation to triggering events and continuity options).
- 48 Subsection (4) provides a power for the Secretary of State to make regulations on matters that the Pensions Regulator must take into account in deciding if it is satisfied that a Master Trust meets the financial sustainability authorisation criteria. These regulations may include, but are not limited to the information the Pensions Regulator must take into account under subsection (5)(a) (such as the scheme's business plan and accounts), and also the financial requirements to be met by the scheme or the scheme funder under subsection (5)(b).
- 49 Subsections (6) and (7) provide that the first regulations made under this section are subject to the affirmative resolution procedure and that any subsequent regulations are subject to the negative resolution procedure.

Section 9: Financial sustainability requirement: business plan

- 50 Section 9 provides that a Master Trust must have a business plan prepared by the scheme strategist (subsection (1)) approved by the scheme funder and the trustees (subsection (5)). Subsection (2) provides a power for the Secretary of State to make regulations setting out information to be included, and other requirements, in relation to the business plan. The business plan must be reviewed by the scheme strategist at least annually and revised if appropriate, and must be revised at any time in the event of significant changes to the information set out in the plan.
- 51 Subsection (6) sets out that the business plan, and supporting documentation, must be provided to the Pensions Regulator by the scheme strategist or trustees when the scheme applies for authorisation, and within three months of the plan being revised or on request by the Pensions Regulator.
- 52 Subsections (7) and (8) provide that the first regulations made under this section are subject to the affirmative resolution procedure and that any subsequent regulations are subject to the negative resolution procedure.

Section 10: Scheme funder requirements

- 53 Section 10 makes provision about a Master Trust's scheme funder and the requirements that it must meet for authorisation.
- 54 Subsection (2) requires the scheme funder to be a body corporate or a partnership which is a legal person under the law by which it is governed for example under Scottish Law.
- 55 Subsection (3) requires the scheme funder only to carry out activities that relate directly to the Master Trust (or Trusts) for which it is a scheme funder or prospective scheme funder.
- 56 Subsections (4) and (5) provide a regulation making power for the Secretary of State to make exceptions to the requirement in subsection (3) if the scheme funder meets additional prescribed requirements. These regulations may, for example, provide an exception where the scheme funder meets additional requirements in relation to its financial position or business activities, or provides specified information to satisfy the Pensions Regulator of the Master Trust's financial sustainability.
- 57 Subsection (6) provides a power for the Secretary of State to make regulations that set out requirements in relation to the scheme funder's accounts.
- 58 The first regulations made under powers in subsection (4) are subject to the affirmative resolution procedure, while any subsequent regulations and regulations made under subsection (6) are subject to the negative resolution procedure.

Section 11: Systems and processes requirements

- 59 This section provides a power for the Secretary of State to make regulations in relation to the adequacy of a Master Trust's systems and processes. Having adequate systems and processes is one of the five authorisation criteria which a Master Trust must meet to be authorised, and to remain authorised. The Pensions Regulator must take into account the matters set out in these regulations when satisfying itself as to whether the scheme meets the systems and processes authorisation criterion.
- 60 The section also provides a non-exhaustive list of the matters concerning systems and processes about which the Secretary of State may make regulations. These include, but are not limited to, the standards, functions and maintenance of IT systems, and processes relating to the appointment and removal of trustees.

- 61 Subsections (5) and (6) provide that the first regulations made under this section are subject to the affirmative resolution procedure and that any subsequent regulations are subject to the negative resolution procedure.

Section 12: Continuity strategy requirement

- 62 Section 12 provides that the scheme strategist must prepare a continuity strategy which sets out how members will be protected if a Master Trust has a triggering event; the strategy must also include a section setting out the levels of administration charges that apply in relation to members of the scheme (subsection (4)). The Pensions Regulator will need to determine if it is satisfied that the strategy is adequate as part of the authorisation decision (see section 5). Triggering events are set out in section 21 and are events which are likely to lead to the scheme failing or being de-authorised. Subsection (6) provides a power for the Secretary of State to make regulations on other information that may be required, how the strategy must be prepared and the detail to be included in relation to levels of administration charges (subsection 5).
- 63 The scheme strategist is also required to review the strategy and revise it as appropriate (subsection (7)). The strategy, and any revisions, must be approved by the trustees, any other scheme strategist and scheme funder (subsection (8)).
- 64 The continuity strategy must be submitted to the Pensions Regulator by the scheme strategist or trustees; when applying for authorisation, and within three months of revising the strategy, or on request by the Pensions Regulator.
- 65 Subsections (10) and (11) provide that the first regulations made under this section are subject to the affirmative resolution procedure and that any subsequent regulations are subject to the negative resolution procedure.

Chapter 4: On-going supervision of Master Trusts

Section 13: List of authorised schemes

- 66 Section 13 places a requirement on the Pensions Regulator to publish and maintain a list of Master Trusts that have been authorised. The list will include the name of the Master Trust and other information the Pensions Regulator considers appropriate.

Section 14: Requirement to submit annual accounts

- 67 Section 14 provides that the annual accounts of both the scheme funder and the Master Trust must be submitted to the Pensions Regulator annually. Subsections (1) and (2) require the trustees to send the schemes accounts to the Pensions Regulator no later than two months after they are obtained by the trustees. Subsections (3) and (4) provide that the accounts of the scheme funder must also be submitted to the Pensions Regulator within nine months of the end of the year to which they relate or a period specified in regulations.
- 68 Subsection (6) provides that regulations made under this section are subject to the negative resolution procedure.

Section 15: Requirement to submit supervisory return

- 69 This section provides a requirement for a supervisory return to be submitted to the Pensions Regulator by the trustees, on request. Subsection (4) specifies that the return may not be required more frequently than once a year. Subsection (5) provides that a civil penalty under section 10 of the Pensions Act 1995 applies where there is a failure to submit the return.

- 70 Subsection (2) provides a power for the Secretary of State to set out the information to be included in the supervisory return.
- 71 Subsection (6) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 16: Duty to notify Pensions Regulator of significant events

- 72 This section creates a requirement for specified persons to notify the Pensions Regulator of significant events as soon as is reasonably practicable. Subsection (3) sets out that the Secretary of State must make regulations setting out the significant events that are required to be reported.
- 73 Subsection (2) sets out the people who are required to notify the Pensions Regulator of significant events and includes the majority of those who must be assessed under the fit and proper test (see Section 7) as well as those who provide legal, financial or actuarial advice to the scheme and the manager of the scheme's administration services.
- 74 Subsections (7) and (8) provide that the first regulations made under subsection (3) are subject to the affirmative resolution procedure and that any subsequent regulations under subsection (3) and any regulations under subsection (2) adding to the list of people who must notify of significant events, are subject to the negative resolution procedure.

Section 17: Fixed penalty notice for failure to comply with request for information

- 75 Section 17 gives the Pensions Regulator a power to impose a fixed penalty on any person who has failed to provide information requested in a notice issued under section 72 of the Pensions Act 2004 for the purpose of the Pensions Regulator's functions under this Part of the Act.
- 76 Subsection (3) provides that the penalty, which must not be more than £50,000, is to be determined in accordance with regulations.
- 77 Subsection (4) sets out requirements for what a fixed penalty notice must contain. These include the amount of the penalty, the date by which the penalty must be paid, the period and failure to which the penalty relates, and details of how to appeal the penalty.
- 78 The provision mirrors the provision in section 40 of the Pensions Act 2008 where there is a failure to provide information in relation to automatic enrolment. Subsection (5) applies provisions from the Pensions Act 2008 relating to the recovery and review of penalty notices and their referral to a Tribunal.
- 79 Subsection (6) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 18: Escalating penalty notice for failure to comply with request for information

- 80 Section 18 gives the Pensions Regulator a power to impose an escalating penalty on any person who has failed to provide information requested in a notice issued under section 72 of the Pensions Act 2004.
- 81 Under subsection (2) an escalating penalty may not be imposed on a person if a fixed penalty imposed on them under section 17 has been referred to a tribunal and the tribunal has not yet made a decision.
- 82 Subsection (4) describes an escalating penalty as a penalty calculated in accordance with a daily rate. Regulations that will set out the calculation of the escalating penalty are required by subsection (5) (a) and must not be more than £10,000 (subsection (5)(b)).

- 83 Subsection (6) sets out requirements for what an escalating penalty notice must contain. These include the daily rate of the penalty, the date by which the penalty must be paid, the failure to which the penalty relates, and details of how to appeal the penalty. Under subsection (6)(d) the period over which an escalating penalty is imposed may not overlap any period covered by a fixed penalty notice issued under section 17.
- 84 Subsection (7) applies provisions from the Pensions Act 2008 relating to recovery and review of penalty notices and their referral to a Tribunal.
- 85 Subsection (8) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 19: Withdrawal of authorisation

- 86 Section 19 provides that where the Pensions Regulator is no longer satisfied that a scheme meets the authorisation criteria it may withdraw the scheme's authorisation.
- 87 Subsection (2) provides that when the Pensions Regulator either issues a warning notice that it intends to de-authorise a scheme under its standard procedure or a determination notice under its special procedure, the notice must include a statement that the issue of the notice is a triggering event together with an explanation of the trustees' duties under sections 22 to 33.
- 88 Subsection (3) sets out that where a scheme is de-authorised the Pensions Regulator must notify the trustees of this and remove the scheme from the published list of authorised Master Trusts.

Chapter 5: Triggering events: continuity

Section 20: Triggering event: duties of trustees

- 89 Section 20 places three sets of duties on trustees where there is a triggering event: to notify the Pensions Regulator and employers (section 22); to pursue a continuity option (section 23); and to prepare and submit an implementation strategy to the Pensions Regulator (sections 26 and 27).

Section 21: Triggering events

- 90 The table in section 21 subsection (6) sets out the triggering events and when they occur.
- 91 Subsection (4) defines a 'triggering event period' as the period starting with the date on which the triggering event occurred and ending on the earliest of the dates set out under subsection (5). The second column in the table in subsection (6) makes provision for the date on which the triggering event occurs. As for when the triggering event period ends, a triggering event can end in one of two ways. Where the trustees pursue continuity option 1 (see section 24) the triggering event period ends when the scheme is wound up. Where the trustees pursue continuity option 2 (see section 25), the triggering event period will end on the date the trustees receive notification from the Pensions Regulator that the Pensions Regulator is satisfied the triggering event (and any other event that has occurred since the occurrence of the triggering event under subsection (6) of section 25) has been resolved.
- 92 Subsection (5) (c) makes provision for where there is a decision by the Pensions Regulator to withdraw authorisation (an event within items 1 and 2 of the table at subsection (6)). The triggering event period will end where it becomes clear that authorisation will not be withdrawn (section 34).

- 93 Subsection (1) (b) provides that where an event falling in the table occurs within an existing triggering event period it is not a triggering event. The exception is provided for at subsection (2). If it is an event within items 1, 2 or 3 of the table at subsection (6), it is a triggering event even if it occurs within an existing triggering event period. Item 1 is the issue of a warning notice under the standard procedure by the Pensions Regulator in respect of a decision to withdraw the scheme's authorisation. Item 2 is a determination notice under the special procedure by the Pensions Regulator in respect of a decision to withdraw the scheme's authorisation. Item 3 is where the Pensions Regulator gives a notification under section 3(3) (scheme not authorised).

Section 22: Notification requirements

- 94 Subsections (1) to (5) of section 22 set out who has responsibility for notifying the Pensions Regulator of the events set out in the table in section 21(6).
- 95 Subsection (6) creates a requirement for the trustees to notify employers of the triggering event and other matters to be determined by regulations.
- 96 Regulations under subsection (7) will set out the time periods for notifications under this section.
- 97 Subsection (10) provides that where a person fails to comply with the notification requirements, a civil penalty under section 10 of the Pensions Act 1995 may apply.
- 98 Subsection (11) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 23: Continuity options

- 99 Where a Master Trust has a triggering event, subject to the circumstances set out in subsection (2), there are two continuity options available; option 1 which allows for members' accrued rights to be transferred out and the scheme to be wound up (section 24), and option 2 which allows for the triggering event to be resolved (section 25). The continuity options are required elements of the implementation strategy described in sections 26 and 27. Trustees must choose a continuity option when setting out their implementation strategy.
- 100 Under subsection (2), if a Master Trust has been de-authorised by the Pensions Regulator, and all appeals have been exhausted, or the scheme has received a notification under section 3(3) (not authorised), the only option available to the trustees is continuity option 1.
- 101 Subsection (8) provides that where a person fails to comply with the requirements of the section, a civil penalty under section 10 of the Pensions Act 1995 may apply.

Section 24: Continuity option 1: transfer out and winding up

- 102 Section 24 makes provision for continuity option 1 under which trustees will transfer out all accrued rights and benefits in the scheme and then wind up the remaining structure of the scheme. Subsection (4) requires regulations to be made which set out how continuity option 1 is to be pursued in a case where a proposed transfer is to a Master Trust. The regulations must include provision for the matters set out at subsection (5). Under subsection (4)(a) regulations may be made about how continuity option 1 is to be pursued in a case where a proposed transfer is to an "alternative scheme" as specified in regulations (as defined under subsection (2)(b)). Under subsection (4)(c) regulations may also be made for the purpose of otherwise giving effect to continuity option 1, in either case.

- 103 The trustees must identify one or more pension schemes which are able to accept the accrued rights and benefits of their Master Trust. These schemes can be either a Master Trust or, in circumstances which can be set out in regulations, an “alternative scheme” that has characteristics specified in regulations. Members of the Master Trust will retain their right to transfer to a scheme of their own choosing if they do not wish to transfer to the trustees’ choice (see subsections (5)(b) and (d)).
- 104 The trustees must also (subsection (1)(b)) notify employers and members of the transfer, and of other details specified in regulations. Subsection (3) allows for regulations which will set out the way in which the notification in subsection (1)(b) must be made, and the timing of the notification.
- 105 The matters under subsection (5) to be addressed in regulations made under subsection (4)(a) address a comprehensive range of issues including information requirements, duties on trustees, the duties of trustees of receiving schemes, and the rights of members to opt-out of a transfer in favour of their preferred receiving scheme. Regulations must also confer powers on the Pensions Regulator to direct the trustees to do things required by the regulations. Regulations made under subsection (4) are subject to affirmative resolution procedure.
- 106 Subsection (6) allows regulations under subsection (4)(b) to include any provision mentioned in subsection (5) as well as provision to deem a member whose rights or benefits have been transferred to have entered into an agreement with a person of a description specified in the regulations.
- 107 A penalty under section 10 of the Pensions Act 1995 applies to anyone who fails to comply with any requirement imposed by Section 24 and the regulations may also make provision for the application of section 10 of the Pensions Act 1995 to requirements in the regulations.
- 108 Subsection (10) provides that any regulations made under subsection (2)(b) or (4) of this section are subject to the affirmative resolution procedure. Subsection (11) provides that any other regulations made under this section are subject to the negative resolution procedure.

Section 25: Continuity option 2: resolving triggering event

- 109 Section 25 sets out the second continuity option which is for the triggering event to be resolved.
- 110 The trustees are required to notify the Pensions Regulator (subsection (2)) when they consider the triggering event has been resolved. They must also set out how they consider that it has been resolved. The Pensions Regulator is then required (subsection (5)) to notify the trustees of whether it is satisfied that the triggering event has been resolved. Under subsection (6), the Pensions Regulator must also be satisfied that any other event within the table at section 21(6) that has occurred in relation to the Master Trust since the occurrence of the triggering event has also been resolved.
- 111 Subsection (7) provides that where a person fails to comply with a requirement imposed by this section a penalty under section 10 of the Pensions Act 1995 applies.
- 112 Subsection (8) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 26: Approval of implementation strategy

- 113 This Section requires the trustees of a Master Trust to submit an implementation strategy to the Pensions Regulator for approval. This is a document setting out how the interests of members of the scheme are to be protected following the occurrence of the triggering event and section 27 sets out the content to be included in an implementation strategy.

- 114 Under subsection (2), in relation to items 1 and 2, the implementation strategy must only be submitted if the decision to withdraw has become final.
- 115 Under subsection (3), if a triggering event within item 1, 2 or 3 of the table in section 21(6) occurs within an existing triggering event period, the trustees must submit another implementation strategy and any implementation strategy which has already been approved for an earlier triggering event ceases to have effect.
- 116 The Pensions Regulator may approve the implementation strategy only if it is satisfied that it is adequate under subsection (4).
- 117 Regulations may set out the periods for submission of the implementation strategy under subsection (5).
- 118 The Pensions Regulator may direct the trustees to comply with the requirements of this section.
- 119 Where a person fails to comply with a direction under subsection (7), a civil penalty under section 10 of the Pensions Act 1995 may apply.
- 120 Subsection (9) provides that this section overrides any provision of the Master Trust to the extent there is a conflict.
- 121 Subsection (10) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 27: Content of implementation strategy

- 122 The implementation strategy is a document that specifically sets out how the interests of members of the scheme are to be protected following the occurrence of the triggering event (section 21). The implementation strategy must set out the continuity option (sections 24 and 25) that the trustees are required or decide to pursue as well as certain details of the particular option under subsection (5).
- 123 The implementation strategy must include a section setting out the levels of administration charges that applied in relation to members of the scheme (subsection (3)). This relates to the prohibition on increasing charges levels during a triggering event period at section 33.
- 124 Regulations made under subsection (6) may specify further information to be included in the implementation strategy and the way in which it is prepared.
- 125 Subsection (7) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 28: Duty to pursue continuity option

- 126 This section requires that when the Pensions Regulator has approved the implementation strategy, the trustees must pursue the continuity option identified in the strategy and take the steps as are identified in the implementation strategy to carry out the continuity option. Where they fail to do so, the Pensions Regulator has the power to direct the trustees to pursue the continuity option identified in the strategy and take the steps identified in the strategy to carry it out (subsection 4). A penalty for failure to comply under section 10 of the Pensions Act 1995 applies to anyone who fails to comply with a direction made by the Pensions Regulator (subsection 5).
- 127 The trustees must also make the strategy available to employers under subsection (2). The time period for doing so must be set out in regulations.

128 The effect of subsection (6) is to override any provisions of the Master Trust or any contracts that the scheme has entered into, to the extent that there is a conflict with the trustees pursuing the continuity option.

129 Subsection (7) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 29: Prohibition on winding up except in accordance with continuity option 1

130 This section creates a new requirement that Master Trust can only be wound up in accordance with continuity option 1 (section 24). The effect of subsection (2) is to override any provisions of the Master Trust to the extent there is a conflict with this requirement.

131 The Pensions Regulator may still by order direct the scheme to wind up under section 11 of the Pensions Act 1995 (subsection (3)).

132 Subsection (4) provides that where a person fails to comply with subsection (1) in this section a penalty under section 10 of the Pensions Act 1995 applies.

Section 30: Periodic reporting requirement

133 This section requires that during a triggering event period the trustees of a Master Trust must submit periodic reports to the Pensions Regulator. The reports must record events or decisions and contain such other information to be set out in regulations under subsection (4). If an implementation strategy has been approved, the trustees must report on progress in carrying out the implementation strategy (sections 26 and 27).

134 The timing for the submission of the first report must be set out in regulations under subsection (2), and subsequent reports will be submitted at intervals to be specified by the Pensions Regulator (subsection (3)). Under subsection (4), the report will need to report on progress in carrying out the implementation strategy and regulations will set out further detail of the content required in the report, and the form in which they are made.

135 A penalty for failure to comply under section 10 of the Pensions Act 1995 applies to anyone who fails to follow the reporting requirements imposed by this section.

136 Subsection (6) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 31 and Schedule 1: Pause orders

137 This section creates a new power for the Pensions Regulator. It enables the Pensions Regulator to pause certain Master Trust activities, once that Master Trust has experienced a triggering event (section 21). The power may only be exercised if it will help (subsection (3)) the trustees follow their implementation strategy (section 26 and 27), or if the Pensions Regulator believes that doing so is necessary to protect the interests of the generality of the scheme members and that there is an immediate risk to the interests of members under the scheme or the assets of the scheme (subsection (4)).

138 A pause order may prevent a scheme from carrying out any or all of a number of actions which are specified in subsection (5). These include:

- accepting new members;
- making payments;
- accepting contributions; and
- discharging benefits.

- 139 The pause may relate to all such actions, or those related to specified members, employers, payments or groups of such actions.
- 140 There is further provision about pause orders in Schedule 1.
- 141 Paragraph 1 of Schedule 1 sets out the consequences of a pause order on a Master Trust. Subparagraph (1) states that any action in breach of a pause order is void, that is, it has no legal effect.
- 142 A scheme which is under a pause order may still be wound up in accordance with section 11 of the Pensions Act 1995 (subparagraph (2))
- 143 Subparagraph (3) includes a provision that if a pause order prevents a Master Trust from accepting any contributions then affected contributions are treated as if they are not payable. The pause order may include provisions under section 31(5) that where such contributions have already been deducted from pay, they are to be repaid to affected scheme members.
- 144 Sub-paragraphs (4) and (5) create exceptions to a pause order to allow schemes to follow the requirements of pension sharing and pension earmarking orders. These orders are placed on member assets following divorce, dissolution and nullity proceedings in accordance with the relevant pieces of legislation in England and Wales, Scotland and Northern Ireland.
- 145 Sub-paragraphs (6) and (7) allow the Secretary of State to make regulations modifying specified areas of existing legislation where there is a pause order preventing transfers of members rights to ensure that the legislation works as intended.
- 146 Sub-paragraphs (8) to (11) apply the civil penalties under section 10 of Pensions Act 1995 in relation to non-compliance with these provisions.
- 147 Paragraph 2 states that any pause can take effect for a maximum of three months (sub-paragraph (1)), and can be extended for further periods of up to three months (sub-paragraph (2)). A pause will automatically end if a triggering period ends while it is in force (sub-paragraph (3)).
- 148 Paragraph 3 allows the Pensions Regulator to validate any action that is taken in contravention of a pause order on application from the trustees, or a person directly affected by the pause.
- 149 Paragraph 4 provides for notifications between various parties in respect of a pause order, or validated action in contravention of a pause order under paragraph 3. The Pensions Regulator is required to inform the trustees, scheme strategist and scheme funder of any pause order as soon as is practicable (sub-paragraph 2). The Pensions Regulator may also require the trustees to inform employers and members of the pause order within a specified time period. This may apply to all employers and members, or only those affected by the pause (sub-paragraph (3)).
- 150 Civil penalties under section 10 of Pensions Act 1995 apply to any trustee who has not taken all reasonable steps to ensure compliance with sub-paragraph (3).
- 151 Paragraph 5 allows pause orders to override any existing law or scheme rule to the extent that it is not unlawful under section 6(1) of the Human Rights Act 1998.

Section 32: Prohibition on new employers during triggering event period

- 152 Where a Master Trust has entered a triggering event period (section 21), neither the trustees; scheme funder nor a scheme strategist may allow the participation of any new employer until the triggering period ends. Further they may not enter into an agreement under which a new person will become an employer in relation to the scheme after the end of the triggering event period.
- 153 A penalty under section 10 of the Pensions Act 1995 applies to anyone who fails to comply with this.

Section 33: Prohibition on increasing charges etc. during triggering event period

- 154 Section 33 places restrictions on trustees increasing or imposing administration charges when a Master Trust is in a triggering event period (section 21). The trustees may not impose charges on members above the level set out in the implementation strategy (subsection (1)(a)) and trustees may not impose new administration charges on members (subsection (1)(b)). Further, trustees cannot impose administration charges on or in respect of members in consequence of a member leaving or deciding to leave the scheme during the triggering event period.
- 155 Subsection (2) provides for a corresponding prohibition on a Master Trust which receives a transfer of rights or benefits of members from a transferring scheme which is pursuing continuity option 1 and was proposed by trustees or participating employers. The trustees of a receiving scheme cannot increase administration charges above the level set out in the document provided to the Pensions Regulator by virtue of regulations under section 24(5)(i) and they cannot impose any new charges on members to meet costs set out under subsection section 33(3). The costs set out under subsection (3) are the costs for which the receiving scheme is liable which were incurred by the transferring scheme or relate directly to the transfer of members' accrued rights or benefits from the transferring scheme.
- 156 Under subsection (4), how levels of administration charges are to be calculated for the purposes of the section may be set out by regulations under subsection (4) as well as how the purposes are determined for which charges are increased or imposed under subsection (2) (subsection (4)(b)). Under subsection (4)(c) regulations may make provision as to how to determine whether costs for which a receiving scheme is liable fall within subsection (3).
- 157 Subsection (5) overrides any provisions of the Master Trust and any contracts that the scheme has entered into where there is a conflict with the requirements of this section.
- 158 Under subsection (6) regulations can apply some or all of the provisions in this section to an "alternative scheme" as specified in regulations under section 24(2)(b).
- 159 A penalty under section 10 of the Pensions Act 1995 applies to anyone who fails to comply with subsections (1) or (2).
- 160 Under subsection (9), regulations made under subsection (6) are subject to the affirmative resolution procedure. Subsection (10) provides that any other regulations made under this section are subject to the negative resolution procedure.

Chapter 6: Decisions on withdrawal of authorisation: timing

Section 34: When it becomes clear that authorisation not to be withdrawn

161 This section sets out when it becomes clear that authorisation is not to be withdrawn for the purposes of a triggering event within items 1 or 2 of the table in section 21. The date on which it becomes clear that authorisation is not to be withdrawn for each item is set out in the table under subsection (3) in the third column for the circumstances set out in the second column.

162 The circumstances provided for are where:

- The Pensions Regulator makes a determination not to withdraw authorisation (and there is no referral to the Tribunal) (item 1)
- There is a compulsory review by the Pensions Regulator under section 99 of Pensions Act 2004 and it makes a determination that authorisation should not be withdrawn (and there is no referral to Tribunal) (item 2)
- There is a referral to the Tribunal and it determines that authorisation should not be withdrawn (and either no appeal is brought, or an appeal is brought but later withdrawn) (items 1 or 2)
- There is an appeal against the Tribunal's determination, and the effect of the appeal is that the scheme's authorisation should not be withdrawn.

Section 35: When a decision to withdraw authorisation becomes final

163 This section determines the date on which a decision to withdraw authorisation becomes final for the purposes of a triggering event within item 1 or 2 of the table in section 21. The date on which it becomes final is set out in the table under subsection (3) in the third column for the circumstances set out in the second column.

164 The circumstances provided for are where:

- The Pensions Regulator makes a determination to withdraw authorisation and there is no referral to Tribunal within the time period allowed (item 1)
- There is a compulsory review by the Pensions Regulator under section 99 of Pensions Act 2004 and it makes a determination that authorisation should be withdrawn (and there is no referral to Tribunal) (item 2)
- There is a referral to the Tribunal and it determines that the Pensions Regulator should withdraw a scheme's authorisation (and either no appeal is brought, or an appeal is brought but later withdrawn)
- There is an appeal against the Tribunal's determination, and the effect of the appeal is that the scheme's authorisation should be withdrawn.

Chapter 7: Supplementary

Section 36: Fraud compensation

165 Section 36 provides a regulation-making power enabling the Secretary of State to modify sections 182 to 187 of the Pensions Act 2004, which relate to the Fraud Compensation Fund. These regulations will make amendments to modify how fraud compensation provision under the 2004 Act applies to Master Trusts and other pension schemes to which all or some of the provisions of Part 1 (by virtue of section 40) of the Act apply.

166 Sections 182 to 187 of the Pensions Act 2004 enable fraud compensation payments to be made to occupational pension schemes where certain conditions are met. These conditions include that:

- the value of the scheme's assets has been reduced and there are reasonable grounds for believing this was due to dishonesty; and
- the employer has gone out of business or is unlikely to continue as a going concern.

167 We will use regulations to make adjustments to the provision for fraud compensation to make it more suitable for Master Trusts.

168 Section 36 also allows these modifications to apply to other types of occupational pension schemes should they become covered by the Master Trust authorisation scheme by virtue of section 40 of this Act.

169 Subsection (2) provides that any regulations made under this section are subject to the negative resolution procedure.

Section 37 and Schedule 2: Master trusts in operation on commencement: transitional provision

170 This section introduces Schedule 2, which includes provisions affecting Master Trusts that are in operation before section 3 comes into force.

171 Schedule 2 introduces transitional modifications in respect of those schemes that were in existence before the commencement date. The commencement date is defined by reference to the commencement of section 3 (the prohibition on operating a Master Trust without authorisation). The intention is that this section will be commenced once all regulations under the authorisation provisions are in force. The modifications in paragraphs 2 to 7 take effect from the date the Act is passed, whilst those in paragraphs 8 to 15 take effect from the date on which section 3 (prohibition on operating a scheme unless authorised) comes into force.

172 Paragraph 2 modifies section 20 to impose a duty to comply with notification requirements on trustees of an existing Master Trust if a triggering event occurs on or after 20 October 2016 but before the commencement date.

173 As for time periods for notifying the Pensions Regulator, where the trustees consider the triggering event was resolved before the date the Act is passed, the notification must be given within the period of 14 days beginning the date the Act is passed. Where the trustees consider the triggering event was resolved after the date on which the Act is passed but before the commencement date, or where the triggering event occurred before the commencement date but the trustees consider it was resolved after the commencement date, the notification must be given within the period of 14 days of the date on which the triggering event was in the opinion of the trustees resolved. Where a triggering event occurs after the commencement date, the period for notification will be in regulations.

- 174 Paragraph 6 amends section 33 to apply the prohibition during a triggering event period under section 33 to a Master Trust in relation to which a triggering event occurs on or after 20 October 2016 but before the commencement date. The prohibition is modified in the way it applies.
- 175 If a triggering event occurs on or after 20 October 2016 trustees must, within seven days of the triggering event, provide the Pensions Regulator with a statement of the annual levels of administration charges that applied in relation to members of the scheme on 20 October 2016 according to each arrangement or fund within the scheme. Trustees must not then impose any administration charges on or in respect of members at levels above those.
- 176 Provision is also made so that trustees of a scheme receiving transfers of accrued rights from the Master Trust experiencing a triggering event must not impose administration charges on members above a level of charges in the receiving scheme as set out in a statement of annual charges on 20 October 2016.
- 177 Paragraph 7 creates a new section, section 33A, for Master Trusts in existence on 20 October 2016. Under this section the scheme funder of a Master Trust experiencing a triggering event, or moving to wind up, is liable for the costs of winding the scheme up if these costs do not fall elsewhere (taking into account the prohibition on increasing charges on members to pay for the costs of winding up).
- 178 Paragraph 8 modifies section 3 for schemes which are already operating when it comes into force. The modifications are designed to allow a Master Trust to continue to operate until its application is received by the Pensions Regulator, or the Pensions Regulator determines that the scheme should not be authorised.
- 179 Paragraph 8 also provides that the trustees of a Master Trust must, within the six month application period, either apply for authorisation or decide to wind up the scheme. The Pensions Regulator may allow an extension to the six month period of up to six weeks if the trustees satisfy the Pensions Regulator that there is a good reason for requiring an extension. Extensions can only be granted during the initial six month application period.
- 180 Under paragraph 8, if the Pensions Regulator is aware of a Master Trust operating after the application period (as extended where applicable) and it has not received an application for authorisation or a notification that the scheme is to be wound up then it must notify the trustees that the scheme is not authorised. This is a triggering event and the notification must explain the trustees' duties (see sections 20-33).
- 181 Paragraph 8 also inserts a new section 3A which applies only to existing Master Trusts. It allows the Pensions Regulator to issue a pause order to a Master Trust which has submitted an application for authorisation under section 4, provided the decision on that application has not yet become final under section 35.
- 182 Subparagraphs (3) and (4) mean that a pause order made under this section is to be treated as though it is made under section 31, except that the provision which ensures that a pause order ceases to have effect at the end of a triggering event period does not apply (as under this specified circumstance, the pause order is not made within the triggering event period).
- 183 To issue a pause order under section 3A, the Pensions Regulator must be satisfied that there is, or is likely to be if a pause order is not made, an immediate risk to the interests of members under the scheme or the assets of the scheme, and that it is necessary to make a pause order to protect the interests of the generality of members of the scheme.

184 Paragraph 9 modifies section 5 so that where a decision is made not to authorise a Master Trust that is operating before the commencement date, the notice includes an explanation that it is a triggering event for the purposes of sections 20 to 33 (sub-paragraph (7)). Inserted subsection (8) provides that a decision to authorise or not authorise an existing Master Trust which has submitted an application for authorisation must be taken by the Pensions Regulator's Determinations Panel.

185 Paragraphs 10 to 15 make amendments to sections 21, 23, 26, 28, 34 and 35 in relation to Master Trusts in operation at commencement. The effect of these amendments is to:

- Replace references to authorisation being withdrawn with references to authorisation being refused to reflect that existing Master Trusts will not have been authorised previously.
- Add a triggering event (item 2A) to the table of triggering events in relation to existing Master Trusts (paragraph 10, sub-paragraph (c)).

Section 38 and Schedule 3: Minor and consequential amendments

186 Section 38 allows the Secretary of State, through regulations, to make amendments to legislation which are consequential on part 1 of the Act. This applies to both primary and secondary legislation and covers both existing legislation and legislation made during this parliamentary session.

187 Subsections (4) and (5) provide that any regulations made under this section that contain provision amending primary legislation are subject to the affirmative resolution procedure and that any other regulations made under this section are subject to the negative resolution procedure.

188 This section also introduces Schedule 3 which sets out other minor consequential amendments.

189 Paragraphs 1 to 4 of Schedule 3 make changes to sections 100B(2) and 101AI(8) of the Pension Schemes Act 1993 and section 67A(9) of the Pensions Act 1995 to amend the definition of 'scheme rules' so that references to scheme rules in these provisions incorporate the legislative overrides included in sections 21, 23, 26, 28, 29 and 33.

190 Paragraphs 5 to 13 make changes to the Pensions Act 2004 (PA2004) to extend existing powers and functions of the Pensions Regulator to measures in this Act.

191 Section 13 PA2004 is amended to include reference to this Act by paragraph 6 to ensure that the Pensions Regulator can issue improvement notices to trustees where there are breaches of the Act's provisions (or regulations made under them).

192 Paragraph 7 amends section 70 PA2004 to include the scheme funder and scheme strategist within those who have a duty to report breaches of the law to the Pensions Regulator.

193 Paragraph 8 amends section 72 PA2004 so that a person required to give information under section 72 for the purposes of the Pensions Regulator's authorisation functions can be required to explain any information or document, including by attendance in person.

194 Paragraph 9 amends section 90 PA2004 to require the Pensions Regulator to publish Codes of Practice on authorisation criteria and the application for authorisation and adds a reference to the Act in the definition of "pensions legislation" for the purposes of that section.

- 195 Paragraph 10 amends section 93 PA2004 to make the power to give a direction under section 26(7) of this Act (direction to submit implementation strategy) subject to the Pensions Regulator's internal 'standard procedure'.
- 196 Paragraph 11 extends the list of instances included in section 97(5) of PA2004 showing where special procedure can be used so that the special procedure can apply in relation to the power to make a pause order, the power to extend a pause order, the power to validate action in contravention of a pause order and the power to require notification of members or employers under paragraph 4(3) of Schedule 1 of this Act.
- 197 The definition of 'scheme rules' in section 318(3) of PA2004 is expanded so that references to scheme rules in these provisions incorporate the legislative overrides included in sections 21, 23, 26, 28, 29 and 33.
- 198 Paragraph 13 extends the list of functions exercisable by the Pensions Regulator's Determinations Panel in schedule 2 PA2004 by creating a new list headed Part 4A. These functions are the power to withdraw authorisation, the power to direct trustees to pursue a continuity option, power to make a pause order, to extend the pause order, to validate action taken in contravention of the pause order and to direct notification of members or employers.
- 199 Paragraph 14 amends section 31 of the Pensions Act 2008 which currently sets out the effect of freezing orders to include references to pause orders issued under section 31 of this Act.

Section 39: Interpretation of Part 1

- 200 Interpretation of various terms used in Part 1 of the Act is given in section 39.

Section 40: Regulations modifying application of Part 1

- 201 Section 40 provides the Secretary of State with a regulation making power to apply some or all of the provisions in Part 1 of the Act to schemes with specified characteristics which do not fall within the Master Trust definition. It also provides a power to disapply some or all of the provisions in relation to Master Trusts with specified characteristics. This will enable the Secretary of State to ensure that the authorisation regime applies appropriately and to address Master Trusts which might be structured in such a way which deliberately seek to evade the Master Trust definition, or which exhibit the characteristics of a Master Trust without meeting the definition.
- 202 There is also provision under subsection (2) for regulations to allow two or more schemes to be treated as a single Master Trust under certain circumstances. The circumstances may include situations where schemes are under common control, influence, share common rules, or are provided by the same service provider.
- 203 Subsection (4) provides that any regulations created by subsection 40 are subject to affirmative resolution.

Part 2: Administration Charges

Chapter 8: Administration charges

Section 41: Power to override contract terms

204 Schedule 18 to the Pensions Act 2014 allows the Secretary of State to make regulations that restrict charges or impose requirements on certain pension schemes.

205 This section provides that regulations may be made to allow certain provisions within the regulations made under Schedule 18 to override terms of a 'relevant contract'. A 'relevant contract' is a contract between the trustees or managers of a pension scheme and a person providing services in relation to that scheme (section 41(4)). For example, if a contract between those persons currently provides for a type or level of charge (such as member-borne commission, or an exit charge) which is prohibited under regulations made under paragraph 1 of Schedule 18. Schedule 18 already allows regulations to provide that a provision of a scheme will be overridden in the event of any conflict.

Part 3: General

Chapter 9: General

Section 42: Regulations: general provisions

206 This section makes further provision about the scope of regulation-making powers contained in the Act and in relation to parliamentary procedures. Further detail on individual regulation-making powers is set out in the Delegated Powers Memorandum.

Section 43: Extent

207 Section 43 provides for the Act's extent. The Act extends to England, Wales and Scotland.

208 The subject matter of the Act is devolved in respect of Northern Ireland and, as such is the responsibility of the Northern Ireland Assembly.

Section 44: Commencement

209 Section 44 provides for the commencement of the Act's provisions.

Section 45: Short title

210 This section states that the Act may be cited as the Pension Schemes Act.

Schedule 1: Pause orders

211 Schedule 1 is explained under section 31 of these notes.

Schedule 2: Master Trusts operating before commencement: transitional provision

212 Schedule 2 is explained under section 37 of these notes.

Schedule 3: Minor and consequential amendments

213 Schedule 3 is explained under section 38 of these notes.

Commencement

- 214 Section 44 provides for the commencement of the provisions within the Act.
- 215 Section 44(1)(a) provides that the sections relating to the definition of a Master Trust (Sections 1 and 2), penalty notices (sections 17 and 18), the triggering events (sections 20 to 22, 25 and 33 (as modified by Schedule 2)), certain information powers (paragraphs 5 and 8 of Schedule 3 (and section 38 insofar as it applies to those paragraphs)) and interpretation (section 39), will come into force on Royal Assent, in so far as they apply to Master Trusts in operation before that date.
- 216 Section 44(1) (b) provides that paragraphs 1 to 7 of Schedule 2 (Master Trusts in operation before commencement: transitional provisions), as well as section 37 (transitional and consequential provision), as it applies to those paragraphs, will also come into force on Royal Assent.
- 217 Section 44(1) (c) provides that paragraphs 1 to 4, 5 and 12 of Schedule 3 (minor and consequential amendments), as well as section 38 (minor and consequential amendments), as it applies to those paragraphs, will also come into force on Royal Assent.
- 218 Section 44(1)(d) and (e), provides that section 41 (power to restrict charges etc.), and Part 3 (General), will also come into force on Royal Assent
- 219 Section 44(2) provides that the provisions in Part 1 that are not mentioned in subsection (1) will come into force on such day(s) as appointed in regulations.
- 220 Section 44(3) provides that regulations under this section may make transitional or transitory provision or savings.
- 221 Section 44(4) provides that regulations made under section 42 may make incidental and supplementary provision, and different provision for different purposes.
- 222 These powers will be subject to no parliamentary procedure.

Related documents

223 The following documents are relevant to the Act and can be read at the stated locations:

- [Impact Assessment: Banning member borne commission occupational pension schemes used for Automatic Enrolment](#)
- [Impact Assessment: Cap on early exit charges in trust based occupational pension schemes](#)
- [Additional Analysis on capping occupational pension scheme exit charges](#)
- [Summary of Impacts for Pension Schemes Act](#)

Annex A - Territorial extent and application in the United Kingdom

224 The provisions of the Act extend and apply to England, Wales and Scotland only.

225 The Act does not apply to Northern Ireland as responsibility for pensions legislation in respect of Northern Ireland sits with the Northern Ireland Assembly. Therefore, it is within the legislative competence of the Northern Ireland Assembly to make corresponding provision to the Act.²

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
1 Master Trust Authorisation Clauses 1-40 and Schedules 1-3	Yes	Yes	Yes	No
2 Administration charges Clause 41	Yes	Yes	Yes	No
3 General Clauses 42-45	Yes	Yes	Yes	No

² References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

Annex B - Hansard References

226 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Lords</i>		
Introduction	19 October 2016	Vol. 774 Col. 2342
Second Reading	1 November 2016	Vol. 776 Col. 559-598
Grand Committee	21 and 28 November 2016	Vol. 776-777 Col. 1730-1768 , 1771-1798 , 1813-1830 , 15-60
Report	19 December 2016	Vol. 777 Col. 1484-1492 , 1503-1530
Third Reading	16 January 2017	Vol. 778 Col. 11-16
<i>House of Commons</i>		
First Reading	17 January 2017	House of Commons Votes and Proceedings
Second Reading	30 January 2017	Vol. 620 Col. 752-782
Public Bill Committee	7 and 9 February 2017	Vol. 621 Col. 1-36 ; 37-71 ; 73-102 ; 103-130
Report and Third Reading	22 and 29 March 2017	Vol. 623 Col. 881-902 and Vol. 624 Col. 336-353
<i>Ping Pong</i>		
Lords Consideration of Commons Amendments	05 April 2017	Vol. 782 Col. 1077-1088
Royal Assent	27 April 2017	House of Commons Vol. 624 Col. 1230
		House of Lords Vol. 782 Col. 1528

These Explanatory Notes relate to the Pension Schemes Act 2017 (c. 17) which received Royal Assent on 27 April 2017

Annex C - Progress of Bill Table

227 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament. No amendments were made on Report in the Commons.

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4	Clause 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5	Clause 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6	Clause 6	Clause 6	Clause 6
Section 7	Clause 7	Clause 7	Clause 7	Clause 7	Clause 7
Section 8	Clause 8	Clause 8	Clause 8	Clause 8	Clause 8
Section 9	Clause 9	Clause 9	Clause 10	Clause 10	Clause 9
Section 10	Clause 10	Clause 10	Clause 11	Clause 11	Clause 10
Section 11	Clause 11	Clause 11	Clause 12	Clause 12	Clause 11
Section 12	Clause 12	Clause 12	Clause 13	Clause 13	Clause 12
Section 13	Clause 13	Clause 13	Clause 14	Clause 14	Clause 13
Section 14	Clause 14	Clause 14	Clause 15	Clause 15	Clause 14
Section 15	Clause 15	Clause 15	Clause 16	Clause 16	Clause 15
Section 16	Clause 16	Clause 16	Clause 17	Clause 17	Clause 16
Section 17	Clause 17	Clause 17	Clause 18	Clause 18	Clause 17
Section 18	Clause 18	Clause 18	Clause 19	Clause 19	Clause 18
Section 19	Clause 19	Clause 19	Clause 20	Clause 20	Clause 19
Section 20	Clause 20	Clause 20	Clause 21	Clause 21	Clause 20
Section 21	Clause 21	Clause 21	Clause 22	Clause 22	Clause 21
Section 22	Clause 22	Clause 22	Clause 23	Clause 23	Clause 22
Section 23	Clause 23	Clause 23	Clause 24	Clause 24	Clause 23
Section 24	Clause 24	Clause 24	Clause 25	Clause 25	Clause 24
Section 25	Clause 25	Clause 25	Clause 26	Clause 26	Clause 25
Section 26	Clause 26	Clause 26	Clause 27	Clause 27	Clause 26
Section 27	Clause 27	Clause 27	Clause 28	Clause 28	Clause 27
Section 28	Clause 28	Clause 28	Clause 29	Clause 29	Clause 28
Section 29	Clause 29	Clause 29	Clause 30	Clause 30	Clause 29

These Explanatory Notes relate to the Pension Schemes Act 2017 (c. 17) which received Royal Assent on 27 April 2017

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons
Section 30	Clause 30	Clause 30	Clause 31	Clause 31	Clause 30
Section 31	Clause 31	Clause 31	Clause 32	Clause 32	Clause 31
Section 32	Clause 32	Clause 32	Clause 33	Clause 33	Clause 32
Section 33	Clause 33	Clause 33	Clause 34	Clause 34	Clause 33
Section 34	Clause 34	Clause 34	Clause 35	Clause 35	Clause 34
Section 35	Clause 35	Clause 35	Clause 36	Clause 36	Clause 35
Section 36			Clause 37	Clause 37	Clause 36
Section 37	Clause 36	Clause 36	Clause 38	Clause 38	Clause 37
Section 38	Clause 37	Clause 37	Clause 39	Clause 39	Clause 38
Section 39	Clause 38	Clause 38	Clause 40	Clause 40	Clause 39
Section 40	Clause 39	Clause 39	Clause 41	Clause 41	Clause 40
Section 41	Clause 40	Clause 40	Clause 42	Clause 42	Clause 41
Section 42	Clause 41	Clause 41	Clause 43	Clause 43	Clause 42
Section 43	Clause 42	Clause 42	Clause 44	Clause 44	Clause 43
Section 44	Clause 43	Clause 43	Clause 45	Clause 45	Clause 44
Section 45	Clause 44	Clause 44	Clause 46	Clause 46	Clause 45
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3

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