



2016 CHAPTER 1

PART 1

CATEGORIES OF PENSION SCHEME

Introduction

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

Defined benefits scheme

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

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

3. A pension scheme is a “shared risk scheme” if—
- (a) there is a pensions promise in relation to at least some of the retirement benefits that may be provided to each member, but
 - (b) the scheme is not a defined benefits scheme.

Defined contributions scheme

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

Meaning of “pensions promise” etc

5.—(1) For the purposes of section 2 there is a “full pensions promise” in relation to a retirement benefit if—

- (a) the scheme provides for there to be a promise, at all times before the benefit comes into payment, about the level of the benefit, and
- (b) the level of the benefit is to be determined wholly by reference to that promise in all circumstances.

(2) For the purposes of sections 3 and 4 there is a “pensions promise” in relation to a retirement benefit if the scheme provides for there to be a promise, at a time before the benefit comes into payment, about the level of the benefit.

(3) A reference in this section to a promise about the level of a retirement benefit—

- (a) includes a promise about factors, other than longevity, that will be used to calculate the level of the benefit,
- (b) does not include a promise if, or to the extent that, it consists merely of a promise that the level of the benefit will be calculated by reference to an amount available for its provision, and
- (c) in the case of a benefit the level of which depends on the amount available for the provision of benefits to or in respect of the member and one or more other members collectively, does not include a promise about the factors used to determine what proportion of that amount is available for the provision of the particular benefit.

(4) A scheme provides for there to be a promise if the scheme—

- (a) sets out the promise, or
- (b) requires the promise to be obtained from a third party.

(5) A scheme also provides for there to be a promise for the purposes of subsection (2) if the scheme provides for the member to be given—

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

Treatment of a scheme as two or more separate schemes

6.—(1) Regulations must provide for a pension scheme that does not fit within any of the categories to be treated, for the purposes of this Part and any other specified legislation, as if it were two or more separate schemes each of which then fits within one of the categories.

(2) Regulations may provide for other circumstances in which a scheme is to be treated, for the purposes of this Part and any other specified legislation, as two or more separate schemes each of which fits within one of the categories.

(3) In this section “category” means a category of scheme defined by section 2, 3 or 4.

Interpretation of Part 1

7. In this Part—

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

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

“legislation” means a statutory provision as defined by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

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

- (a) in the case of retirement income, the rate of that income, and
- (b) in the case of a retirement lump sum, the amount of that lump sum;

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

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

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

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

“public service pensions legislation” means—

- (a) the Public Service Pensions Act (Northern Ireland) 2014,
- (b) the Superannuation (Northern Ireland) Order 1972, and
- (c) any other provision by or under which a public service pension scheme is established;

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

“retirement benefit”, in relation to a member of a pension scheme, means—

- (a) retirement income, or
- (b) a retirement lump sum;

“retirement income”, in relation to a member of a pension scheme, means a pension or annuity payable to the member on reaching normal pension age;

“retirement lump sum”, in relation to a member of a pension scheme, means a lump sum payable to the member on reaching normal pension age or available for the provision of other retirement benefits for the member on or after reaching normal pension age.