

*These notes refer to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c.4) which received Royal Assent on 12th February 2010*

# Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 1: Transfer of functions of the Pensions Regulator Tribunal***

*Section 1* provides for the functions of the Pensions Regulator Tribunal to be transferred to the First-tier Tribunal and the Upper Tribunal. The question as to which Tribunal is to exercise the functions in a particular case will be determined by, or under, Tribunal Procedure Rules made by the Tribunal Procedure Committee under section 22 of the Tribunals, Courts and Enforcement Act 2007.

#### ***Section 2: Power to make ancillary provisions etc.***

*Section 2* provides a power for the Department to make ancillary provision by order, subject to the confirmatory procedure. For example, this will enable the Department to make the necessary consequential amendments to subordinate legislation.

#### ***Schedule 1 - Amendments***

Schedule 1 makes amendments to primary legislation, in so far as it applies in Northern Ireland, consequential upon the transfer of the Pensions Regulator Tribunal into the new structure. In particular, Schedule 1 provides for offences, for example, where a person refuses to produce documents to the new tribunals. This merely re-enacts provisions of the Pensions Act 2004 which extend to Northern Ireland but are now being repealed.

#### ***Schedule 2 - Transitional and saving provisions***

Schedule 2 makes transitional and saving provisions for the treatment of cases which had been dealt with by the Pensions Regulator Tribunal or were underway or pending at the transfer date.

Cases which have been started in the Pensions Regulator Tribunal will be transferred to the Upper Tribunal and in such cases the following will apply—

- a hearing which has already been commenced but not completed will be completed in the Upper Tribunal but comprised of the same members;

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- directions and orders made before the transfer date will continue in force as if they were directions or orders of the Upper Tribunal;
- Tribunal Procedure Rules applicable to the Upper Tribunal will apply to all cases from the date of transfer. However, to ensure that proceedings are dealt with fairly, the Upper Tribunal will be able to disapply provisions of those rules or apply the procedural rules which applied to the Pensions Regulator Tribunal prior to the transfer;
- time limits which begin to run before the date of transfer continue to apply after that date; and
- the Upper Tribunal will only be able to make an order for costs if and to the extent that the Pensions Regulator Tribunal could have made such an order before the date of transfer.

Schedule 2 also provides that if a right of appeal to the court has not been exercised before the date of transfer and the time for doing so has not expired, an appeal is to be treated as if it were an appeal against a decision of the Upper Tribunal.