



# Pensions Act (Northern Ireland) 2015

## 2015 CHAPTER 5

An Act to make provision about pensions and about benefits payable to people in connection with bereavement; and for connected purposes. [23rd June 2015]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## PART 1

### STATE PENSION

#### *Introduction*

#### **State pension**

1.—(1) This Part creates a benefit called state pension.

(2) A person who reaches pensionable age before 6 April 2016 is not entitled to benefits under this Part (but may be entitled to similar benefits under Part 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (in this Act referred to as “the Contributions and Benefits Act”)).

*State pension at the full or reduced rate***Entitlement to state pension at full or reduced rate**

- 2.—(1) A person is entitled to a state pension payable at the full rate if—
- (a) the person has reached pensionable age, and
  - (b) the person has 35 or more qualifying years.
- (2) A person is entitled to a state pension payable at the reduced rate if—
- (a) the person has reached pensionable age, and
  - (b) the person has at least the minimum number of qualifying years but fewer than 35 qualifying years.
- (3) The minimum number of qualifying years for a state pension payable at the reduced rate is to be specified in regulations and may not be more than 10.
- (4) In this Part “qualifying year” means a tax year, during a person’s working life, in which the person’s earnings factor (or the sum of the person’s earnings factors) is equal to or greater than the qualifying earnings factor for the year.
- (5) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.
- (6) For transitional cases in which a person may be entitled to a different state pension (instead of a state pension under this section), see sections 4 and 12.
- (7) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

**Full and reduced rates of state pension**

- 3.—(1) The full rate of the state pension is the weekly rate for the time being specified in regulations.
- (2) The reduced rate of the state pension for a person is the following proportion of the full rate—

$$\frac{1}{35} \times \text{the person's number of qualifying years}$$

- (3) Once the full rate has been specified, the power to make regulations under subsection (1) may not be re-exercised so as to reduce the rate.

*State pension at the transitional rate*

**Entitlement to state pension at transitional rate**

4.—(1) A person is entitled to a state pension payable at the transitional rate if—

- (a) the person has reached pensionable age,
- (b) the person has at least the minimum number of qualifying years, and
- (c) the person has at least one pre-commencement qualifying year.

(2) The minimum number of qualifying years for a state pension payable at the transitional rate is to be specified in regulations and may not be more than 10.

(3) A person entitled to a state pension payable at the transitional rate is not entitled to a state pension under section 2.

(4) In this Part—

“post-commencement qualifying year” means a qualifying year beginning on or after 6 April 2016;

“pre-commencement qualifying year” means—

- (a) a qualifying year beginning on or after 6 April 1978 and ending before 6 April 2016, or
- (b) a reckonable year that would have been treated under regulation 13(1) of the Social Security (Widow’s Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979 as a qualifying year for the purposes of determining the person’s entitlement to an old state pension that is a Category A retirement pension.

(5) A reckonable year mentioned in paragraph (b) of the definition of “pre-commencement qualifying year” in subsection (4) counts towards the minimum number of qualifying years required by subsection (1)(b) (even though it does not come within the definition of “qualifying year” for the purposes of this Part).

(6) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.

(7) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

**Transitional rate of state pension**

5.—(1) The transitional rate of the state pension for a person is a weekly rate equal to—

- (a) the sum of the amounts calculated under Schedule 1 for the person’s pre-commencement and post-commencement qualifying years capped at the full rate of the state pension on the day on which the person reaches pensionable age, or

(b) if higher, the amount for the person's pre-commencement qualifying years alone.

(2) The transitional rate of the state pension for a person is to be increased from time to time in accordance with the applicable paragraph of Schedule 2.

(3) Section 6 requires the transitional rate of the state pension for a person to be recalculated in certain circumstances.

(4) There are special rules about the transitional rate for certain women: see section 11 (reduced rate elections).

### **Recalculation and backdating of transitional rate in special cases**

6.—(1) This section modifies the transitional rate of the state pension for a person if, after the person has reached pensionable age, a determination is made under section 44A(2) of the Pension Schemes (Northern Ireland) Act 1993 (in this Act referred to as “the Pension Schemes Act”) (contracting-out: reinstatement in state scheme following payment of contributions equivalent premium).

(2) The person's transitional rate is to be recalculated (taking the determination into account under paragraph 3(8) of Schedule 1).

(3) The recalculated rate has effect as from the day on which the person reached pensionable age (and the other provisions of this Part apply accordingly).

### *Transitional entitlement based on contributions of others*

### **Survivor's pension based on inheritance of additional old state pension**

7.—(1) A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age,
- (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other, and
- (c) the person is entitled to an inherited amount under Schedule 3.

(2) A state pension under this section is payable at a weekly rate equal to the inherited amount.

(3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 4.

(4) Regulations may provide that if at any time the sum of the relevant state pensions for a person exceeds an amount provided for by regulations, the rate of any state pension payable to the person under this section is to be reduced by the amount of the excess.

- (5) The “sum of the relevant state pensions” for a person is the sum of—
- (a) the rate of any state pension payable to the person under this section (ignoring any reduction under subsection (4)), and
  - (b) the rate of any state pension payable to the person under section 2, 4 or 12.
- (6) In subsections (4) and (5) a reference to the rate of a person’s state pension is to the rate—
- (a) taking into account any reduction under section 14 (in the case of a state pension under section 4), but
  - (b) ignoring any increase under section 17.
- (7) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

**Choice of lump sum or survivor’s pension under section 9 in certain cases**

- 8.—(1) A person is entitled to a choice under this section if—
- (a) the person has reached pensionable age,
  - (b) the person’s spouse died while they were married or the person’s civil partner died while they were civil partners of each other,
  - (c) the spouse’s or civil partner’s entitlement to an old state pension was deferred at the time of death and throughout the period of 12 months ending with the day before the death,
  - (d) either—
    - (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
    - (ii) the person was over pensionable age when the spouse or civil partner died, and
  - (e) the person would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act—
    - (i) the words “before 6 April 2016” were omitted, and
    - (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 29 of this Act.
- (2) The person may choose—
- (a) to be paid a lump sum under this section, or
  - (b) to be paid a state pension under section 9.
- (3) Regulations are to set out the manner in which, and the period within which, that choice is to be made.

(4) A person who chooses to be paid a lump sum under this section, or who fails to choose within that period, is entitled to a “widowed person’s or surviving civil partner’s lump sum” calculated under paragraph 7B of Schedule 5 to the Contributions and Benefits Act.

(5) In that paragraph as it applies for the purposes of this section—

- (a) read the references to “W” as references to the person,
- (b) read sub-paragraph (5) as if it required increases under paragraph 4 of the Schedule to be excluded, and
- (c) read the reference in sub-paragraph (7)(a) to the date on which W becomes entitled to a Category A or Category B retirement pension as a reference to the date on which the person becomes entitled to make a choice under this section.

(6) There are provisions elsewhere that affect a person’s entitlement to a lump sum under this section.

(7) Regulations may allow a person, in specified circumstances—

- (a) to alter his or her choice under this section;
- (b) to make a late choice.

(8) Regulations under subsection (7) may, for the purpose of avoiding the duplication of payment—

- (a) enable recovery of an amount paid to the person, or
- (b) reduce the amount of a lump sum to be paid to the person.

(9) For the purposes of this section—

- (a) “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act,
- (b) “the relevant provisions” of the Contributions and Benefits Act are—
  - section 44(1)(a);
  - section 48(1);
  - section 48A(1) and (3);
  - section 48B(1), (1A), (4) and (4A);
  - section 48BB(1) and (3), and
- (c) in determining whether a person would have been entitled to an old state pension as mentioned in subsection (1)(e) ignore any requirement to make a claim.

#### **Survivor’s pension based on inheritance of deferred old state pension**

**9.—(1)** A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age,

- (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other,
- (c) either—
  - (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
  - (ii) the person was over pensionable age when the spouse or civil partner died,
- (d) the person is entitled to an inherited deferral amount under Schedule 5, and
- (e) in the case of a person entitled to a choice under section 8, the person has chosen to be paid a state pension under this section.

(2) A state pension under this section is payable at a weekly rate equal to the inherited deferral amount.

(3) But if at any time an order under section 132B of the Social Security Administration (Northern Ireland) Act 1992 (in this Act referred to as “the Administration Act”) comes into operation, the rate of the person's state pension under this section is increased (at that time) by the percentage specified in the order.

(4) A person may be entitled to more than one state pension under this section.

(5) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

### **Inheritance of graduated retirement benefit**

**10.**—(1) Regulations may make provision corresponding or similar to any provision of sections 7 to 9 and Schedules 3 to 5 for the purpose of conferring benefits on a person whose dead spouse or civil partner paid graduated contributions as an insured person.

(2) The regulations may—

- (a) include provision corresponding or similar to any provision that may be made by regulations under section 7 or 8;
- (b) amend or otherwise modify this Act or any other statutory provision (whenever passed or made).

(3) In this section “graduated contributions” and “insured person” have the meanings given by section 35(8) of the National Insurance Act (Northern Ireland) 1966.

*Transition: women who have had a reduced rate election*

**Reduced rate elections: effect on section 4 pensions**

**11.—**(1) Section 4(1)(b) (minimum number of qualifying years for state pension at the transitional rate) does not apply to a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(2) Schedule 6 modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(3) In this section—

“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

**Reduced rate elections: pension for women with no section 4 pension**

**12.—**(1) A woman is entitled to a state pension under this section if—

- (a) she has reached pensionable age,
- (b) a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period,
- (c) she does not have any pre-commencement qualifying years, and
- (d) she is entitled to a basic amount under Schedule 7.

(2) A state pension under this section is payable at a weekly rate equal to the basic amount.

(3) But if at any time the full rate of the state pension is increased, the rate of the woman’s state pension under this section is increased (at that time) by the same percentage as the increase in the full rate.

(4) In subsection (3) the reference to the rate of the woman’s state pension is to the rate ignoring any increase under section 17.

(5) A woman is not entitled to a state pension under this section and section 2 at the same time: she is only entitled to the one with the higher rate.

(6) There are provisions elsewhere that affect a woman’s entitlement to a state pension under this section or the rate at which it is payable.

(7) In this section—



“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

*Transition: pension sharing on divorce etc.*

**Shared state pension on divorce etc.**

**13.—**(1) A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age, and
- (b) the person is entitled to a state scheme pension credit.

(2) A state pension under this section is payable at the appropriate weekly rate set out in Schedule 8.

(3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 9.

(4) A person may be entitled to more than one state pension under this section.

(5) There are provisions elsewhere that affect a person’s entitlement to a state pension under this section or the rate at which it is payable.

(6) In this Part—

“state scheme pension credit” means—

- (a) a new state scheme pension credit, or
- (b) an old state scheme pension credit;

“new state scheme pension credit” means a credit under Article 46A(2)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“old state scheme pension credit” means a credit under Article 46(1)(b) of that Order.

**Pension sharing: reduction in the sharer’s section 4 pension**

**14.—**(1) The rate of a person’s state pension under section 4 is reduced under this section if the person is subject to a state scheme pension debit.

(2) The amount by which the rate is reduced is the amount of the appropriate weekly reduction set out in Schedule 10.

(3) A person’s state pension may be reduced more than once under this section.

(4) In this Part—

“state scheme pension debit” means—

- (a) a new state scheme pension debit, or
  - (b) an old state scheme pension debit;
- “new state scheme pension debit” means a debit under Article 46A(2)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
- “old state scheme pension debit” means a debit under Article 46(1)(a) of that Order.

### **Pension sharing: amendments**

15. Schedule 11 contains amendments to do with pension sharing.

#### *Postponing or suspending state pension*

### **Pensioner’s option to suspend state pension**

16.—(1) A person who has become entitled to a state pension under this Part may opt to suspend his or her entitlement in accordance with regulations.

(2) A person is not entitled to any state pension under this Part for the period for which the person has opted to suspend his or her entitlement.

(3) For other effects of a person exercising the option, see section 17.

(4) A person may not opt to suspend his or her entitlement to a state pension under this Part on more than one occasion.

(5) Regulations may specify other circumstances in which a person may not opt to suspend his or her entitlement to a state pension under this Part.

(6) Regulations may allow a person who has opted to suspend his or her entitlement to a state pension under this Part to cancel the exercise of that option (in whole or in part) in relation to a past period.

### **Effect of pensioner postponing or suspending state pension**

17.—(1) If a person’s entitlement to a state pension under this Part has been deferred for a period, the weekly rate of the person’s state pension is increased by an amount equal to the sum of the increments to which the person is entitled.

(2) But the weekly rate is not to be increased under subsection (1) if the increase would be less than 1% of the person’s weekly rate ignoring that subsection.

(3) A person is entitled to one increment for each whole week in the period during which the person’s entitlement to a state pension was deferred.

(4) The amount of an increment is equal to a specified percentage of the weekly rate of the state pension to which the person would have been entitled

immediately before the end of that period if the person's entitlement had not been deferred.

(5) In subsection (4) "specified" means specified in regulations.

(6) The amount of an increase under this section is itself to be increased from time to time in accordance with any order made under section 132 of the Administration Act (annual up-rating of benefits).

(7) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is deferred for a period if the person has opted under section 16 to suspend his or her entitlement for that period.

(8) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is also deferred for a period if the person is not entitled to it for that period by reason only of—

- (a) not satisfying the conditions in section 1 of the Administration Act (entitlement dependent on claim etc.), or
- (b) subsection (9).

(9) A person is not entitled to a state pension under this Part for any period during which his or her entitlement to any other state pension under this Part is deferred.

**Section 17 supplementary: calculating weeks, overseas residents, etc.**

**18.**—(1) Regulations may—

- (a) provide for circumstances in which a part of a week is to be treated for the purposes of section 17(3) as a whole week, and
- (b) provide for circumstances in which a day does not count in determining a number of whole weeks for the purposes of section 17(3) (for example if the person is receiving other benefits).

(2) Regulations may modify section 17(4) in cases where, at any time in the period during which a person's entitlement to a state pension is deferred, the rate for the person would have changed otherwise than because of an up-rating increase.

(3) Regulations may modify section 17(4) in relation to a person who has been an overseas resident during any part of the period for which the person's entitlement to a state pension has been deferred.

(4) In subsection (3) "overseas resident" means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(5) Regulations may amend the percentage specified in section 17(2).

*Prisoners and overseas residents***Prisoners**

**19.—**(1) Regulations may provide that a person is not to be paid a state pension under this Part for any period during which the person is a prisoner.

(2) “Prisoner” means a person (in Northern Ireland or elsewhere) who is—

- (a) imprisoned or detained in legal custody, or
- (b) unlawfully at large.

(3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

**Overseas residents**

**20.—**(1) Regulations may provide that an overseas resident who is entitled to a state pension under this Part is not entitled to up-rating increases.

(2) In this section “overseas resident” means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(3) Regulations under this section do not affect the rate of an overseas resident’s state pension for any period during which he or she is in Northern Ireland or a territory specified in the regulations (but once the overseas resident ceases to be in Northern Ireland or a specified territory the rate reverts to what it would have been had he or she not been in Northern Ireland or a specified territory).

(4) Regulations under this section do not affect the rate of a person’s state pension once the person stops being an overseas resident.

*Definitions***“Old state pension”**

**21.—**(1) In this Part “old state pension” means a Category A retirement pension or a Category B retirement pension.

(2) A reference in this Part to the rate of an old state pension (however expressed) does not include—

- (a) graduated retirement benefit under the National Insurance Act (Northern Ireland) 1966, or
- (b) any increase in the rate because of Schedule 5 to the Contributions and Benefits Act (deferral increases).

**General definitions etc.**

**22.—(1)** In this Part—

“Category A retirement pension” means a Category A retirement pension under Part 2 of the Contributions and Benefits Act;

“Category B retirement pension” means a Category B retirement pension under Part 2 of the Contributions and Benefits Act;

“full rate” means the rate mentioned in section 3(1);

“old state pension” has the meaning given by section 21 (and references to the rate of an old state pension are to be read in accordance with that section);

“pensionable age” has the meaning given by section 121(1) of the Contributions and Benefits Act; and a person is “over” pensionable age if the person has reached that age (and is otherwise “under” that age);

“post-commencement qualifying year” has the meaning given by section 4(4);

“pre-commencement qualifying year” is to be read in accordance with section 4(4) and (5);

“qualifying earnings factor” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“qualifying year” has the meaning given by section 2(4);

“reduced rate” means the rate mentioned in section 3(2);

“regulations” means regulations made by the Department;

“state scheme pension credit”, and related expressions, have the meanings given by section 13;

“state scheme pension debit”, and related expressions, have the meanings given by section 14;

“tax year” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“transitional rate” means the rate mentioned in section 5;

“up-rating increase”, in relation to a state pension under this Part, means—

- (a) an increase in the rate of the state pension because of an increase in the amount specified in regulations under section 3(1), or
- (b) an increase in the rate of the state pension because of section 9(3), 12(3) or 17(6) or Schedule 2, 4 or 9;

“working life” has the meaning given by section 121(1) of the Contributions and Benefits Act.

(2) For the purposes of any other provision of this Part two people are to be treated as if they are not married to each other in relation to times when either of them is married to a third person.

*Consequential and other amendments***Amendments****23.** In Schedule 12—

Part 1 contains amendments to do with state pensions under this Part;

Part 2 contains key amendments to do with the old state pension system;

Part 3 contains amendments to do with state pension credit;

Part 4 contains other amendments to do with this Part.

**Abolition of contracting-out for salary related schemes etc.**

**24.—**(1) Schedule 13 contains amendments to abolish contracting-out for salary related schemes.

(2) An employer may amend an occupational pension scheme in relation to some or all of its members to take account of increases in the employer's national insurance contributions in respect of some or all of the members to whom the amendments apply because of the repeal of section 37 of the Pension Schemes Act (by Schedule 13).

(3) The power may be used to make amendments that will apply in relation to future members and correspond to the amendments being made in relation to current members.

(4) The power may not be used—

(a) to make amendments that apply to a member who is a protected person in relation to a scheme, or

(b) to amend a public service pension scheme or a scheme of a description specified in regulations under this paragraph.

(5) Regulations must define what is meant by a protected person in relation to a scheme for the purposes of subsection (4)(a).

(6) Schedule 14 contains more detail about the power.

(7) In this section and Schedule 14—

“current member”, in relation to a scheme, means a person who is a member of the scheme at the time that the power is used (and “future member” is to be read accordingly);

“employer”, in relation to a scheme, means the employer of persons in the description of employment to which the scheme relates;

“member” has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995 (in this Act referred to as “the 1995 Order”);

“national insurance contributions”, in relation to an employer, means secondary Class 1 national insurance contributions payable by the employer;

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

“public service pension scheme” has the meaning given by that section.

(8) Subsections (2) to (7) and Schedule 14 are repealed at the end of the period of 5 years beginning with 6 April 2016.

(9) The Department may by order amend subsection (8) to extend the period for the time being mentioned there.

## PART 2

### OPTION TO BOOST OLD RETIREMENT PENSIONS

#### Option to boost old retirement pensions

**25.** Schedule 15 (option to boost old retirement pensions) contains amendments to make provision in relation to people who have paid additional contributions to boost their retirement pensions.

## PART 3

### PENSIONABLE AGE

#### Increase in pensionable age to 67

**26.—**(1) Paragraph 1 of Schedule 2 to the 1995 Order is amended as follows.

(2) In sub-paragraph (7) for “6th April 1968” substitute “6th April 1960”.

(3) For sub-paragraph (8) and table 3 substitute—

“(8) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age when the person attains the age shown against that period in column 2.

**TABLE 3**

<i>(1)</i> <i>Period within which birthday falls</i>	<i>(2)</i> <i>Age pensionable age attained</i>
6th April 1960 to 5th May 1960	66 years and 1 month
6th May 1960 to 5th June 1960	66 years and 2 months
6th June 1960 to 5th July 1960	66 years and 3 months
6th July 1960 to 5th August 1960	66 years and 4 months
6th August 1960 to 5th September 1960	66 years and 5 months

(1) <i>Period within which birthday falls</i>	(2) <i>Age pensionable age attained</i>
6th September 1960 to 5th October 1960	66 years and 6 months
6th October 1960 to 5th November 1960	66 years and 7 months
6th November 1960 to 5th December 1960	66 years and 8 months
6th December 1960 to 5th January 1961	66 years and 9 months
6th January 1961 to 5th February 1961	66 years and 10 months
6th February 1961 to 5th March 1961	66 years and 11 months

(8A) For the purposes of table 3—

- (a) a person born on 31st July 1960 is to be taken to attain the age of 66 years and 4 months at the commencement of 30th November 2026;
  - (b) a person born on 31st December 1960 is to be taken to attain the age of 66 years and 9 months at the commencement of 30th September 2027;
  - (c) a person born on 31st January 1961 is to be taken to attain the age of 66 years and 10 months at the commencement of 30th November 2027”.
- (4) In sub-paragraph (9) for “5th April 1969” substitute “5th March 1961”.

## PART 4

### STATE PENSION CREDIT

#### **State pension credit: phasing out assessed income periods**

**27.**—(1) In section 6 of the State Pension Credit Act (Northern Ireland) 2002 (duty to specify assessed income period), in subsection (1), after “subsection (3) or (4)” insert “where the relevant decision takes effect before 6 April 2016”.

(2) At the end of the heading to that section insert “for pre-6 April 2016 awards”.

(3) Regulations under section 9(5) of the State Pension Credit Act (Northern Ireland) 2002 may in particular be made for the purpose of phasing out, on or after 6 April 2016, any remaining assessed income period that is 5 years or shorter than 5 years.

#### **Preserving indefinite status of certain existing assessed income periods**

**28.**—(1) Section 84(6) of the Pensions (No. 2) Act (Northern Ireland) 2008 (in this Act referred to as “the Pensions (No. 2) Act”) (which provides that section 9(6) of the State Pension Credit Act (Northern Ireland) 2002 ceases to



have effect on 6th April 2014) is repealed and is to be treated as never having had effect.

(2) In section 9(6)(a) of the State Pension Credit Act (Northern Ireland) 2002 (duration of assessed income period for certain transitional cases to be treated as indefinite) as restored by this section, after “brought to an end” insert “, on or after 6 April 2009 but before 6 April 2014,”.

## PART 5

### BEREAVEMENT SUPPORT PAYMENT

#### **Bereavement support payment**

**29.**—(1) A person is entitled to a benefit called bereavement support payment if—

- (a) the person’s spouse or civil partner dies,
- (b) the person is under pensionable age when the spouse or civil partner dies,
- (c) the person is ordinarily resident in Northern Ireland, or a specified territory, when the spouse or civil partner dies, and
- (d) the contribution condition is met (see section 30).

(2) The Department must by regulations specify—

- (a) the rate of the benefit, and
- (b) the period for which it is payable.

(3) The regulations may specify different rates for different periods.

(4) In the case of a person who is pregnant or entitled to child benefit in specified circumstances, the regulations may—

- (a) specify a higher rate;
- (b) provide for the allowance to be payable for a longer period.

(5) A person is not entitled to bereavement support payment for periods after the person has reached pensionable age.

(6) A person is not entitled to bereavement support payment if the death occurred before this section came fully into operation.

(7) In this section—

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the 1995 Order;

“specified territory” means a territory specified in regulations made by the Department.

**Bereavement support payment: contribution condition and amendments**

**30.**—(1) For the purposes of section 29(1)(d) the contribution condition is that, for at least one tax year during the deceased’s working life—

(a) he or she actually paid Class 1 or Class 2 national insurance contributions, and

(b) those contributions give rise to an earnings factor (or total earnings factors) equal to or greater than 25 times the lower earnings limit for the tax year.

(2) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.

(3) For the purposes of section 29(1)(d) the contribution condition is to be treated as met if the deceased was an employed earner and died as a result of—

(a) a personal injury of the kind mentioned in section 94(1) of the Contributions and Benefits Act, or

(b) a disease or personal injury of the kind mentioned in section 108(1) of that Act.

(4) In this section the following expressions have the meanings given by section 121(1) of the Contributions and Benefits Act—

“employed earner”,

“lower earnings limit”,

“tax year”, and

“working life”.

(5) Schedule 16 contains amendments to do with bereavement support payment.

**Bereavement support payment: prisoners**

**31.**—(1) The Department may by regulations provide that a person is not to be paid bereavement support payment for any period during which the person is a prisoner.

(2) “Prisoner” means a person (in Northern Ireland or elsewhere) who is—

(a) imprisoned or detained in legal custody, or

(b) unlawfully at large.

(3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

## PART 6

### PRIVATE PENSIONS

#### *Transfer of pension benefits*

#### **Automatic transfer of pension benefits etc.**

##### **32.** Schedule 17—

- (a) requires the Department to make regulations under which, in certain circumstances, the cash equivalent of a person's accrued rights to benefits under a pension scheme must be transferred to another scheme of which the person is an active member;
- (b) permits the Department to make regulations requiring accounts relating to a person's accrued rights to benefits under a pension scheme to be merged in certain circumstances.

#### **Power to prohibit offer of incentives to transfer pension rights**

**33.**—(1) The Department may by regulations make provision prohibiting a person from offering an incentive to another person with the intention of inducing a member of a salary related occupational pension scheme to—

- (a) exercise a right to require a pensions transfer, or
- (b) agree to a pensions transfer.

(2) “Pensions transfer” means a transfer of sums or assets representing any of the member's pension rights to be used for one or more of the following—

- (a) acquiring rights (whether to present or future benefit) for the member under the rules of another occupational pension scheme or a personal pension scheme;
- (b) purchasing one or more annuities for the member;
- (c) subscribing to other pension arrangements for the member.

(3) “Pension right” means, at any time—

- (a) any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules, or
- (b) any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules;

and for this purpose “right” includes a pension credit right.

(4) Regulations under this section may in particular—

- (a) provide for the prohibition to apply whether the incentive offered is to be provided by the person making the offer or another person;
- (b) create exceptions to the prohibition;

(c) provide for Article 10 of the 1995 Order (civil penalties) to apply to a person who contravenes the regulations.

(5) Regulations made by virtue of subsection (4)(c) may in particular provide that for the purposes of Article 10 of the 1995 Order the offer of an incentive is to be regarded as a separate act in relation to each member of a scheme to whom the incentive relates.

(6) Nothing in any regulations made under this section affects the validity of a pensions transfer (or of the exercise of a right to require a transfer or of an agreement to a transfer).

(7) In this section—

“incentive” means a financial or other advantage;

“member” has the meaning given by Article 121(1) of the 1995 Order;

“occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act;

“pension credit right” has the meaning given by Article 121(1) of the 1995 Order;

“salary related occupational pension scheme” has the meaning given by section 96D of the Pension Schemes Act;

“scheme rules” has the meaning given by Article 67A(8) of the 1995 Order.

(8) This section binds the Crown.

### **Expiry of power in section 33**

**34.** If no regulations have been made under section 33 by the end of the period of 7 years beginning with the day on which it comes into operation, that section is repealed at the end of that period.

### **Short service benefit for scheme member with money purchase benefits**

**35.—**(1) Section 67 of the Pension Schemes Act (basic principle as to short service benefit) is amended as follows.

(2) In subsection (1)(a), after “service,” insert—

“(aa) he has at least 30 days’ qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be money purchase benefit,”.

(3) After subsection (9) insert—

“(10) Subsections (7) to (9) apply, with the substitution for references to 2 years of references to 30 days, for determining whether a person has at least 30 days’ qualifying service for the purposes of subsection (1).

(11) Subsection (1)(aa) does not apply in relation to a person's membership of a scheme if any period of relevant service began before the day on which section 35 of the Pensions Act (Northern Ireland) 2015 came into operation (whether or not it also ended before that date).

“Relevant service” means service that counts towards the 30 days' qualifying service for the purposes of subsection (1).”.

(4) In section 97AA of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds), in subsection (4)(b), after “(a)” insert “, (aa)”.

#### *Automatic enrolment*

#### **Automatic re-enrolment: exceptions where automatic enrolment deferred**

**36.—**(1) The Pensions (No. 2) Act is amended as follows.

(2) In section 5 (automatic re-enrolment), after subsection (3) insert—

“(3A) Subsection (2) does not apply if the jobholder's automatic enrolment date is deferred under section 4 from a date before the automatic re-enrolment date to a date after the automatic re-enrolment date.”.

(3) In section 30(7) (transitional period for defined benefits and hybrid schemes), at the end insert—

“(c) section 5(2) does not apply in relation to an automatic re-enrolment date that falls before the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”.

#### **Automatic enrolment: powers to create general exceptions**

**37.—**(1) In section 10 of the Pensions (No. 2) Act (information to be given to workers)—

(a) in subsection (1)—

(i) for “must” substitute “may”;

(ii) in paragraphs (a) and (b), omit “all”;

(b) in subsection (2) for “must state” substitute “may in particular make provision about”.

(2) In Chapter 7 of Part 1 of the Pensions (No. 2) Act, before section 70 (and the heading “Workers” above it) insert—

*“Exceptions*

**Power to create exceptions from the employer duties etc.**

**69A.**—(1) The Department may by regulations provide for exceptions to the employer duties; and an exception may in particular—

- (a) turn an employer duty into a power;
- (b) be framed by reference to a description of worker, particular circumstances or in some other way.

(2) But the regulations may not provide for an exception for employers of a particular size.

(3) Regulations which make provision under subsection (1)(a) may make provision modifying this Part or regulations made under it in connection with that provision.

(4) The regulations may make provision in connection with the coming to an end of the state of affairs that caused an exception to apply, including provision—

- (a) modifying this Part or regulations made under it in relation to a person;
- (b) for the purpose of putting a person, wholly or partly, in the position he or she would have been in if the exception had never applied.

(5) In this section “employer duties” means any duty of an employer under any provision of sections 2 to 11 and 54 or of regulations made under those sections.”.

(3) In consequence of subsection (2), the following are repealed—

- (a) Article 268A of the Pensions (Northern Ireland) Order 2005 (in this Act referred to as “the 2005 Order”);
- (b) section 5(4) of the Pensions (No. 2) Act;
- (c) section 19 of the Pensions Act (Northern Ireland) 2012.

**Alternative quality requirements for UK defined benefits scheme**

**38.**—(1) The Pensions (No. 2) Act is amended as follows.

(2) After section 23 insert—

**“Alternative quality requirements for UK defined benefits schemes**

**23A.**—(1) The Department may by regulations provide that a defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if any one or more of the following is satisfied—

- (a) the scheme is of a prescribed description and satisfies the quality requirement under section 20 in relation to that jobholder;
- (b) the cost of providing the benefits accruing for or in respect of the relevant members over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the members' total relevant earnings over that period;
- (c) in the case of each of at least 90% of the relevant members, the cost of providing the benefits accruing for or in respect of the member over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the member's total relevant earnings over that period.

(2) For this purpose—

“contributions” means contributions to the scheme by, or on behalf or in respect of, a relevant member;

“relevant earnings” means earnings of a prescribed description;

“relevant members” means members of the scheme of a prescribed description;

“relevant period” means a period specified in or determined in accordance with the regulations.

(3) A percentage prescribed under subsection (1)(b) or (c) must be at least 8%.

(4) Regulations under subsection (1)(b) or (c) may make provision—

(a) about how to calculate whether the requirement is satisfied, including provision requiring the calculation to be made in accordance with prescribed methods or assumptions;

(b) requiring benefits of a prescribed description to be disregarded in determining whether the requirement is satisfied;

(c) that a scheme only satisfies the requirement if the scheme actuary certifies that it does; and for this purpose “scheme actuary” has the prescribed meaning.

(5) Section 13(3) (meaning of “earnings”) applies for the purposes of this section as it applies for the purposes of that section.”.

(3) In section 24 (quality requirement: UK hybrid schemes), in subsection (1) (b), for “23” substitute “23A”.

(4) In section 28 (certification that quality requirement or alternative requirement is satisfied)—

(a) after subsection (3A) insert—

“(3B) This section also applies to a defined benefits scheme that has its main administration in the United Kingdom and is of a description prescribed under section 23A(1)(a).”;

(b) in subsection (4), after paragraph (d) insert—

“(e) for a scheme within subsection (3B), means the quality requirement under section 23A(1)(a).”.

(5) In section 29 (transitional periods for money purchase and personal pension schemes), in subsections (1) and (3) omit “for money purchase and personal pension schemes”.

(6) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows.

(7) In subsection (3), at the end of the substituted subsection (2) insert—

“A reference in this subsection to a scheme does not include a scheme to which section 30(11)(a) or (b) applies.”.

(8) In subsection (5), in the substituted subsection (2)—

(a) in paragraph (a), after “defined benefits scheme” insert “other than a scheme to which section 30(11)(a) applies”;

(b) in paragraph (aa) (inserted by section 39), after “a hybrid scheme” insert “other than a scheme to which section 30(11)(b) applies”;

(c) after paragraph (c) (inserted by section 39), insert—

“(d) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a defined benefits scheme to which section 30(11)(b) applies, or

(e) becomes a defined benefits member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme to which section 30(11)(b) applies.”.

(9) After subsection (10) (added by section 39) add—

“(11) In subsection (2) references to a scheme do not include—

(a) a defined benefits scheme that satisfies the quality requirement in relation to the jobholder by reason only of section 23A(1)(a), or

(b) a hybrid scheme if—

(i) the appropriate paragraph of section 24(1) for any provisions of the scheme is paragraph (b) (those provisions are referred to below as “the defined benefits section”),

(ii) the defined benefits section satisfies section 23A(1)(a) as applied by section 24(1)(b), and

(iii) the defined benefits section does not satisfy any of the other requirements mentioned in section 24(1)(b).”.



**Automatic enrolment: transitional period for hybrid schemes**

**39.**—(1) Section 30 of the Pensions (No. 2) Act (transitional period for defined benefits and hybrid schemes) is amended as follows.

(2) In subsection (2)(b) and (c), for “a hybrid scheme” substitute “a defined benefits member of a hybrid scheme”.

(3) In subsection (3), in the substituted subsection (2)—

(a) after “becomes” insert “(a)”;

(b) for “or a hybrid scheme” substitute “, or

(b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a hybrid scheme.”.

(4) In subsection (5), in the substituted subsection (2)—

(a) in paragraph (a), for “a hybrid scheme, or” substitute—

“(aa) becomes a defined benefits member, with effect from the closure date of an automatic enrolment scheme which is a hybrid scheme;”;

(b) after paragraph (b) insert—

“(c) becomes a money purchase member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme.”.

(5) After subsection (9) add—

“(10) For the purposes of this section—

(a) a person is a “money purchase member” of a hybrid scheme if—

(i) the person is an active member of the scheme, and

(ii) all the benefits accruing in respect of his or her membership are money purchase benefits, and

(b) a person is a “defined benefits member” of a hybrid scheme if the person is an active member of the scheme other than a money purchase member.”.

(6) Subsection (7) applies if—

(a) an employer whose first enrolment date is before the date on which the amendments made by this section come into operation (“the commencement date”) has given a jobholder notice under section 30(3) of the Pensions (No. 2) Act,

(b) the conditions in section 30(2) of that Act have continued to be satisfied during the period beginning with the employer’s first enrolment date and ending with the day before the commencement date, and

(c) had the amendments made by this section come into operation on 19 December 2012, the condition in section 30(2)(c) of that Act would not have been satisfied at a time during that period.

(7) Section 30(5) to (7) of the Pensions (No. 2) Act (as amended by this section) applies in relation to the jobholder with the following modifications—

(a) references in section 30(5) and (6) of that Act to the closure date are to be read as references to the commencement date, and

(b) references in section 30(5) and (6) of that Act to the automatic enrolment date are to be read as references to—

(i) 19 December 2012, or

(ii) if later, the employer's first enrolment date;

and section 30(3) and (4) of that Act does not apply.

(8) Expressions used in this section and in section 30 of the Pensions (No. 2) Act have the same meaning in this section as in that section.

#### **Penalty notices under sections 40 and 41 of the Pensions (No. 2) Act etc.**

**40.**—(1) In sections 40(1)(d) and 41(1)(d) of the Pensions (No. 2) Act (fixed and escalating penalty notices), at the end insert “, so far as relevant to the exercise of any of its functions under or by virtue of this Part”.

(2) In Article 67 of the 2005 Order (powers to require information), in paragraph (1A), for “Chapter 2 of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 or section 51 of that Act” substitute “or by virtue of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008”.

#### **Unpaid scheme contributions**

**41.**—(1) The Pension Schemes Act is amended as follows.

(2) In section 119 (payment by Department for Employment and Learning of unpaid scheme contributions on employer insolvency: interpretation)—

(a) in subsection (2), for the definition of “contract of employment” and related expressions substitute—

“employer”, employment”, worker” and worker’s contract” and other expressions which are defined in the Employment Rights (Northern Ireland) Order 1996 have the same meaning as in that Order (see further subsections (2A) and (2B));”;

(b) in subsection (2), in paragraph (b) of the definition of “holiday pay”, for “the employee’s contract of employment” substitute “the worker’s contract”;

(c) after subsection (2) insert—

“(2A) Section 71 of the Pensions (No. 2) Act (Northern Ireland) 2008 (agency workers) applies for the purposes of this Chapter as it applies for the purposes of Part 1 of that Act.

(2B) References in this Chapter to a worker include references to an individual to whom Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 applies as if the individual were a worker because of regulations made under section 77 of that Act; and related expressions are to be read accordingly.”

(3) In section 120 (Department for Employment and Learning’s duty to pay unpaid contributions)—

- (a) for “an employee”, in each place, substitute “a worker”;
- (b) for “the employee”, in each place, substitute “the worker”;
- (c) for “the employee’s” substitute “the worker’s”;
- (d) for “employees”, in each place, substitute “workers”.

(4) In section 157, for “contract of employment” substitute “worker’s contract”.

(5) In section 161(6)—

- (a) in paragraph (a), for “contract of employment the employee” substitute “worker’s contract the worker”;
- (b) in paragraph (b), for “employee” substitute “worker”.

#### *Other*

#### **Power to restrict charges or impose requirements in relation to schemes**

**42.** Schedule 18 permits the Department to make regulations—

- (a) restricting the charges that may be imposed on members of certain pension schemes;
- (b) imposing requirements relating to administration or governance that must be satisfied in relation to certain pension schemes.

#### **Disclosure of information about transaction costs to members etc.**

**43.** In section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc.), after subsection (4) insert—

“(5) The Department must make regulations under subsection (1) requiring information about some or all of the transaction costs of a relevant scheme to be given to some or all of the persons mentioned in subsection (2).

(6) The Department must by regulations make provision requiring the publication of information about—

- (a) some or all of the transaction costs of a relevant scheme, and
- (b) some or all of the administration charges imposed on members of a relevant scheme.

(7) Regulations under subsection (6) may require other relevant information to be published along with information about transaction costs or administration charges in relation to a scheme.

(8) “Other relevant information” means other information which would or may assist in making comparisons between those costs or charges and costs or charges in relation to other schemes.

(9) In this section—

“administration charge” has the meaning given by paragraph 1(5) of Schedule 18 to the Pensions Act (Northern Ireland) 2015;

“relevant scheme” means a money purchase scheme that is an occupational pension scheme.”.

#### **Power to require pension levies to be paid in respect of past periods**

**44.**—(1) The Department may by regulations provide for the 2005 Order, and regulations made under it, to have effect, so far as relating to the requirement to pay pension levy, as if the amendments made by the 2010 regulations had always had effect.

(2) Regulations under this section may in particular—

- (a) modify the application of the 2005 Order, or regulations made under it, in relation to amounts of pension levy required to be paid because of regulations under this section;
- (b) provide for interest to be charged at a specified rate on such amounts (including in respect of periods before the coming into operation of regulations under this section).

(3) In this section—

“the 2010 regulations” means—

- (a) regulations 2, 3 and 8 of the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2010, and
- (b) regulation 2 of the Occupational Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2010;

“pension levy” means—

- (a) a levy under regulations made under Article 103 of the 2005 Order (administration levy),
- (b) a levy under regulations made under Article 157 of that Order (initial levy), or

- (c) a levy under Article 158 of that Order (pension protection levies).

**Prohibition and suspension orders: directors of corporate trustees**

**45.—**(1) The 1995 Order is amended as follows.

(2) After Article 3 insert—

**“Prohibition orders: directors of corporate trustees etc.**

**3A.—**(1) A company is prohibited from being a trustee of a trust scheme at any time when an individual who is a director of the company is prohibited from being a trustee of the scheme by an order under Article 3.

(2) Where a company which is a trustee of a trust scheme becomes prohibited under paragraph (1) in relation to the scheme, that paragraph has the effect of removing the company as a trustee.

(3) The Authority may, on the application of a company, give notice in writing to the applicant waiving the prohibition under paragraph (1)—

(a) in relation to an individual against whom an order under Article 3 has been made, and

(b) either generally or in relation to a particular scheme or particular description of schemes.

(4) A notice may be given under paragraph (3) only if the Authority is satisfied that the applicant would be a fit and proper person to be a trustee of the scheme or schemes to which the notice relates despite the individual being, or even if the individual were to become, a director of the applicant.

(5) A notice given at any time under paragraph (3) cannot affect anything done before that time.

(6) An application under paragraph (3) may not be made—

(a) during the period within which the determination to exercise the power to make the order against the individual may be referred to the Tribunal under Article 91(3) or 94(7) of the Pensions (Northern Ireland) Order 2005 (whether by a company which became prohibited under paragraph (1) on the making of the order or by another person), and

(b) if the determination is so referred, until the reference, and any appeal against the Tribunal’s determination, has been finally disposed of.

(7) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this Article.

(8) The Authority may revise any statement published under paragraph (7) and must publish any revised statement.

(9) References in this Article to an order under Article 3 are to an order under that Article made on or after the date on which section 45(2) of the Pensions Act (Northern Ireland) 2015 comes fully into operation.”.

(3) Article 4 (Pensions Regulator’s power to suspend trustee of occupational pension scheme) is amended as follows.

(4) In paragraph (1)(f), after “sub-paragraph” insert “(aa),”.

(5) In paragraph (2)(a), after “or (aa)” insert “or, in a case where the Authority would have power to suspend a director under sub-paragraph (aa), by virtue of sub-paragraph (f)”.

(6) Schedule 19 contains consequential amendments.

### **Pensions Regulator’s objectives**

**46.** In Article 4(1) of the 2005 Order, after sub-paragraph (c) insert—

“(cza) in relation to the exercise of its functions under Part 4 only, to minimise any adverse impact on the sustainable growth of an employer.”.

### **Maximum period between scheme returns to be 5 years for micro schemes**

**47.—**(1) Article 58 of the 2005 Order (duty of the Regulator to issue scheme return notices) is amended as follows.

(2) After paragraph (3) insert—

“(3A) But paragraph (3)(a) has effect as if the reference to three years were a reference to five years if—

- (a) the trustees or managers have complied with sub-paragraph (b) of Article 57(2),
- (b) the information they provided under that sub-paragraph included the number of members of the scheme, and
- (c) that number was no more than 4.”.

(3) After paragraph (4) insert—

“(4A) But paragraph (4)(a) has effect as if the reference to three years were a reference to five years if—

- (a) on the date on which the previous scheme return notice was issued, the number of members of the scheme was recorded in the register, and
- (b) that number was no more than 4.”.

**Pension Protection Fund: increased compensation cap for long service**

48. See Schedule 20 for amendments increasing the Pension Protection Fund compensation cap for persons with long pensionable service.

**Pension Protection Fund: compensation cap to apply separately to certain benefits**

49.—(1) Paragraph 26 of Schedule 6 to the 2005 Order (Pension Protection Fund: compensation cap) is amended as follows.

(2) In sub-paragraph (1)(b), for “sub-paragraph (2)(a) or (b)” substitute “sub-paragraph (2)(a), (b) or (c)”.

(3) In sub-paragraph (2)(a)(ii), for “paragraph (b)(i) does not apply” substitute “neither of paragraphs (b) and (c) applies”.

(4) In sub-paragraph (2)(b)—

(a) before paragraph (i) insert—

“(zi) benefit A is attributable to the person’s pensionable service.”;

(b) in paragraph (i), after “one or more other benefits” insert “that are attributable to his pensionable service”.

(5) In sub-paragraph (2), after paragraph (b) insert “, and

(c) this paragraph applies if—

(i) benefit A is attributable to a pension credit from a transferor,

(ii) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits that are—

(iia) under the scheme or a connected occupational pension scheme, and

(iib) attributable to a pension credit from the same transferor, (“benefit or benefits B”), and

(iii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.”.

(6) In sub-paragraph (5), after “sub-paragraph (2)(b)” insert “or (c)”.

(7) The amendments made by this section are to be treated as always having had effect.

(8) Regulations under paragraph 26(9) of Schedule 6 to the 2005 Order (modifications for cases where compensation becomes payable on different occasions) made in consequence of this section may be made with retrospective effect.

## PART 7

### FINAL PROVISIONS

#### **Power to make consequential amendments etc.**

**50.**—(1) The Department or the Department of Finance and Personnel may by order make consequential, incidental or supplementary provision in connection with any provision made by this Act.

(2) An order under this section may amend, repeal, revoke or otherwise modify any statutory provision (whenever passed or made).

#### **Regulations and orders**

**51.**—(1) Subject to the following provisions of this section, any orders or regulations made by the Department or the Department of Finance and Personnel under this Act are subject to negative resolution.

(2) Subsection (1) does not apply to an order under section 53(1) or (5).

(3) Orders or regulations (whether alone or with other provisions) to which this subsection applies—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the order or regulations, but (without prejudice to the validity of anything done thereunder or to the making of a new order or regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the order or regulations are approved by a resolution of the Assembly.

(4) Subsection (3) applies to—

- (a) regulations under section 3, 17, 18(3) or (5), 19, 20, 29, 31 or 33,
- (b) the first regulations under section 10,
- (c) an order under section 50 that amends or repeals any relevant statutory provision,
- (d) regulations under Schedule 17,
- (e) regulations under paragraph 2 of Schedule 18 or regulations under paragraph 7 of that Schedule that amend any relevant statutory provision,  
or
- (f) the first regulations under paragraph 1 or 3 of that Schedule.

(5) In this section “relevant statutory provision” means a statutory provision contained in—

- (a) an Act of the Parliament of Northern Ireland;



- (b) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 or the Schedule to the Northern Ireland Act 2000;
  - (c) an Act of the Assembly; or
  - (d) an Act of the Parliament of the United Kingdom.
- (6) Regulations or orders under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

### **Interpretation**

**52.—**(1) In this Act—

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005;

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Department” means the Department for Social Development;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the Pensions (No. 2) Act” means the Pensions (No. 2) Act (Northern Ireland) 2008;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) In the application, for the purposes of this Act, of—

(a) section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post), omit the word “registering”;

(b) section 39(2) of that Act (time beginning on a particular day), omit the word “not”.

### **Commencement**

**53.—**(1) Subject to the following provisions of this section, this Act comes into operation on such day or days as the Department may by order appoint.

(2) The following come into operation on the day after this Act receives Royal Assent—

(a) Part 3;

(b) section 28;

(c) sections 33 and 34;

(d) section 40;

- (e) section 46;
- (f) section 49; and
- (g) this Part.

(3) Part 1 comes into operation on 6 April 2016, so far as not brought into operation earlier by an order under subsection (1).

(4) The Department may by order—

- (a) amend subsection (3) so as to replace the reference to 6 April 2016 with a later date, and
- (b) make corresponding amendments in Part 1 or any statutory provision amended by it.

(5) The Department may by order make transitional, transitory or saving provision in connection with the coming into operation of any provision of this Act.

**Short title**

**54.** This Act may be cited as the Pensions Act (Northern Ireland) 2015.

## SCHEDULES

### SCHEDULE 1

Section 5.

#### TRANSITIONAL RATE OF STATE PENSION: CALCULATING THE AMOUNT

##### PART 1

##### INTRODUCTION

**1.**—(1) This Schedule sets out how to calculate the amounts used to work out the transitional rate of a person's state pension.

(2) Part 2 of the Schedule sets out how to calculate the amount for a person's pre-commencement qualifying years.

(3) Part 3 of the Schedule sets out how to calculate the amount for a person's post-commencement qualifying years (if any).

##### PART 2

##### AMOUNT FOR PRE-COMMENCEMENT QUALIFYING YEARS

###### *How to calculate the amount for pre-commencement qualifying years*

**2.** A person's amount for pre-commencement qualifying years is calculated as follows.

###### *Step 1 - calculate the person's pension under the old system*

Calculate the weekly rate based on the old state pension and graduated retirement benefit (see paragraph 3 for more about this).

###### *Step 2 - calculate a pension based on the new system*

Calculate the weekly rate based on the new state pension (see paragraph 4 for more about this).

###### *Step 3 - take whichever rate is higher (the foundation amount)*

Take whichever of the rates found under Steps 1 and 2 is higher.

###### *Step 4 - revalue to date when the person reached pensionable age*

Revalue the amount of that rate in accordance with paragraph 6.

The amount for the person's pre-commencement qualifying years is the amount as revalued under Step 4.

*Step 1: calculation of the person's pension under the old system*

3.—(1) For the purposes of Step 1 of the calculation in paragraph 2, the weekly rate based on the old state pension and graduated retirement benefit is—

- (a) the rate of any Category A retirement pension and graduated retirement benefit to which the person would have been entitled if the person had reached pensionable age on 6 April 2016, or
- (b) the rate of any graduated retirement benefit to which the person would have been entitled under section 35(7) of the National Insurance Act (Northern Ireland) 1966 (persons not entitled to retirement pension) if the person had reached pensionable age on that date.

(2) The following rules apply for the purposes of calculating that rate.

(3) Calculate the rate that would have had effect on 6 April 2016 (but see subparagraph (6)).

(4) Ignore—

- (a) the amendments made by paragraphs 45 and 47 of Schedule 12 (which limit Category A retirement pensions and graduated retirement benefit to people who reach pensionable age before 6 April 2016);
- (b) any requirement to make a claim;
- (c) any provision suspending payment of, or disqualifying a person from receiving, any amount;
- (d) section 45B of the Contributions and Benefits Act (reduction of additional pension because of pension sharing);
- (e) section 36 of the National Insurance Act (Northern Ireland) 1966 (graduated retirement benefit for widows etc.).

(5) Read the reference in section 45(4)(b) of the Contributions and Benefits Act (additional pension) to a person's working life as a reference to the period—

- (a) beginning with the tax year in which the person reached 16, and
- (b) ending with the tax year before the one in which the person actually reached pensionable age.

(6) If an order under section 132 or 132A of the Administration Act (up-rating) is made before 6 April 2016 and it provides for an increase to come into operation after that date, it is to be treated for the purposes of calculating the rate under this paragraph as having already come into operation.

(7) Where regulations under section 22(5ZA) of the Contributions and Benefits Act have the effect that a person is credited, on or after 6 April 2016, with earnings

or contributions for a tax year starting before that date, the earnings or contributions are to be treated for the purposes of calculating the rate under this paragraph as having been credited before 6 April 2016.

(8) A determination under section 44A(2) of the Pension Schemes Act (contracting-out: reinstatement in state scheme following payment of contributions equivalent premium) made on or after 6 April 2016 is to be treated for the purposes of calculating the rate under this paragraph as having been made before 6 April 2016.

*Step 2: calculation of a pension based on the new system*

4.—(1) For the purposes of Step 2 of the calculation in paragraph 2, the weekly rate based on the new state pension is as follows.

(2) If the person has 35 or more pre-commencement qualifying years, the rate is equal to—

- (a) the full rate of the state pension on 6 April 2016, less
- (b) any amount to reflect contracting out under the old system (see paragraph 5).

(3) If the person has fewer than 35 pre-commencement qualifying years, the rate is equal to—

- (a) the appropriate proportion of the full rate of the state pension on 6 April 2016, less
- (b) any amount to reflect contracting out under the old system (see paragraph 5).

(4) The “appropriate proportion”, in relation to a person, is—

$$\frac{1}{35} \times \text{the person's number of pre-commencement qualifying years}$$

5.—(1) In paragraph 4(2) and (3) references to an “amount to reflect contracting out under the old system” are to an amount equal to any difference between—

- (a) the amount of any additional pension included in the Category A retirement pension calculated for the purposes of Step 1 of the calculation in paragraph 2, and
- (b) the amount of any additional pension that would have been included if—
  - (i) sections 42 and 44A of the Pension Schemes Act were ignored, and
  - (ii) for the purposes of calculating the amounts referred to in section 45(2)(c) and (d) of the Contributions and Benefits Act any earnings paid to or for the benefit of the person in respect of

contracted-out employment were treated as if they were not in respect of contracted-out employment.

(2) “Contracted-out employment” means employment qualifying a person for a pension provided by a salary related contracted-out scheme, a money purchase contracted-out scheme or an appropriate personal pension scheme (and expressions used in this definition have the same meaning as in the Pension Schemes Act).

#### *Step 4: revaluation*

6.—(1) This paragraph determines how the amount mentioned in Step 4 of the calculation in paragraph 2 is to be revalued for the purposes of that Step.

(2) If the amount is equal to or less than the full rate of the state pension on 6 April 2016, the amount is to be revalued in accordance with increases in the full rate of the state pension (see sub-paragraph (4)).

(3) If the amount is greater than the full rate of the state pension on 6 April 2016

(a) so much of the amount as is equal to the full rate of the state pension on 6 April 2016 is to be revalued in accordance with increases in the full rate of the state pension (see sub-paragraph (4)), and

(b) so much of the amount as exceeds the full rate of the state pension on that date is to be revalued in accordance with increases in the general level of prices (see sub-paragraph (5)).

(4) For the purposes of sub-paragraphs (2) and (3)(a), an amount is revalued in accordance with increases in the full rate of the state pension by increasing it by the same percentage as any increase in the full rate of the state pension in the period—

(a) beginning with 6 April 2016, and

(b) ending with the day on which the person reached pensionable age.

(5) For the purposes of sub-paragraph (3)(b), an amount is revalued in accordance with increases in the general level of prices by adding—

(a) the amount, and

(b) the amount multiplied by the revaluing percentage specified in the last order under section 130AC of the Administration Act to come into operation before the person reached pensionable age.

## PART 3

### AMOUNT FOR POST-COMMENCEMENT QUALIFYING YEARS

7.—(1) A person’s amount for post-commencement qualifying years, (if any) is calculated as follows.

(2) If the person has 35 or more post-commencement qualifying years, the amount is equal to the full rate of the state pension on the day on which the person reached pensionable age.

(3) If the person has fewer than 35 post-commencement qualifying years, the amount is equal to the following proportion of the full rate of the state pension on the day on which the person reached pensionable age—

$$\frac{1}{35} \times \text{the person's number of post-commencement qualifying years}$$

## SCHEDULE 2

Section 5.

### TRANSITIONAL RATE OF STATE PENSION: UP-RATING

1. This Schedule sets out how to up-rate the transitional rate of a person's state pension.

2. In this Schedule a reference to the transitional rate of a person's state pension is to the rate—

- (a) taking into account any reduction under section 14, but
- (b) ignoring any increase under section 17.

3.—(1) The transitional rate of a person's state pension is to be increased under this paragraph if it is equal to or less than the full rate.

(2) If at any time the full rate of the state pension is increased, the person's transitional rate is increased (at that time) by the same percentage as the increase in the full rate.

4.—(1) The transitional rate of a person's state pension is to be increased under this paragraph if it exceeds the full rate.

(2) If at any time the full rate of the state pension is increased, the person's transitional rate is increased (at that time) by the same amount as the amount by which the full rate is increased.

(3) If at any time an order under section 132B of the Administration Act comes into operation, the person's transitional rate is increased (at that time) by an amount equal to the appropriate percentage of the excess.

(4) In sub-paragraph (3)—

“the appropriate percentage” means the percentage specified in the order, and

“the excess” means the amount by which the transitional rate exceeded the full rate immediately before the order came into operation.

## SCHEDULE 3

Section 7.

## SURVIVOR'S PENSION UNDER SECTION 7: INHERITED AMOUNT

*Introduction***1.** This Schedule—

- (a) sets out the circumstances in which a person (the “pensioner”) is entitled to an inherited amount for the purpose of section 7, and
- (b) determines that amount.

*Dead spouse or civil partner in old state pension system etc.*

**2.—(1)** A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the spouse or civil partner died before 6 April 2016,
- (c) the pensioner was under pensionable age when the spouse or civil partner died, and
- (d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48B(4) or (4A) or 48BB of the Contributions and Benefits Act if the words “before 6 April 2016” were omitted.

(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the pensioner reached pensionable age if any element of the rate attributable to the basic pension were ignored.

**3.—(1)** A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the spouse or civil partner reached pensionable age before 6 April 2016 but died on or after that date,
- (c) the pensioner was under pensionable age when the spouse or civil partner died, and
- (d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48BB of the Contributions and Benefits Act if in subsection (3) of that section—
  - (i) the words “before 6 April 2016” were omitted, and



(ii) the reference to a bereavement allowance were a reference to bereavement support payment under section 29 of this Act.

(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the pensioner reached pensionable age if section 48BB(8) and (9) of the Contributions and Benefits Act were ignored.

4.—(1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the spouse or civil partner reached pensionable age before 6 April 2016 but died on or after that date,
- (c) the pensioner was over pensionable age when the spouse or civil partner died, and
- (d) the pensioner would, when the spouse or civil partner died, have been entitled to a Category B retirement pension under section 48B(1) or (1A) of the Contributions and Benefits Act if the words “before 6 April 2016” were omitted.

(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the spouse or civil partner died if any element of the rate attributable to the basic pension were ignored.

*Dead spouse or civil partner in new state pension system*

5.—(1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the pensioner was over pensionable age when the spouse or civil partner died,
- (c) the spouse or civil partner was, immediately before his or her death, entitled to a state pension payable at the transitional rate, and
- (d) that transitional rate exceeded the full rate of the state pension.

(2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner exceeded the full rate of the state pension immediately before the death.

6.—(1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the pensioner was under pensionable age when the spouse or civil partner died,
- (c) the spouse or civil partner was, immediately before his or her death, entitled to a state pension payable at the transitional rate,
- (d) that transitional rate exceeded the full rate of the state pension, and
- (e) the pensioner did not marry or form a civil partnership after the death and before reaching pensionable age.

(2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had been alive on the day on which the pensioner reached pensionable age.

**7.—**(1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the pensioner was over pensionable age when the spouse or civil partner died,
- (c) the spouse or civil partner was under pensionable age when he or she died but would have been entitled to a state pension payable at the transitional rate if he or she had reached pensionable age on the day of the death, and
- (d) that transitional rate would have exceeded the full rate of the state pension.

(2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had reached pensionable age on the day of the death.

**8.—**(1) A pensioner whose spouse or civil partner has died is entitled to an inherited amount under this paragraph if—

- (a) the marriage took place or the civil partnership was formed before 6 April 2016,
- (b) the pensioner was under pensionable age when the spouse or civil partner died,
- (c) the spouse or civil partner died on or after 6 April 2016,
- (d) the spouse or civil partner was under pensionable age when he or she died,
- (e) the spouse or civil partner would have been entitled to a state pension payable at the transitional rate if he or she had reached pensionable age on the same day as the pensioner,

- (f) that transitional rate would have exceeded the full rate of the state pension, and
- (g) the pensioner did not marry or form a civil partnership after the death and before reaching pensionable age.

(2) The inherited amount is half of the amount by which the transitional rate of the state pension for the spouse or civil partner would have exceeded the full rate of the state pension if he or she had reached pensionable age on the same day as the pensioner.

*Supplementary*

9. When determining entitlement to, or calculating, an inherited amount under this Schedule based on entitlement to an old state pension or a state pension under this Part ignore—

- (a) any requirement to make a claim for that pension;
- (b) any provision suspending payment of, or disqualifying a person from receiving, any amount of that pension.

SCHEDULE 4

Section 7.

SURVIVOR'S PENSION UNDER SECTION 7: UP-RATING

*Introduction*

1. This Schedule sets out how to up-rate the rate of a person's state pension under section 7.

2. In this Schedule a reference to the rate of a person's state pension is to the rate—

- (a) ignoring any reduction under section 7(4) (in the case of a state pension under section 7),
- (b) taking into account any reduction under section 14 (in the case of a state pension under section 4), and
- (c) ignoring any increase under section 17.

3. In this Schedule a reference to “the amount of any state pension that has priority” means the rate of any state pension to which the person is entitled under section 2, 4 or 12.

*Rate of section 7 pension, when added to  
any priority pension, is less than the full rate*

4.—(1) The rate of the person's state pension under section 7 is to be increased under this paragraph if, when added to the amount of any state pension that has priority, it is equal to or less than the full rate of the state pension.

(2) If at any time the full rate is increased, the rate of the person's state pension under section 7 is increased (at that time) by the same percentage as the increase in the full rate.

*Rate of section 7 pension, when added to  
any priority pension, straddles the full rate*

5.—(1) The rate of the person's state pension under section 7 is to be increased under this paragraph if—

- (a) the amount of any state pension that has priority is less than the full rate of the state pension, but
- (b) the rate of the state pension under section 7, when added to the amount of any state pension that has priority, exceeds the full rate.

(2) If at any time the full rate of the state pension is increased, the rate of the person's state pension under section 7 is increased (at that time) by an amount equal to the appropriate percentage of the shortfall immediately before that time.

(3) If at any time an order under section 132B of the Administration Act comes into operation, the rate of the person's state pension under section 7 is increased (at that time) by an amount equal to the appropriate percentage of the excess immediately before the order comes into operation.

(4) In this paragraph—

“the appropriate percentage”—

- (a) in sub-paragraph (2), means the percentage by which the full rate is increased;
- (b) in sub-paragraph (3), means the percentage specified in the order;

“the excess” means the amount by which the rate of the state pension under section 7, when added to the amount of any state pension that has priority, exceeds the full rate;

“the shortfall” means the amount by which the amount of any state pension that has priority is less than the full rate.

*Priority pension alone is equal to or higher than the full rate*

6.—(1) The rate of the person's state pension under section 7 is to be increased under this paragraph if the amount of any state pension that has priority is equal to or higher than the full rate of the state pension.

(2) If at any time an order under section 132B of the Administration Act comes into operation, the rate of the person's state pension under section 7 is increased (at that time) by the percentage specified in the order.

## SCHEDULE 5

Section 9.

SURVIVOR'S PENSION UNDER SECTION  
9: INHERITED DEFERRAL AMOUNT*Introduction*

## 1. This Schedule—

- (a) sets out the circumstances in which a person (the “pensioner”) is entitled to an inherited deferral amount for the purpose of section 9, and
- (b) determines that amount.

*Dead spouse or civil partner entitled to old state pension with deferral increase*

2.—(1) A pensioner whose spouse or civil partner has died is entitled to an inherited deferral amount under this paragraph if—

- (a) the spouse or civil partner was entitled to an old state pension with an increase under paragraph 1 or 2A of Schedule 5 to the Contributions and Benefits Act, and
- (b) the pensioner would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act—
  - (i) the words “before 6 April 2016” were omitted, and
  - (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 29 of this Act.

(2) The inherited deferral amount is equal to the amount by which the weekly rate of the old state pension for the pensioner would have been increased under paragraph 4 of Schedule 5 to the Contributions and Benefits Act on the day on which the pensioner became entitled to the inherited deferral amount.

(3) For the purposes of calculating the amount of that increase, paragraph 4(1A) of Schedule 5 to the Contributions and Benefits Act has effect as if after the words “apart from” (in each place) there were inserted “this paragraph and”.

*Dead spouse’s or civil partner’s entitlement  
to old state pension deferred at time of death*

3.—(1) A pensioner whose spouse or civil partner has died is entitled to an inherited deferral amount under this paragraph if—

- (a) the spouse’s or civil partner’s entitlement to an old state pension was deferred when he or she died, and
- (b) the pensioner would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act—
  - (i) the words “before 6 April 2016” were omitted, and
  - (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 29 of this Act.

(2) The inherited deferral amount is equal to the amount by which the weekly rate of the old state pension for the pensioner would have been increased under paragraph 4 of Schedule 5 to the Contributions and Benefits Act on the day on which the pensioner became entitled to the inherited deferral amount.

(3) For the purposes of calculating the amount of that increase—

- (a) a pensioner who is not entitled to a choice under section 8 is to be treated as having met the condition in paragraph 4(1)(c) of Schedule 5 to the Contributions and Benefits Act,
- (b) a pensioner who has chosen under section 8 to be paid a state pension under section 9 is to be treated as having met the condition in paragraph 4(1)(b) of Schedule 5 to the Contributions and Benefits Act, and
- (c) paragraph 4(1A) of Schedule 5 to the Contributions and Benefits Act has effect as if after the words “apart from” (in each place) there were inserted “this paragraph and”.

(4) In this paragraph “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act.

*“The relevant provisions” of the Contributions and Benefits Act*

4. For the purposes of this Schedule “the relevant provisions” of the Contributions and Benefits Act are those mentioned in section 8(9)(b).

*Supplementary*

5. When determining entitlement to, or calculating, an inherited deferral amount under this Schedule based on entitlement to an old state pension ignore—
- (a) any requirement to make a claim for that pension;
  - (b) any provision suspending payment of, or disqualifying a person from receiving, any amount of that pension.

SCHEDULE 6

Section 11.

REDUCED RATE ELECTIONS: EFFECT ON RATE OF SECTION 4 PENSION

*Introduction*

1. This Schedule modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period (and expressions used in this paragraph have the same meaning as in section 11).

*Increased transitional rate for woman  
married to person over pensionable age etc.*

- 2.—(1) This paragraph applies to the woman if on reaching pensionable age—
- (a) she is married to a person who has reached pensionable age, or
  - (b) she is in a civil partnership with a person who has reached that age.
- (2) The transitional rate of the state pension for the woman is—
- (a) the rate determined for her under section 5, or
  - (b) if higher, a weekly rate equal to the modified amount for her pre-commencement qualifying years alone.
- (3) The modified amount for the woman’s pre-commencement qualifying years alone is the amount that would be calculated under Schedule 1 for her pre-commencement qualifying years alone if the basic pension in any Category A retirement pension calculated for her for the purposes of paragraph 3 of that Schedule were equal to the basic Category B amount.
- (4) “The basic Category B amount” is the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act on 6 April 2016.

*Increased transitional rate for widows or divorcees etc.*

3.—(1) This paragraph applies to the woman if on reaching pensionable age she is not married or in a civil partnership but she has been married or in a civil partnership before.

(2) The transitional rate of the state pension for the woman is—

- (a) the rate determined for her under section 5, or
- (b) if higher, a weekly rate equal to the modified amount for her pre-commencement qualifying years alone.

(3) The modified amount for the woman's pre-commencement qualifying years alone is the amount that would be calculated under Schedule 1 for her pre-commencement qualifying years alone if the basic pension in any Category A retirement pension calculated for her for the purposes of paragraph 3 of that Schedule were equal to the full amount of the basic pension.

(4) "The full amount of the basic pension" is the amount of the basic pension specified in section 44(4) of the Contributions and Benefits Act on 6 April 2016.

*Recalculation of transitional rate where circumstances change*

4. If the woman is married or in a civil partnership on reaching pensionable age but the marriage or civil partnership comes to an end (because of the death of her spouse or civil partner or otherwise)—

- (a) her transitional rate is to be recalculated applying paragraph 3(2), and
- (b) Schedule 2 (up-rating) applies as if the recalculated rate had been the woman's transitional rate on the day on which she reached pensionable age.

5.—(1) If neither of paragraphs 2 and 3 applies to the woman but she subsequently comes within paragraph (a) or (b) of paragraph 2(1)—

- (a) her transitional rate is to be recalculated applying paragraph 2(2), and
- (b) Schedule 2 (up-rating) applies as if the recalculated rate had been the woman's transitional rate on the day on which she reached pensionable age.

(2) But the woman's rate is not to be recalculated under sub-paragraph (1) if it has already been recalculated under paragraph 4.

6. Nothing in paragraph 4 or 5 affects—

- (a) the amount of state pension to which a woman is entitled for periods before that paragraph applies to her, or
- (b) the amount of any increase under section 17 in a case where the period for which the woman's state pension is deferred has ended before that paragraph applies to her.



SCHEDULE 7

Section 12.

REDUCED RATE ELECTIONS: BASIC AMOUNT  
OF STATE PENSION UNDER SECTION 12

1. This Schedule—
  - (a) sets out the circumstances in which a woman is entitled to a basic amount for the purpose of section 12, and
  - (b) determines that basic amount.
  
- 2.—(1) A woman is entitled to a basic amount under this paragraph if she has reached pensionable age, and—
  - (a) she is married to a person who has reached pensionable age, or
  - (b) she is in a civil partnership with a person who has reached that age.

(2) The basic amount is the amount specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act on the day on which the woman became entitled under this paragraph.
  
- 3.—(1) A woman is entitled to a basic amount under this paragraph if—
  - (a) on reaching pensionable age she is not married or in a civil partnership but she has been married or in a civil partnership before, or
  - (b) on reaching pensionable age she was married or in a civil partnership and the marriage or civil partnership has come to an end (because of the death of her spouse or civil partner or otherwise).

(2) The basic amount is the amount of the basic pension specified in section 44(4) of the Contributions and Benefits Act on the day on which the woman became entitled under this paragraph.
  
4. A woman who is entitled to a basic amount under paragraph 3 is not entitled to a basic amount under paragraph 2.

SCHEDULE 8

Section 13.

PENSION SHARING: APPROPRIATE WEEKLY RATE UNDER SECTION 13

*Introduction*

1. This Schedule sets out the appropriate weekly rate of a person's state pension under section 13.

*Appropriate weekly rate for pensioner with old state scheme pension credit*

2.—(1) This paragraph sets out the appropriate weekly rate if the person is entitled to a state pension under section 13 because of an old state scheme pension credit.

(2) If the person became entitled to the old state scheme pension credit in or after the final relevant year, the appropriate weekly rate is a weekly rate equal to the person's notional rate.

(3) If the person became entitled to the old state scheme pension credit before the final relevant year, the appropriate weekly rate is a weekly rate equal to the person's notional rate multiplied by the appropriate revaluation percentage.

(4) For the purposes of sub-paragraphs (2) and (3), a person's "notional rate" is the weekly rate of a notional pension under section 13 the cash equivalent of which would, on the valuation day, have been equal to the amount of the old state scheme pension credit.

(5) For the purposes of sub-paragraph (4) assume that the notional pension becomes payable on the later of—

- (a) the day on which the person reaches pensionable age, and
- (b) the valuation day.

(6) The "appropriate revaluation percentage" is the percentage specified, in relation to earnings factors for the tax year in which the person became entitled to the old state scheme pension credit, by the last order under section 130 of the Administration Act to come into operation before the end of the final relevant year.

(7) In this paragraph—

"final relevant year" means the tax year immediately before that in which the person reaches pensionable age;

"valuation day" means the day on which the person became entitled to the old state scheme pension credit.

*Appropriate weekly rate for pensioner with new state scheme pension credit*

3.—(1) This paragraph sets out the appropriate weekly rate if the person is entitled to a state pension under section 13 because of a new state scheme pension credit.

(2) If the person was over pensionable age when he or she became entitled to the new state scheme pension credit, the appropriate weekly rate is a weekly rate equal to the amount of the credit.

(3) If the person was under pensionable age when he or she became entitled to the new state scheme pension credit, the appropriate weekly rate is a weekly rate equal to the amount of the credit multiplied by the appropriate revaluation percentage.

(4) The “appropriate revaluation percentage” is the percentage specified, in relation to the tax year in which the person became entitled to the new state scheme pension credit, by the last order under section 130AD of the Administration Act to come into operation before the person reached pensionable age.

*Supplementary*

4.—(1) Regulations may make provision about the calculation and verification of notional rates under paragraph 2.

(2) The regulations may, in particular, provide—

- (a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, or
- (b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person specified in the regulations.

SCHEDULE 9

Section 13.

PENSION SHARING: UP-RATING STATE PENSION UNDER SECTION 13

*Introduction*

1. This Schedule sets out how to up-rate the rate of a person’s state pension under section 13.

2. In this Schedule a reference to the rate of a person’s state pension is to the rate—

- (a) ignoring any reduction under section 7(4) (in the case of a state pension under section 7),
- (b) taking into account any reduction under section 14 (in the case of a state pension under section 4), and
- (c) ignoring any increase under section 17.

3.—(1) In this Schedule “the total amount of any state pension that has priority”, in relation to a person’s state pension under section 13, means the sum of—

- (a) the rate of any state pension to which the person is entitled under section 2, 4 or 12,
- (b) the rate of any state pension to which the person is entitled under section 7, and
- (c) the rate of any earlier state pension to which the person is entitled under section 13 (see sub-paragraph (2)).

(2) Where a person is entitled to two or more state pensions under section 13 because he or she has become entitled to two or more state scheme pension credits, a pension arising because of an earlier credit is an “earlier” state pension for the purposes of sub-paragraph (1)(c).

*Rate of section 13 pension, when added to any priority pension, is less than the full rate*

4.—(1) The rate of the person’s state pension under section 13 is to be increased under this paragraph if, when added to the total amount of any state pension that has priority, it is equal to or less than the full rate of the state pension.

(2) If at any time the full rate is increased, the rate of the person’s state pension under section 13 is increased (at that time) by the same percentage as the increase in the full rate.

*Rate of section 13 pension, when added to any priority pension, straddles the full rate*

5.—(1) The rate of the person’s state pension under section 13 is to be increased under this paragraph if—

- (a) the total amount of any state pension that has priority is less than the full rate of the state pension, but
- (b) the rate of the state pension under section 13, when added to the total amount of any state pension that has priority, exceeds the full rate.

(2) If at any time the full rate of the state pension is increased, the rate of the person’s state pension under section 13 is increased (at that time) by an amount equal to the appropriate percentage of the shortfall immediately before that time.

(3) If at any time an order under section 132B of the Administration Act comes into operation, the rate of the person’s state pension under section 13 is increased (at that time) by an amount equal to the appropriate percentage of the excess immediately before the order comes into operation.

(4) In this paragraph—

“the appropriate percentage”—

- (a) in sub-paragraph (2), means the percentage by which the full rate is increased;
- (b) in sub-paragraph (3), means the percentage specified in the order;

“the excess” means the amount by which the rate of the state pension under section 13, when added to the total amount of any state pension that has priority, exceeds the full rate;

“the shortfall” means the amount by which the total amount of any state pension that has priority is less than the full rate.

*Priority pension alone is equal to or higher than the full rate*

6.—(1) The rate of the person’s state pension under section 13 is to be increased under this paragraph if the total amount of any state pension that has priority is equal to or higher than the full rate of the state pension.

(2) If at any time an order under section 132B of the Administration Act comes into operation, the rate of the person’s state pension under section 13 is increased (at that time) by the percentage specified in the order.

## SCHEDULE 10

Section 14.

### PENSION SHARING: APPROPRIATE WEEKLY REDUCTION UNDER SECTION 14

#### *Introduction*

1. This Schedule sets out the appropriate weekly reduction in the rate of a person’s state pension for the purposes of section 14.

*Appropriate weekly reduction for person subject to old state scheme pension debit*

2.—(1) This paragraph sets out the appropriate weekly reduction if the person is subject to an old state scheme pension debit.

(2) If the person became subject to the old state scheme pension debit in or after the final relevant year, the appropriate weekly reduction is an amount equal to the person’s notional rate.

(3) If the person became subject to the old state scheme pension debit before the final relevant year, the appropriate weekly reduction is an amount equal to the person’s notional rate multiplied by the appropriate revaluation percentage.

(4) For the purposes of sub-paragraphs (2) and (3), a person’s “notional rate” is the weekly rate of a notional pension under section 4 the cash equivalent of which would, on the valuation day, have been equal to the amount of the old state scheme pension debit.

(5) For the purposes of sub-paragraph (4) assume that the notional pension becomes payable on the later of—

- (a) the day on which the person reaches pensionable age, and
- (b) the valuation day.

(6) The “appropriate revaluation percentage” is the percentage specified, in relation to earnings factors for the tax year in which the person became subject to the old state scheme pension debit, by the last order under section 130 of the Administration Act to come into operation before the end of the final relevant year.

(7) In this paragraph—

“final relevant year” means the tax year immediately before that in which the person reaches pensionable age;

“valuation day” means the day on which the person became subject to the old state scheme pension debit.

*Appropriate weekly reduction for person  
subject to new state scheme pension debit*

3.—(1) This paragraph sets out the appropriate weekly reduction if the person is subject to a new state scheme pension debit.

(2) If the person was over pensionable age when he or she became subject to the new state scheme pension debit, the appropriate weekly reduction is an amount equal to the amount of the debit.

(3) If the person was under pensionable age when he or she became subject to the new state scheme pension debit, the appropriate weekly reduction is an amount equal to the amount of the debit multiplied by the appropriate revaluation percentage.

(4) The “appropriate revaluation percentage” is the percentage specified, in relation to the tax year in which the person became subject to the new state scheme pension debit, by the last order under section 130AD of the Administration Act to come into operation before the person reached pensionable age.

*Supplementary*

4.—(1) Regulations may make provision about the calculation and verification of notional rates under paragraph 2.

(2) The regulations may, in particular, provide—

(a) for calculation or verification in such manner as may be approved by or on behalf of the Government Actuary, or

(b) for things done under the regulations to be required to be done in accordance with guidance from time to time prepared by a person specified in the regulations.

SCHEDULE 11

Section 15.

PENSION SHARING: AMENDMENTS

*The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

1. The Contributions and Benefits Act is amended as follows.
2. In section 21 (contribution conditions), in subsection (1), after “section 55A” insert “or 55AA”.
3. In section 43 (persons entitled to more than one retirement pension), in subsection (6), after “section 55A” insert “or 55AA”.
- 4.—(1) Section 55A (shared additional pension) is amended as follows.
  - (2) For subsection (1) substitute—

“(1) A person is entitled to a shared additional pension under this section if—

    - (a) the person attained pensionable age before 6 April 2016, and
    - (b) the person is entitled to an old state scheme pension credit.”

(3) In subsections (2) and (3), after “shared additional pension” insert “under this section”.

(4) In subsections (3), (4), (5) and (7) before “state scheme pension credit” (in each place) insert “old”.

(5) At the end of the heading insert “because of an old state scheme pension credit”.
  5. After section 55A insert—

**“Shared additional pension because of a new state scheme pension credit**

- 55AA.**—(1) A person is entitled to a shared additional pension under this section if—
- (a) the person attained pensionable age before 6 April 2016, and
  - (b) the person is entitled to a new state scheme pension credit.
- (2) A person’s entitlement to a shared additional pension under this section continues throughout his or her life.
- (3) The weekly rate of a shared additional pension under this section is equal to the amount of the new state scheme pension credit.
- (4) In this section “new state scheme pension credit” means a credit under Article 46A(2)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.”

6.—(1) Section 55B (reduction of shared additional pension in Category A retirement pension: pension sharing) is amended as follows.

(2) In subsection (1)(a), for “a” substitute “an old”.

(3) In subsection (5), for “55A above” substitute “55A or 55AA above (as the case may be)”.

(4) In subsection (8), in the definition of “state scheme pension debit”, before “state” insert “old”.

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

7. In the Administration Act, after section 130AC (inserted by Schedule 12) insert—

**“Revaluation of new state scheme pension debits and credits**

**130AD.** Whenever the Secretary of State makes an order under section 148AD of the Great Britain Administration Act, the Department may make a corresponding order for Northern Ireland.”.

*The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)*

8. The Welfare Reform and Pensions (Northern Ireland) Order 1999 is amended as follows.

9.—(1) Article 44 (shareable state scheme rights) is amended as follows.

(2) After paragraph (1) insert—

“(1A) For the purposes of this Chapter, a person’s shareable state scheme rights are—

(a) the person’s shareable old state scheme rights;

(b) the person’s shareable new state scheme rights.”.

(3) In paragraph (2)—

(a) after “shareable” insert “old”;

(b) in sub-paragraph (b), after “55A” insert “or 55AA”.

(4) After paragraph (2) add—

“(3) For the purposes of this Chapter, a person’s shareable new state scheme rights are the person’s entitlement, or prospective entitlement, to the excess amount in a state pension under section 4 of the Pensions Act (Northern Ireland) 2015.

(4) “The excess amount”, in relation to a state pension under section 4 of the Pensions Act (Northern Ireland) 2015, means any amount by which the



rate of the pension exceeds the full rate of the state pension (see section 3 of that Act).

(5) In determining the rate of a state pension under section 4 of the Pensions Act (Northern Ireland) 2015 for the purposes of this Chapter, ignore Schedule 6 to that Act (reduced rate elections: effect on rate of section 4 pension).”.

**10.** In Article 45 (activation of benefit sharing), in paragraph (1), for the words from the beginning to “shareable state scheme rights” substitute “Article 46 or 46A applies where any of the following has taken effect in relation to a person’s shareable state scheme rights”.

**11.—**(1) Article 46 (creation of state scheme pension debits and credits) is amended as follows.

(2) For paragraph (1) substitute—

“(A1) This Article applies if—

- (a) the transferor is in the old state pension system, or
- (b) the transferor is in the new state pension system but the transfer day was before 6 April 2016.

(1) Where this Article applies because of a relevant order or provision—

- (a) the transferor is subject, for the purposes of the relevant state pension legislation, to a debit of the appropriate amount, and
- (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of that amount.”.

(3) In paragraph (2), after “shareable” insert “old”.

(4) In paragraph (3)(b), for “relevant” substitute “shareable old”.

(5) After paragraph (5) insert—

“(5A) The fact that a person who reaches pensionable age on or after 6 April 2016 is not entitled to a pension of the kind mentioned in Article 44(2)(a) or (b) does not affect the calculation under this Article of the appropriate amount by reference to the transferor’s prospective entitlement, immediately before the transfer day, to a pension of that kind.”.

(6) In paragraph (6), at the appropriate place insert—

““the relevant state pension legislation”—

- (a) in relation to a transferor or transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and
- (b) in relation to a transferor or transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;”.

(7) At the end of the heading insert “: transferor in old state pension system or pension sharing activated before 6 April 2016”.

**12. After Article 46 insert—****“Creation of debits and credits: transferor in new state pension system and sharing activated on or after 6 April 2016****46A.—(1) This Article applies if—**

- (a) the transferor is in the new state pension system, and
- (b) the transfer day is 6 April 2016 or any later date.

**(2) Where this Article applies because of a relevant order or provision—**

- (a) the transferor is subject, for the purposes of section 14 of the Pensions Act (Northern Ireland) 2015, to a debit of the shared weekly amount, and
- (b) the transferee is entitled, for the purposes of the relevant state pension legislation, to a credit of the shared weekly amount.

(3) The shared weekly amount is the specified percentage of the excess amount of the transferor’s state pension under section 4 of the Pensions Act (Northern Ireland) 2015 as at the transfer day.

**(4) For the purposes of calculating the shared weekly amount—**

- (a) a transferor who is under pensionable age on the transfer day is to be treated as having reached pensionable age and to have become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 on the transfer day;
- (b) a transferor who has reached pensionable age on the transfer day but who has not yet become entitled to the state pension under section 4 of the Pensions Act (Northern Ireland) 2015 is to be treated as having become entitled to the pension on that day.

**(5) In this Article—**

“the excess amount” has the meaning given by Article 44(4);

“relevant order or provision” means the order or provision by virtue of which this Article applies (see Article 45);

“the relevant state pension legislation”—

- (a) in relation to a transferee in the old state pension system, means Part 2 of the Contributions and Benefits Act, and
- (b) in relation to a transferee in the new state pension system, means Part 1 of the Pensions Act (Northern Ireland) 2015;

“specified percentage” means the percentage specified in the relevant order or provision for the purposes of paragraph (3);

“transfer day” means the day on which the relevant order or provision takes effect;

“transferor” means the person to whose rights the relevant order or provision relates;

“transferee” means the person for whose benefit the relevant order or provision is made.”.

**13.**—(1) Article 48 (interpretation) is amended as follows.

(2) The current text becomes paragraph (1).

(3) In that paragraph for the definition of “shareable state scheme rights” substitute—

“shareable state scheme rights”, and related expressions, have the meaning given by Article 44;”.

(4) After that paragraph add—

“(2) For the purposes of this Chapter—

(a) a person is in the old state pension system if the person reached pensionable age before 6 April 2016 (or would have done so if the person had lived until pensionable age), and

(b) a person is in the new state pension system if the person reached pensionable age on or after 6 April 2016 (or will do so if the person lives until pensionable age).”.

*The State Pension Credit Act (Northern Ireland) 2002 (c.14)*

**14.** In section 16 of the State Pension Credit Act (Northern Ireland) 2002 (meaning of “retirement pension income”), in subsection (1), for paragraph (b) substitute—

“(b) a shared additional pension payable under—

(i) section 55A of either of those Acts, or

(ii) section 55AA of either of those Acts;”.

## SCHEDULE 12

Section 23.

## STATE PENSION: AMENDMENTS

## PART 1

## AMENDMENTS TO DO WITH NEW STATE PENSION SYSTEM

*The Forfeiture (Northern Ireland) Order 1982 (NI 14)*

1. In Article 6 of the Forfeiture (Northern Ireland) Order 1982 (Commissioner to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in paragraph (5), after the entry relating to the Pension Schemes (Northern Ireland) Act 1993 insert—

“Part 1 of the Pensions Act (Northern Ireland) 2015.”.

*The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

2. The Contributions and Benefits Act is amended as follows.

3. In section 1 (outline of contributory system), in subsection (1)(a), after “this Act” insert “or any other Act or Northern Ireland legislation”.

4. In section 13 (Class 3 contributions), in subsection (2), omit “contribution”.

5. After section 19A insert—

**“Extended meaning of benefit” etc. in Part 1**

**19B.** In this Part references to “benefit” or “contributory benefit” include benefit under Part 1 of the Pensions Act (Northern Ireland) 2015.”.

6.—(1) Section 22 (earnings factors) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), omit the final “and”;

(b) after paragraph (b) insert “; and

(c) establishing entitlement to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 and, where relevant, calculating the rate of a state pension under that Part.”.

(3) After subsection (5) insert—

“(5ZA) Regulations may provide for crediting—

(a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or

(b) for any earlier tax year, contributions of any class,

for the purposes of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purposes of Part 1 of the Pensions Act (Northern Ireland) 2015 (see sections 2(4) and 4(4) of that Act).

(5ZB) Regulations under subsection (5ZA) must provide for crediting a person with such contributions as may be specified in respect of periods on or after 6 April 1975 during which the person was—

- (a) a spouse or civil partner of a member of Her Majesty’s forces,
- (b) accompanying the member on an assignment outside the United Kingdom, and
- (c) not of a description specified in the regulations.”.

7. In section 121(1) (interpretation), in the definition of “benefit”, after paragraph (c) insert—

“(For the meaning of benefit” in Part 1, see also section 19B).”.

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

8. The Administration Act is amended as follows.

9. In section 1 (entitlement to benefit dependent on claim), in subsection (4), before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

10. In section 5 (regulations about claims for and payments of benefits), in subsection (2), before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

11. In section 69 (overpayments - general), in subsection (11), before paragraph (a) insert—

“(za) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

12. In section 71 (overlapping benefits - general)—

- (a) in subsection (1), after “adjusting” insert “state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 or”;
- (b) in subsection (4), before paragraph (a) insert—

“(za) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

13. In section 115CA (interpretation of Part 6), in subsection (1), before paragraph (i) insert—

“(hl) Part 1 of the Pensions Act (Northern Ireland) 2015;”.

14. In section 116B (supply of other government information for fraud prevention and verification), in subsection (3)(b), before “or this Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

15. In section 118 (regulations as to notification of deaths), in subsection (1), before “and this Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

16. After section 130AB insert—

**“Revaluation for transitional pensions under Pensions Act (Northern Ireland) 2015**

**130AC.**—(1) Whenever the Secretary of State makes an order under section 148AC of the Great Britain Administration Act (revaluation for transitional pensions under Pensions Act 2014), the Department may make a corresponding order for Northern Ireland.

(2) The percentage specified in an order under subsection (1) is the “revaluing percentage” for the purposes of paragraph 6(5) of Schedule 1 to the Pensions Act (Northern Ireland) 2015.”.

17. After section 132A insert—

**“Up-rating of transitional state pensions under Pensions Act (Northern Ireland) 2015**

**132B.** Whenever the Secretary of State makes an order under section 151A of the Great Britain Administration Act (up-rating of transitional state pensions under Pensions Act 2014), the Department may make a corresponding order for Northern Ireland.”.

18.—(1) Section 135A (power to anticipate pensions up-rating order) is amended as follows.

(2) In subsection (1)(a)—

(a) for “150 or 150A” substitute “150, 150A or 151A”;

(b) in sub-paragraph (i), after “by way of” insert “state pension under the Pensions Act (Northern Ireland) 2015,”.

(3) In subsection (2), after “an award is made of” insert “a state pension,”.

19.—(1) Section 143 (general financial arrangements) is amended as follows.

(2) In subsection (1), before paragraph (a) insert—

“(za) state pension and lump sums under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

(3) In subsection (2)(a), after “Contributions and Benefits Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

(4) In subsection (3)(b), after “that Act” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”.

**20.** In section 149 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant enactments”, before paragraph (b) insert—

“(am) the provisions of Part 1 of the Pensions Act (Northern Ireland) 2015;”.

**21.—**(1) Section 155 (reciprocal agreements) is amended as follows.

(2) In subsection (3)(a), before “and the Contributions and Benefits Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

(3) In subsection (4), before paragraph (b) insert—

“(ag) to Part 1 of the Pensions Act (Northern Ireland) 2015;”.

(4) In subsection (5)—

(a) after “Act 2007” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”;

(b) after paragraph (ac) insert—

“(ad) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

**22.** In section 163 (inalienability), in subsection (1), before paragraph (a) insert

“(zb) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

**23.** In section 166 (Assembly control of orders and regulations), in subsection (2) (b) after “132A,” insert “132B,”.

**24.** In section 167(1) (interpretation), in the definition of “benefit”, before “a jobseeker’s allowance” insert “state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

*The Social Security (Northern Ireland) Order 1993 (NI 2)*

**25.** In Article 4 of the Social Security (Northern Ireland) Order 1993 (payments into National Insurance Fund out of appropriated money) in paragraph (1) in the definition of “estimated benefit expenditure”, in paragraph (a) after “paragraphs” insert “(za),”.

*The Pensions (Northern Ireland) Order 1995 (NI 22)*

**26.** In Schedule 2 to the 1995 Order (pensionable age), in paragraph 1, for “and Part 1 of the Welfare Reform Act (Northern Ireland) 2007” substitute “, Part 1 of the Welfare Reform Act (Northern Ireland) 2007 and the Pensions Act (Northern Ireland) 2015”.

*The Social Security (Northern Ireland) Order 1998 (NI 10)*

**27.** The Social Security (Northern Ireland) Order 1998 is amended as follows.

**28.** In Article 4 (use of computers), in paragraph (2) at the end insert “or

(m) Part 1 of the Pensions Act (Northern Ireland) 2015.”.

**29.** In Article 9 (decisions by the Department)—

(a) in paragraph (3), before sub-paragraph (b) insert—

“(ab) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”;

(b) in paragraph (4), before “other than” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”.

**30.** In Article 12 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, at the end insert “and Part 1 of the Pensions Act (Northern Ireland) 2015”.

**31.** In Article 27 (restrictions on entitlement to benefit in certain cases of error), in paragraph (7), in the definition of “benefit”, after paragraph (f) insert “and

(g) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015.”.

**32.** In Article 28 (correction of errors in decisions etc.), in paragraph (3) at the end insert “or

(j) Part 1 of the Pensions Act (Northern Ireland) 2015.”.

**33.** In Schedule 3 (decisions against which an appeal lies), before paragraph 7 insert—

*“State pension: prisoners and overseas residents*

**6C.** A decision that a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 is not payable by reason of section 19 of that Act (prisoners).

**6D.** A decision that a person is not entitled to increases in the rate of a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 by reason of regulations under section 20 of that Act (overseas residents).”.



*The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)*

**34.**—(1) Section 38 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (disclosure of state pension information) is amended as follows.

(2) In subsection (7), after paragraph (a) insert—

“(aa) the amount of any state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 a present or future entitlement to which has already accrued to that individual;

(ab) a projection of the amount of any state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 to which that individual is likely to become entitled, or might become entitled in particular circumstances;”.

(3) In subsection (11), in the definition of “lump sum”, after “under” insert “section 8 of the Pensions Act (Northern Ireland) 2015 or”.

*The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)*

**35.** The Social Security Fraud Act (Northern Ireland) 2001 is amended as follows.

**36.** In section 5A (definitions), in the definition of “disqualifying benefit”, before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

**37.** In section 9 (power to supplement and mitigate loss of benefit provisions), in subsection (3), before paragraph (c) insert—

“(bf) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

*The State Pension Credit Act (Northern Ireland) 2002 (c. 14)*

**38.** The State Pension Credit Act (Northern Ireland) 2002 is amended as follows.

**39.** In section 7 (fixing of claimant’s retirement provision for assessed income period), in subsection (6)(a), after “benefit under” insert “Part 1 of the Pensions Act (Northern Ireland) 2015 or”.

**40.** In section 16 (meaning of “retirement pension income”), in subsection (1), before paragraph (a) insert—

“(za) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

*The Gender Recognition Act 2004 (c. 7)*

41. The Gender Recognition Act 2004 is amended as follows.

42. In section 23(3) and (4) of that Act (power to modify statutory provisions) “enactment” includes sections 11 and 12 of, and Schedules 6 and 7 to, this Act.

43.—(1) Schedule 5 (benefits and pensions) is amended as follows.

(2) After paragraph 6A insert—

**“Pension under Part 1 of the Pensions Act (Northern Ireland) 2015**

6B.—(1) Any question—

(a) whether the person is entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 for any period after the certificate is issued, and

(b) (if so) the rate at which the person is so entitled for the period, is to be decided as if the person’s gender were the acquired gender.

(2) Accordingly, if (immediately before the certificate is issued) the person

(a) is a woman entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015, but

(b) has not attained the age of 65,

the person ceases to be so entitled when it is issued.

(3) And, conversely, if (immediately before the certificate is issued) the person—

(a) is a man who has attained the age at which a woman of the same age attains pensionable age, but

(b) has not attained the age of 65,

the person is to be treated for the purposes of Part 1 of the Pensions Act (Northern Ireland) 2015 as attaining pensionable age when it is issued.

(4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.

(5) If the person’s acquired gender is the male gender, sections 11 and 12 of, and Schedules 6 and 7 to, the Pensions Act (Northern Ireland) 2015 (effect of reduced rate elections) apply in relation to the person as they apply in relation to a woman (but only once the person has reached pensionable age for a man).

(6) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act (Northern Ireland) 2015.”.

- (3) In paragraph 10, in sub-paragraph (1), after paragraph (za) insert—  
“(zb) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,”.

*The Welfare Reform Act (Northern Ireland) 2015*

- 44.** In section 97 of the Welfare Reform Act (Northern Ireland) 2015 (benefit cap), in subsection (8), before paragraph (a) insert—

“(za) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

**PART 2**

**AMENDMENTS TO DO WITH OLD STATE PENSION SYSTEM**

*Graduated retirement benefit*

- 45.—(1)** Section 35 of the National Insurance Act (Northern Ireland) 1966 (graduated retirement benefit), so far as continuing in operation, is amended as follows.

(2) In subsection (7), for “has attained pensionable age” substitute “attained pensionable age before 6 April 2016”.

(3) In subsection (8), in the definition of “retirement pension”, after “any category” insert “under the Social Security Contributions and Benefits (Northern Ireland) Act 1992”.

*Category A retirement pensions*

- 46.** The Contributions and Benefits Act is amended as follows.

**47.** In section 44(1) (Category A retirement pension), for paragraph (a) substitute

—  
“(a) the person attained pensionable age before 6 April 2016,”.

- 48.—(1)** Section 48 (use of former spouse’s contributions) is amended as follows.

(2) In subsection (1), after “person” insert “who attained pensionable age before 6 April 2016”.

(3) After subsection (2) insert—

“(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.”.

*Category B retirement pensions*

49. The Contributions and Benefits Act is amended as follows.

50. In section 23A (contributions credits for relevant parents and carers) in subsection (1)(b), after “section 48A” insert “or 48AA”.

51. In section 46 (modification of section 45 for calculating additional pension in certain benefits), in subsection (2), omit “48A(4) or” (in both places).

52. For section 48A substitute—

**“Category B retirement pension for married person or civil partner**

**48A.**—(1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

- (a) the person attained pensionable age before 6 April 2016, and
- (b) the spouse—
  - (i) has attained pensionable age, and
  - (ii) satisfies the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on a man whose spouse was born before 6 April 1950.

(3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if—

- (a) the person attained pensionable age before 6 April 2016, and
- (b) the contributing civil partner—
  - (i) was born on or after 6 April 1950,
  - (ii) has attained pensionable age, and
  - (iii) satisfies the condition in paragraph 5A of Schedule 3.

(4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.

(5) A person ceases to be entitled to a Category B retirement pension under this section if—

- (a) the person’s spouse or civil partner dies (but see sections 48B and 51), or
- (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).

(6) In subsection (1)(b)(ii) “the relevant contribution condition” means

- (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;

(b) in any other case, the condition in paragraph 5A of Schedule 3.

(7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.

### **Category B retirement pension for divorcee or former civil partner**

**48AA.**—(1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if—

- (a) the person attained pensionable age—
  - (i) before 6 April 2016, and
  - (ii) before the marriage was dissolved, and
- (b) the former spouse—
  - (i) attained pensionable age before the marriage was dissolved, and
  - (ii) satisfied the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on a man whose former spouse was born before 6 April 1950.

(3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if—

- (a) the person attained pensionable age—
  - (i) before 6 April 2016, and
  - (ii) before the civil partnership was dissolved, and
- (b) the former civil partner—
  - (i) was born on or after 6 April 1950,
  - (ii) attained pensionable age before the civil partnership was dissolved, and
  - (iii) satisfied the condition in paragraph 5A of Schedule 3.

(4) During any period when the person's former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.

(5) During any period after the person's former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).

(6) In subsection (1)(b)(ii) "the relevant contribution condition" means

(a) in a case where the former spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;

(b) in any other case, the condition in paragraph 5A of Schedule 3.

(7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.

(8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.”.

**53.—**(1) Section 48B (Category B retirement pension for widows and widowers) is amended as follows.

(2) For subsections (1) to (1A) substitute—

“(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

(a) the pensioner attained pensionable age—

(i) before 6 April 2016, and

(ii) before the spouse died, and

(b) the spouse satisfied the relevant contribution condition.

(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on a man who attained pensionable age before 6 April 2010.

(1ZB) In subsection (1)(b) “the relevant contribution condition” means

—  
(a) in a case where the spouse—

(i) died before 6 April 2010, or

(ii) died on or after that date having attained pensionable age before that date,

the conditions in paragraph 5 of Schedule 3, and

(b) in any other case, the condition in paragraph 5A of Schedule 3.

(1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if—

(a) the pensioner attained pensionable age—

(i) on or after 6 April 2010 but before 6 April 2016, and

(ii) before the civil partner died, and

(b) the civil partner satisfied the relevant contribution condition.

(1B) In subsection (1A)(b) “the relevant contribution condition” means

(a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and

(b) in any other case, the condition in paragraph 5A of Schedule 3.”.

(3) After subsection (3) insert—

“(3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.”.

(4) For subsection (4) substitute—

“(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if—

(a) she attained pensionable age before 6 April 2016, and

(b) the condition in subsection (5) is satisfied.

(4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if—

(a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and

(b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).”.

(5) In subsection (6), after “subsection (4)” insert “or (4A)”.

(6) In subsection (7), for “(4)” substitute “(4A)”.

**54.**—(1) Section 48BB (Category B retirement pension: entitlement by reference to widowed parent’s allowance or bereavement allowance where no dependent children) is amended as follows.

(2) In subsection (1), for “who has attained pensionable age” substitute “who attained pensionable age before 6 April 2016”.

(3) In subsection (3), for “who has attained pensionable age” substitute “who attained pensionable age before 6 April 2016”.

**55.**—(1) Section 48C (Category B retirement pension: general) is amended as follows.

(2) In subsection (3), for “sections 48A(4)(b) and” substitute “section”.

(3) In subsection (4), omit “48A(4).”.

56. For section 51 substitute—

**“Category B retirement pension for widowers and surviving civil partners who attained pensionable age before 6 April 2010**

51.—(1) A man (the pensioner) whose wife died while they were married is entitled to a Category B retirement pension if—

- (a) they were both over pensionable age at the time of the death,
- (b) the pensioner attained pensionable age before 6 April 2010, and
- (c) the wife satisfied the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on a man whose wife died before 6 April 1979.

(3) In subsection (1)(c) “the relevant contribution condition” means—

- (a) in a case where the spouse attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the spouse attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.

(4) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension if—

- (a) they were both over pensionable age at the time of the death,
- (b) the pensioner attained pensionable age before 6 April 2010, and
- (c) the deceased civil partner satisfied the relevant contribution condition.

(5) In subsection (4)(c) “the relevant contribution condition” means—

- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.

(6) The weekly rate of a person’s Category B retirement pension under this section is to be determined in accordance with sections 44 to 45AA and Schedule 4A as they apply in the case of a Category A retirement pension taking references in those sections to the pensioner as references to the spouse or deceased civil partner.

(7) But in the case of—

- (a) a man whose wife dies after 5 October 2002, or
- (b) a surviving civil partner,



any amount of additional pension falling to be calculated under subsection (6) is to be halved.

(8) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or deceased civil partner for the tax year beginning with 6 April 2016 or any later tax year.

(9) Subject to the provisions of this Act, a person becomes entitled to a Category B retirement pension under this section on the day on which the conditions of entitlement become satisfied and the entitlement continues throughout the person's life."

**57.** In section 52(3) (special provision for surviving spouses) for "prescribed maximum" substitute "maximum amount specified in regulations".

**58.—(1)** Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.

(2) In paragraph 5, for sub-paragraph (1) substitute—

"(1) This paragraph sets out the contribution conditions for—

- (a) a widowed mother's allowance, a widowed parent's allowance or a widow's pension;
- (b) a Category A retirement pension (other than one in relation to which paragraph 5A applies);
- (c) a Category B retirement pension in the cases provided for by any of sections 48A to 51."

(3) In paragraph 5A(1), for paragraphs (b) and (c) substitute—

"(b) a Category B retirement pension in the cases provided for by any of sections 48A to 51."

**59.** In Part 1 of Schedule 4 (rates of certain benefits), in paragraph 5, for "section 48A(3)" substitute "section 48A(4) or 48AA(4)".

**60.** In Schedule 4A (additional pension: accrual rates for purposes of section 45(2)(c)), in paragraph 1(2), omit ", 48A(4)" (in both places).

**61.** In section 42 of the Pension Schemes Act (effect of entitlement to guaranteed minimum pensions on payment of social security benefits), in subsection (6), omit "48A,".

**62.** In Article 125 of the 1995 Order (additional pension: calculation of surpluses), in paragraph (6), omit "48A,".

**63.** In Schedule 2 to the 1995 Order (equalisation of, and increase in, pensionable age for men and women), omit paragraph 3(2) and (3).

**64.** In Schedule 24 to the Civil Partnership Act 2004, omit paragraphs 79(6) and 82(6).

*Category C retirement pensions: repeal of spent provisions*

**65.** The Contributions and Benefits Act is amended as follows.

**66.** In section 63(f)(i) (descriptions of non-contributory benefits), for the words from “payable” to “widows” substitute “payable in certain cases to a widow whose husband was over pensionable age on 5 July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death”.

**67.—**(1) Section 78 (Category C retirement pensions etc.) is amended as follows.

(2) Omit subsections (1), (2) and (5).

(3) In subsections (7) and (8), omit “Category C or”.

**68.** In Part 3 of Schedule 4—

(a) omit paragraph 6 (rate of Category C retirement pension);

(b) in paragraph 7 (rate of Category D retirement pension), for the text in the second column substitute the amount specified in paragraph 6 as the higher rate for a Category C retirement pension immediately before 6 April 2016.

*Category D retirement pensions*

**69.** In section 78(3) of the Contributions and Benefits Act (entitlement to a Category D retirement pension), for “and satisfies” substitute “, who reached pensionable age before 6 April 2016 and who satisfies”.

*Age addition*

**70.** In sections 63(g) and 79(1) of the Contributions and Benefits Act (age addition), after “retirement pension of any category” insert “under this Act”.

*Christmas bonus*

**71.** In section 146(2) of the Contributions and Benefits Act (Christmas bonus: interpretation), for the definition of “retirement pension” substitute—

“retirement pension” means—

(a) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,

(b) a retirement pension under this Act, or

(c) graduated retirement benefit.”.

## PART 3

### AMENDMENTS TO DO WITH STATE PENSION CREDIT

72. The State Pension Credit Act (Northern Ireland) 2002 is amended as follows.
73. In section 3 (savings credit), for subsection (1) substitute—
- “(1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant—
- (a) has attained pensionable age before 6 April 2016 and has attained the age of 65 (before, on or after that date), or
  - (b) is a member of a couple, the other member of which falls within paragraph (a).”.

74. After that section insert—

#### **“Power to limit savings credit for certain mixed-age couples**

**3ZA.**—(1) Regulations may provide that, in prescribed cases, a person who is a member of a mixed-age couple is not entitled to a savings credit.

(2) For example, the regulations could provide that a member of a mixed-age couple is not entitled to a savings credit unless—

- (a) the person has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date, and
- (b) the person remained entitled to state pension credit at all times since the beginning of 6 April 2016.

(3) In this section “mixed-age couple” means a couple (whenever formed) one member of which had attained pensionable age before 6 April 2016 and the other had not.”.

75. In Schedule 1 to the Pensions Act (Northern Ireland) 2008, omit paragraph 41.

## PART 4

### OTHER AMENDMENTS TO DO WITH PART 1

#### *The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

76. The Contributions and Benefits Act is amended as follows.

77.—(1) Section 39C (rate of widowed parent’s allowance and bereavement allowance) is amended as follows.

(2) In subsection (1), for the words from “45AA” to “as they apply” substitute “45AA and Schedules 4A and 4B below as they apply”.

(3) In subsection (3), for the words from “45AA” to “by virtue of subsection (1) above” substitute “45AA and Schedules 4A and 4B below by virtue of subsection (1) above”.

(4) In subsection (4), for the words from “45AA” to “below” substitute “45AA and Schedules 4A and 4B below”.

**78.**—(1) Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.

(2) In the following provisions omit “(as those provisions have effect by virtue of section 3(7) of the Pensions Act (Northern Ireland) 2012)”—

paragraph 4(1A)(a), (b) and (c);

paragraph 7B(5)(b)(i).

(3) After paragraph 7 insert—

“**7ZA.**—(1) This paragraph modifies paragraphs 5A to 6A in cases where

(a) W became entitled to a Category A or Category B retirement pension before 7 June 2012, and

(b) S died before 7 June 2012.

(“W” and “S” have the same meaning as in paragraph 5.)

(2) Paragraph 5A applies as if—

(a) in sub-paragraph (2), after paragraph (a), there were inserted—

“(b) the appropriate amount; and”;

(b) in sub-paragraph (3), after “following—”, there were inserted—

“(a) one half of the appropriate amount; and”.

(3) Paragraph 6 applies as if—

(a) in sub-paragraph (2), after paragraph (a), there were inserted—

“(b) the appropriate amount; and”;

(b) in sub-paragraph (3), after paragraph (b), there were inserted—

“(c) the appropriate amount reduced by the amount of any increases under section 105 of the Pensions Act; and”;

(c) in sub-paragraph (4), after paragraph (a), there were inserted—

“(b) one half of the appropriate amount; and”.

(4) Paragraph 6A applies as if in sub-paragraph (2), after paragraph (a), there were inserted—

“(b) one half of the appropriate amount; and”.

(5) In paragraphs 5A to 6A as modified by this paragraph, the “appropriate amount” means the greater of—

(a) the amount by which the deceased person’s Category A or Category B retirement pension had been increased under section 132 of the Administration Act; or

(b) the amount by which his or her Category A or Category B retirement pension would have been so increased had he or she died immediately before the surviving spouse or civil partner became entitled to a Category A or Category B retirement pension.

(6) In sub-paragraph (1)(a) the reference to becoming entitled to a pension before 7 June 2012 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.”.

*The Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

**79.** Section 42A of the Pension Schemes Act (retirement in tax year after 5 April 2020) is repealed.

*The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)*

**80.** In Article 17 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (social security: amendments following certain orders), at the end of paragraph (2) add “the Pensions Act 2014”.

*The Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)*

**81.** In the Pensions (No2) Act, the following are repealed—

(a) sections 81 and 82 (consolidation of additional pension);

(b) Schedule 2 (consolidation of additional pension);

(c) in Schedule 3 (minor and consequential amendments)—

paragraph 4(2)(b) and (3)(b);

paragraph 6(3);

paragraph 7(a);

paragraph 8(a);

paragraph 9(2)(c);

paragraph 10;

paragraphs 13 to 22.

*The Pensions Act (Northern Ireland) 2012 (c. 3)*

- 82.** In the Pensions Act (Northern Ireland) 2012, the following are repealed—
- (a) section 3(5) to (9) and Schedule 2 (abolition of certain additions to the state pension);
  - (b) section 4 and Schedule 3 (consolidation of additional pension).

## SCHEDULE 13

Section 24.

ABOLITION OF CONTRACTING-  
OUT FOR SALARY RELATED SCHEMES

## PART 1

PENSION SCHEMES (NORTHERN  
IRELAND) ACT 1993: AMENDMENTS

1. The Pension Schemes Act is amended as follows.
2. For “the abolition date” (in each place) substitute “the first abolition date”.
3. In the heading for Part 3 of the Act—
  - (a) for “Certification of pension schemes” substitute “Schemes that were contracted-out etc.”;
  - (b) omit “and duties”.
4. For the heading to Chapter 1 of Part 3 substitute “Schemes that were contracted-out: guaranteed minimum pensions and alteration of scheme rules etc.”.
5. Section 3 (issue of contracting-out certificates) is repealed (and accordingly, any certificates in force under that section immediately before this paragraph comes into operation cease to have effect).
6. After section 3 insert—

**“Meaning of the first abolition date” and the second abolition date”****3A.** In this Act—

“the first abolition date” means 6 April 2012 (the date appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008 (abolition of contracting-out for defined contribution pension schemes));

“the second abolition date” means 6 April 2016 (the date on which section 53(3) of the Pensions Act (Northern Ireland) 2015 provides

for the commencement of section 24(1) of that Act (abolition of contracting-out for salary related schemes)).

**Meaning of “contracted-out scheme” and “appropriate scheme” etc.**

**3B.**—(1) This section applies for the interpretation of this Act.

(2) An occupational pension scheme was “contracted-out” at a time if, at that time, there was in force a certificate under section 3 (as it then had effect) stating that the employment of an earner in employed earner’s employment was contracted-out employment by reference to the scheme.

(3) “Contracting-out certificate” means a certificate of the kind mentioned in subsection (2).

(4) An occupational pension scheme was a “salary related contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 5(2) (as it then had effect).

(5) An occupational pension scheme was a “money purchase contracted-out scheme” at a time if, at that time, the scheme was contracted-out by virtue of satisfying section 5(3) (as it then had effect).

(6) A personal pension scheme was an “appropriate scheme” at a time if, at that time, there was in force a certificate issued under section 3(1)(b) (as it then had effect) stating that the scheme was an appropriate scheme.

(7) “Appropriate scheme certificate” means a certificate of the kind mentioned in subsection (6).

(8) An appropriate scheme certificate that was in force in relation to a scheme is to be taken as conclusive that the scheme was, at that time, an appropriate scheme.”.

**7.**—(1) Section 4 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”) is amended as follows.

(2) For subsection (1) substitute—

“(1) In relation to any period before the second abolition date, the employment of an earner in employed earner’s employment was “contracted-out employment” in relation to the earner during that period if

- (a) the earner was under pensionable age;
- (b) the earner’s service in the employment was service which qualified the earner for a pension provided by a salary related contracted-out scheme; and
- (c) there was in force a contracting-out certificate issued in accordance with this Chapter (as it then had effect) stating that the employment was contracted-out employment by reference to the scheme.”.

(3) After subsection (1A) insert—

“(1B) In the following provisions of this Act “earner”, in relation to a scheme, means a person who was an earner in contracted-out employment by reference to the scheme.”.

(4) In subsection (2), in the definition of “guaranteed minimum pension”, for “by an occupational pension scheme” substitute “, by a scheme that was a salary related contracted-out scheme,”.

(5) For subsection (4) substitute—

“(4) A contracting-out certificate that was in force in respect of an employed earner’s employment is to be taken as conclusive that the employment was, at that time, contracted-out employment.”.

8. The italic heading above section 5 is repealed.

9. Sections 5 and 7 (requirements for certification of schemes: general) are repealed.

10. The italic heading above section 8A is repealed.

11. Sections 8A to 8D (requirements for certification applying to employment from 6 April 1997) are repealed.

12. For the italic heading above section 9 substitute “Guaranteed minimum pensions”.

13.—(1) Before section 9 insert—

**“Former salary related contracted-out schemes to comply with GMP requirements**

8E.—(1) A scheme that was a salary related contracted-out scheme is to be treated as including whatever provision it needs to contain to comply with the GMP requirements.

(2) A scheme complies with the GMP requirements if, in relation to any earner’s service before the principal appointed day, it complies in all respects with sections 9 to 20E.

(3) Where—

(a) a scheme is permitted by any of those sections to include provision subject to certain requirements, and

(b) the scheme includes the provision but not the requirements,

the scheme is to be treated by subsection (1) as including the requirements.

(4) This section overrides any provision of a scheme to the extent that the provision of the scheme conflicts with it.”.



(2) For the purposes of section 8E it does not matter whether the scheme ceased to be contracted-out when the amendment made by paragraph 5 of this Schedule came into operation or before that time.

(3) But section 8E does not treat a scheme as having included any provision before this paragraph comes into operation.

**14.** In section 9 (minimum pensions for earners), in subsection (2)—

- (a) for “is a married woman or widow who is liable” substitute “was a married woman or widow who was liable”;
- (b) after “Act 1992” insert “at a time during a relevant year when she was in contracted-out employment by reference to the scheme”;
- (c) at the end of that subsection insert—

““Relevant year” has the meaning given by section 10(8).”.

**15.—**(1) Section 10 (earner’s guaranteed minimum) is amended as follows.

(2) For subsection (1) substitute—

“(1) An earner has a guaranteed minimum in relation to the pension provided by a scheme that was a salary related contracted-out scheme if in any tax week in a relevant year—

- (a) earnings were paid to or for the earner’s benefit in respect of employment which was contracted-out by reference to the scheme; and
- (b) those earnings were in excess of the lower earnings limit for that tax week (or the prescribed equivalent if the earner was paid otherwise than weekly).”.

(3) In subsection (2), for “earnings such as are mentioned in subsection (1)” substitute “excess earnings mentioned in subsection (1)(b)”.

**16.** In section 12 (revaluation of earnings factors for the purposes of section 10: early leavers etc.), for subsection (2) substitute—

“(2) The scheme may provide that in a case where—

- (a) an earner was, before the second abolition date, in contracted-out employment by reference to a scheme, and
- (b) the earner ceases to be in pensionable service under the scheme before the final relevant year,

the earnings factors for that person shall be determined for the purposes of section 10(2) by reference to the last such order to come into operation before the end of the tax year in which the earner ceases to be in pensionable service under the scheme (“the last service tax year”).”.

**17.**—(1) Section 13 (minimum pensions for widows, widowers and surviving civil partners) is amended as follows.

(2) In subsection (4A), after paragraph (a) insert—

“(aa) for life, in a case where—

(i) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date, and

(ii) the earner died on or after the date on which the widow, widower or surviving civil partner attained state pension age;

(ab) for any period after the widow, widower or surviving civil partner has attained state pension age, in a case where—

(i) the earner died before the widow, widower or surviving civil partner attained state pension age,

(ii) the widow, widower or surviving civil partner did not marry or form a civil partnership after the death and before attaining state pension age, and

(iii) the widow, widower or surviving civil partner attained state pension age on or after the second abolition date;”.

(3) After subsection (9) add—

“(10) For the purposes of subsection (4A)(aa) and (ab) a person attains state pension age when he or she attains pensionable age within the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995.”.

**18.** In section 16 (transfer of accrued rights), in subsection (1)(a)—

(a) in sub-paragraph (i), after “under a” insert “scheme that was a”;

(b) in sub-paragraph (ii)—

(i) omit “which is not contracted-out;”;

(ii) after “under a” insert “scheme that was a”.

**19.** In section 19 (securing of benefits), in subsection (2), omit paragraph (d).

**20.** In section 20A—

(a) the existing text becomes subsection (1), and

(b) after that subsection add—

“(2) The Department must give such guidance (if any) as it thinks appropriate about GMP conversion.”.

**21.** In section 21 (power for HMRC to impose conditions as to investments and resources), in subsection (2), after “A” insert “scheme that was a”.

**22.** Sections 30 to 32 (cancellation, variation, surrender and refusal of certificates) are repealed.

**23.** In the italic heading above section 33, for “scheme rules after certification” substitute “rules by former salary related contracted-out schemes”.

**24.** In section 33 (alteration of rules of contracted-out schemes) for subsections (1) to (3) substitute—

“(1) Except in prescribed cases, the rules of a scheme that was a salary related contracted-out scheme cannot be altered unless the alteration is of a prescribed description.

(2) Regulations made by virtue of subsection (1) may operate so as to validate with retrospective effect any alteration of the rules which would otherwise be void under this section.

(3) Subsection (1) does not apply to a scheme if no person is entitled to receive, or has accrued rights to, any benefits under the scheme attributable to a period when the scheme was contracted-out.”.

**25.** After section 33 insert—

**“Transfer of liabilities etc.: schemes contracted-out on or after 6 April 1997**

**33A.**—(1) Regulations may prohibit or restrict—

- (a) the transfer of any liability—
  - (i) for the payment of pensions under a relevant scheme, or
  - (ii) in respect of accrued rights to such pensions,
- (b) the discharge of any liability to provide pensions under a relevant scheme, or
- (c) the payment of a lump sum instead of a pension payable under a relevant scheme,

except in prescribed circumstances or on prescribed conditions.

(2) In this section “relevant scheme” means a scheme that was a salary related contracted-out scheme by virtue of section 5(2B) and references to pensions and accrued rights under the scheme are to such pensions and rights so far as attributable to an earner’s service on or after the principal appointed day (including, in a case where there has been a transfer payment, any pensions or rights deriving (directly or indirectly) from—

- (a) an earner’s service on or after the principal appointed day in employment that was contracted-out employment by reference to another scheme, or
- (b) in a case where the transfer payment was made before the first abolition date, protected rights under another occupational pension scheme or under a personal pension scheme which derive from

payments or contributions in respect of employment on or after the principal appointed day).

(3) Regulations under subsection (1) may provide that any provision of this Part shall have effect subject to such modifications as may be specified in the regulations.”.

**26.** For the heading to Chapter 2 of Part 3 substitute “Reduction in social security benefits for members of schemes that were contracted-out”.

**27.** In section 36 (scope of Chapter 2)—

- (a) omit paragraph (a);
- (b) in paragraph (c) for “such schemes” substitute “schemes that were contracted-out pension schemes”.

**28.** The italic heading above section 37 is repealed.

**29.** Section 37 (reduced rates of Class 1 contributions) is repealed.

**30.** Section 38 (review and alteration of reduced rates of Class 1 contributions) is repealed.

**31.** In section 44A (additional pension and other benefits), in subsection (1), for the words from the beginning to the end of paragraph (b) substitute “In relation to—

- (a) any tax week falling before the first abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 38A of this Act (as it then had effect),
- (b) any tax week falling before the second abolition date where the amount of a Class 1 contribution attributable to section 8(1)(a) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of the earnings paid to or for the benefit of an earner in that week was reduced under section 37 of this Act (as it then had effect), or
- (c) any tax week falling before the first abolition date where an amount was paid under section 41(1) of this Act (as it then had effect) in respect of the earnings paid to or for the benefit of an earner.”.

**32.** Section 45 (women, married women and widows) is repealed.

**33.** Section 46 (powers of HMRC to approve arrangements for scheme ceasing to be certified) is repealed.

**34.** In section 47 (calculation of guaranteed minimum pensions under approved arrangements), in subsection (1)(b), for “ceases” substitute “ceased”

**35.** For section 48 substitute—

**“Supervision of former salary related contracted-out schemes**

**48.** Section 49 shall apply for the purpose of making provision for securing the continued supervision of any scheme that was a salary related contracted-out scheme, other than a public service pension scheme, if any person is entitled to receive or has accrued rights to—

- (a) a guaranteed minimum pension under the scheme, or
- (b) a pension under the scheme attributable to service on or after the principal appointed day but before the scheme ceased to be contracted-out.”.

**36.** In section 49 (supervision: former contracted-out schemes), omit subsection (3).

**37.** Sections 51 to 64 (state scheme premiums) are repealed.

**38.** In section 83 (general protection principle), in subsection (1)(a), for subparagraph (i) substitute—

“(i) the date (“the cessation date”) which is the earlier of—

- (a) the date on which an earner ceases to be in pensionable service under a scheme that was, before the second abolition date, a salary related contracted-out scheme; and
- (b) the date on which the earner attains pensionable age;”.

**39.** In section 92 (further provisions concerning exercise of option to take cash equivalent in a particular way), in subsection (2), in paragraph (a)(i) omit “which is not a contracted-out scheme”.

**40.** In section 166 (questions arising in proceedings), in subsection (1), omit paragraph (b) and the “or” before it.

**41.** In section 173 (trustees and managers of schemes), in paragraph (a) omit “or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000”.

**42.—(1)** Section 176(1) (general interpretation) is amended as follows.

(2) In the appropriate places insert—

““the first abolition date” has the meaning given by section 3A;”

““the second abolition date” has the meaning given by section 3A;”

““salary related contracted-out scheme” is to be construed in accordance with section 3B;”.

(3) Omit the definition of “abolition date”.

(4) In the definition of “appropriate scheme” and “appropriate scheme certificate”, for “section 176A” substitute “section 3B”.

(5) In the definition of “contracting-out certificate”, for “section 3 and section 176A” substitute “section 3B”.

(6) In the definition of “contributions equivalent premium”, for “has the meaning given in” substitute “means a premium that was paid under”.

(7) In the definition of “earner” and “earnings”, after “in accordance with” insert “section 4(1B) of this Act and”.

(8) In the definition of “money purchase contracted-out scheme”, for “section 176A” substitute “section 3B”.

(9) For the definition of “the principal appointed day” substitute—

““the principal appointed day” means 6 April 1997 (which is the day designated as the principal appointed day for the purposes of Part 4 of the Pensions (Northern Ireland) Order 1995);”.

**43.** Section 176A (interpretation of references to money purchase contracted-out schemes or appropriate schemes after first abolition date) is repealed.

**44.** In section 180 (consultation about other regulations), omit subsection (2).

**45.—**(1) Schedule 1 (certification regulations) is amended as follows.

(2) Omit paragraphs 1 to 4.

(3) In paragraph 5(3A), for “a contracted-out occupational pension scheme which is being wound up” substitute “a scheme which was a contracted-out occupational pension scheme and which was being wound up before the second abolition date”.

(4) Omit paragraphs 6 to 8.

**46.—**(1) Schedule 3 (priority in bankruptcy) is amended as follows.

(2) Omit paragraphs 2, 3 and 4(2).

## PART 2

### OTHER STATUTORY PROVISIONS: AMENDMENTS

#### *The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

**47.** The Contributions and Benefits Act is amended as follows.

**48.** In section 1 (outline of contributory system), in subsection (3), omit the words after paragraph (b).

**49.** In section 4C (power to make provision in consequence of provision made by virtue of section 4B(2) etc.), in subsection (5), in each of paragraphs (a) and (b) omit the words from “, including” to the end.

**50.** In section 8 (calculation of primary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.

**51.** In section 9 (calculation of secondary Class 1 contributions), in subsection (3), omit paragraph (c) and the “and” before it.

**52.** In section 20 (descriptions of contributory benefits), in subsection (3), for “(reduction in state scheme contributions and social security benefits for members of certified schemes)” substitute “(reduction in benefits for members of schemes that were contracted-out)”.

**53.** In Schedule 1 (supplementary provisions relating to national insurance contributions), in paragraph 1, omit sub-paragraphs (2), (3), (6) and (9) to (11).

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

**54.** The Administration Act is amended as follows.

**55.** In section 132 (annual up-rating of benefits), in subsection (3A), for “the abolition date (as defined in section 176(1) of the Pensions Act)” substitute “7 June 2012 (the date appointed for the commencement of section 13(1) of the Pensions Act (Northern Ireland) 2008)”.

**56.** In section 167 (interpretation - general)—

- (a) in the definition of “money purchase contracted-out scheme”, for “section 176A” substitute “section 3B”;
- (b) in the definition of “personal pension scheme” for “section 176A(6)” substitute “section 3B(6)”.

*The Pensions (Northern Ireland) Order 1995 (NI 22)*

**57.** The 1995 Order is amended as follows.

**58.—**(1) Article 51 (annual increase in rate of pension) is amended as follows.

(2) For “the appointed day” (in each place) substitute “6 April 1997”.

(3) For paragraph (8) substitute—

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

- (a) it has not, at any time on or after 6 April 1997, been a salary related contracted-out scheme (see section 3B of the Pension Schemes Act), or
- (b) it has, at any time on or after 6 April 1997, been a salary related contracted-out scheme but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to a period on or after that day when it was such a scheme.”.

59. In Article 54 (Articles 51 to 53: supplementary), in paragraph (3), omit the definition of “the appointed day”.

60. For Article 69 substitute—

**“Grounds for applying for modifications: winding up registered schemes**

69.—(1) The Authority may, on an application made to them by the trustees of a registered pension scheme which is being wound up, make an order—

- (a) modifying the scheme for the purpose of enabling assets remaining after the liabilities of the scheme have been fully discharged to be distributed to the employer, or
- (b) authorising the trustees to modify the scheme for that purpose.

(2) But the Authority may act under paragraph (1) only if prescribed requirements in relation to the distribution are satisfied.

(3) Regulations may make provision requiring applications under paragraph (1) to meet prescribed requirements.

(4) Regulations may provide that in prescribed circumstances this Article does not apply to schemes falling within a prescribed class or description or applies to them with prescribed modifications.

(5) In this Article “registered pension scheme” means an occupational pension scheme registered under section 153 of the Finance Act 2004 (other than a public service pension scheme).”.

61. In Article 70 (Article 69: supplementary), omit paragraph (3).

62. In Article 71 (effect of orders under Article 69), in paragraph (1)—

- (a) for “sub-paragraph (a)” substitute “sub-paragraph (b)”;
- (b) for “sub-paragraph (b)” substitute “sub-paragraph (a)”.

63. In Article 72 (modification of public service pension schemes), in paragraph (1), for “Article 69(1)(b)” substitute “Article 69(1)(a)”.

64. Articles 133(1), (3) and (5), 134(3) and (4) and 145 (amendments to do with contracting-out) are repealed.

*The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

65. The Employment Rights (Northern Ireland) Order 1996 is amended as follows.

66. In Article 35 (note to be included in statement of initial employment particulars), omit paragraph (5).



**67.** In Article 43 (references to industrial tribunals), in paragraph (3), omit subparagraph (a) (including the “and” at the end of it).

*The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)*

**68.** The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 is amended as follows.

**69.—(1)** Section 38 (disclosure of state pension information) is amended as follows.

(2) In subsection (3)(d), omit “which is not contracted-out employment”.

(3) In subsection (11), omit the definition of “contracted-out employment”.

**70.** Part 2 of Schedule 5 (alternative to anti-franking rules) is repealed.

*The Pensions (Northern Ireland) Order 2005 (NI 1)*

**71.** In Article 235 of the 2005 Order (pension protection on transfer of employment: form of protection) in paragraph (2)(c), for the words from “time” to the end substitute “time the scheme complies with prescribed requirements”.

*The Companies Act 2006 (c. 46)*

**72.** The Companies Act 2006 is amended as follows.

**73.** In section 140 (interests to be disregarded: employer’s rights of recovery under pension scheme or employee’s share scheme), omit subsection (2).

**74.** In section 673 (interests to be disregarded in determining whether company has beneficial interest: employer’s charges and other rights of recovery), omit subsection (1)(b).

*The Pensions Act (Northern Ireland) 2008 (c. 1)*

**75.** The Pensions Act (Northern Ireland) 2008 is amended as follows.

**76.—(1)** Section 13 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In subsection (1), for “the abolition date” substitute “6 April 2012”.

(3) In subsection (2), omit the definition of “the abolition date”.

(4) In subsection (4), for “the abolition date” (in each place) substitute “6 April 2012”.

77. In section 19 (consequential provision, repeals and revocations), in subsection (5), for “the abolition date (within the meaning of section 13)” substitute “6 April 2012”.

78.—(1) Schedule 4 (abolition of contracting-out for defined contribution pension schemes) is amended as follows.

(2) In paragraphs 60, 61(1), (2)(a) and (b)(i) and (3), 64 and 65(2) for “the abolition date” (in each place) substitute “6 April 2012”.

(3) In paragraph 66 omit the definition of “the abolition date”.

*The Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)*

79. The Pensions (No2) Act is amended as follows.

80. For section 21 substitute—

**“Quality requirement: UK defined benefits schemes**

21. A defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if it satisfies the test scheme standard in relation to that jobholder”.

81. In section 22 (test scheme standard), for subsection (2) substitute—

“(2) Subject to subsection (3), the relevant members are J and all active members who are jobholders of the same employer as J.”.

SCHEDULE 14

Section 24.

POWER TO AMEND SCHEMES TO REFLECT  
ABOLITION OF CONTRACTING-OUT

*Introduction*

1. This Schedule is about the power under section 24(2) to amend an occupational pension scheme in relation to some or all of its members.

*What can the power be used to do?*

2.—(1) The power may be used—

- (a) to increase the employee contributions of the relevant members;
- (b) to alter the future accrual of benefits for or in respect of them.

(2) But the power may not be used in a way that would—

- (a) increase the amount of the total annual employee contributions of the relevant members by more than the annual increase in the employer's national insurance contributions in respect of them,
  - (b) reduce the amount of the scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members by more than the annual increase in the employer's national insurance contributions in respect of them, or
  - (c) result in the sum of the amount of any increase in the total annual employee contributions of the relevant members and the amount of any reduction in the scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members being more than the annual increase in the employer's national insurance contributions in respect of the relevant members.
- (3) Regulations are to define what is meant by—
- (a) the total annual employee contributions of the relevant members;
  - (b) the annual increase in an employer's national insurance contributions in respect of the relevant members;
  - (c) a scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members.
- (4) The regulations may make provision about the calculation of those amounts, including provision requiring them to be calculated in accordance with specified methods or assumptions.
- (5) Where the effect of using the power to increase employee contributions of the relevant members would be to increase the contributions that the employer is required to pay, the power may be used to make other amendments needed to ensure that only the employee contributions are increased because of the use of the power.
- (6) Where the effect of using the power to alter the future accrual of benefits for or in respect of the relevant members would be to decrease the contributions that any members are required to pay, the power may be used to make other amendments needed to ensure that the contributions of those members are not decreased because of the use of the power.
- 3.—**(1) The power may not be used in a way that would or might adversely affect the subsisting rights of—
- (a) a member of the scheme, or
  - (b) a survivor of a member of the scheme.
- (2) "Subsisting right" and "survivor" have the meanings given by Article 67A of the 1995 Order.
- 4.** Regulations may impose further restrictions on the use of the power.

*Creation of exceptions*

5. The power may not be used to amend a scheme in relation to a member of a description specified in regulations under this paragraph.

*Requirement for actuary's certificates*

6.—(1) The power may be used only if an actuary has certified that the proposed amendments would comply with such of the requirements imposed by or under this Schedule as are specified in regulations under this paragraph.

(2) “Actuary” means—

- (a) a person of a description specified in regulations, or
- (b) a person approved by the Department.

*When can the power be used?*

7. The power may be used before or after the repeal of section 37 of the Pension Schemes Act comes into operation (but amendments made under it must not be framed so as to take effect before the repeal comes into operation).

8. An amendment made before the repeal of section 37 of the Pension Schemes Act comes into operation does not take effect in relation to any relevant members who have ceased to be in contracted-out employment by reference to the scheme before the repeal comes into operation.

*Can the power be used more than once?*

9.—(1) The power may be used to amend a scheme in relation to the same members on more than one occasion.

(2) For the purposes of paragraph 2 as it applies in relation to the use of the power on the second or subsequent occasion, all of the amendments are to be treated as if they were being made on that occasion.

(3) Regulations may make further provision modifying section 24(2) to (7) or this Schedule (including paragraph 2) where the power is used to amend the scheme in relation to the same members on more than one occasion.

*Modifications for multi-employer or sectionalised schemes*

10.—(1) Regulations may modify section 24(2) to (7) or this Schedule as it applies in relation to—

- (a) multi-employer schemes,
- (b) schemes that have different rules for different members.

(2) “Multi-employer scheme” means a scheme in relation to which there is more than one employer.

*The power overrides other legislation*

**11.** An amendment under section 24 and this Schedule may be made in relation to any member, and has effect, despite anything in any other statutory provision to the contrary.

*Procedural requirements and supplementary matters*

**12.** Regulations may impose procedural requirements about the use of the power and the manner in which any amendments must be made.

**13.** Regulations under this Schedule may confer a discretion on a person.

*Information*

**14.—(1)** Regulations may require the trustees or managers of an occupational pension scheme to provide information requested by an employer in connection with the powers given by section 24(2).

(2) The regulations may provide for Article 10 of the 1995 Order (civil penalties) to apply to a person who fails to comply with a requirement.

(3) In this paragraph “managers”, in relation to a pension scheme (other than a scheme established under a trust), means the persons responsible for the management of the scheme.

*Definitions*

**15.** In this Schedule—

“employee contributions” means, in relation to a member of a scheme, contributions made to the scheme by or on behalf of the member on his or her own account;

“relevant member”, in relation to a scheme, means a current member in relation to whom the scheme has been or is to be amended under section 24(2).

SCHEDULE 15

Section 25.

OPTION TO BOOST OLD RETIREMENT PENSIONS

*The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 4)*

**1.** The Contributions and Benefits Act is amended as follows.

2. In section 43 (persons entitled to more than one retirement pension), in subsection (1) after “subsection (2) below” insert “and section 61ZC below (which deals with unusual cases involving units of additional pension)”.

3. In section 44 (Category A retirement pension), in subsection (3)—

(a) in paragraph (b), at the end insert “or where the pensioner has one or more units of additional pension”;

(b) after paragraph (b) insert—

“For units of additional pension, see section 14A.”.

4.—(1) Section 45 (rate of additional pension in a Category A retirement pension) is amended as follows.

(2) In subsection (1)—

(a) after “shall be” insert “the sum of the following—

“(a) in relation to any surpluses in the pensioner’s earnings factors,”;

(b) at the end insert “; and

(b) if the pensioner has one or more units of additional pension, a specified amount for each of those units.”.

(3) In subsection (2), at the end of paragraph (d) insert “; and

(e) if the pensioner has one or more units of additional pension, a specified amount for each of those units.”.

(4) After subsection (2) insert—

“(2A) For the purposes of subsections (1)(b) and (2)(e) the “specified amount” is an amount to be specified by the Department in regulations.”.

5. In section 52 (special provision for surviving spouses), after subsection (3) insert—

“(3A) In subsection (3) the references to additional pension in a Category A or Category B retirement pension do not include any amount of additional pension attributable to units of additional pension.

(3B) If an amount of additional pension in the Category B retirement pension is attributable to units of additional pension, the additional pension in the Category A retirement pension is increased by that amount (in addition to any increase under subsection (3)).”.

6. After section 61 insert—

**“Shortfall in contributions: people with units of additional pension**

**61ZA.**—(1) This section applies to a person who has one or more units of additional pension if the person—

- (a) is not entitled to a Category A retirement pension, but
- (b) would be entitled to a Category A retirement pension if the relevant contribution conditions were satisfied.

(2) The relevant contribution conditions are to be taken to be satisfied for the purposes of the person's entitlement to a Category A retirement pension.

(3) But where a person is entitled to a Category A retirement pension because of this section, the only element of that pension to which the person is so entitled is the additional pension attributable to the units of additional pension.

(4) For units of additional pension, see section 14A.

#### **Shortfall in contributions: people whose dead spouse or civil partner had units of additional pension**

**61ZB.**—(1) This section applies to a person whose spouse or civil partner died with one or more units of additional pension if the person—

- (a) is not entitled to a Category B retirement pension as a result of the death, but
- (b) would be entitled to a Category B retirement pension as a result of the death if the relevant contribution conditions were satisfied.

(2) The relevant contribution conditions are to be taken to be satisfied for the purposes of the person's entitlement to that Category B retirement pension.

(3) But where a person is entitled to a Category B retirement pension because of this section, the only element of that pension to which the person is so entitled is the additional pension attributable to the units of additional pension.

(4) For units of additional pension, see section 14A.

#### **Entitlement to more than one pension: sections 61ZA and 61ZB**

**61ZC.**—(1) Section 43 does not prevent a person from being entitled for the same period to both—

- (a) a Category A retirement pension because of section 61ZA, and
- (b) one Category B retirement pension.

(2) Section 43 does not prevent a person from being entitled for the same period to both—

- (a) a Category A retirement pension, and
- (b) one Category B retirement pension because of section 61ZB (or, if there is more than one such Category B retirement pension, the most favourable of them).

## (3) Accordingly—

- (a) in section 43(2)(a) the reference to “a Category A or a Category B retirement pension”, in a case in which subsection (1) or (2) of this section applies, includes “a Category A and a Category B retirement pension”,
- (b) in sections 43(3)(a) and (aa), 51A and 52 “Category A retirement pension” does not include a pension to which a person is entitled because of section 61ZA, and
- (c) in sections 43(3)(a) and 52 “Category B retirement pension” does not include a pension to which a person is entitled because of section 61ZB.”.

*The Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)*

7. In Article 44 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (shareable state scheme rights), in paragraph (2)(a) omit “earnings-related”.

## SCHEDULE 16

Section 30.

## BEREAVEMENT SUPPORT PAYMENT: AMENDMENTS

*The Forfeiture (Northern Ireland) Order 1982 (NI 14)*

1. In Article 6 of the Forfeiture (Northern Ireland) Order 1982 (Commissioner to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in paragraph (5), after the entry relating to Part 1 of this Act (inserted by Schedule 12) insert—

“section 29 of that Act.”.

*The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

2. The Contributions and Benefits Act is amended as follows.

3.—(1) Section 20 (descriptions of contributory benefits) is amended as follows.

(2) In subsection (1), for paragraph (ea) substitute—

“(ea) widowed parent’s allowance;”.

(3) In subsection (2), in the definition of “long-term benefit” omit paragraph (bb).

4.—(1) Section 21 (contribution conditions) is amended as follows.

(2) In the table in subsection (2) omit the entries for bereavement payment and bereavement allowance.



(3) Omit subsection (4).

5. In section 22 (earnings factors), in subsection (2), after paragraph (c) (inserted by Schedule 12) insert “and

(d) establishing entitlement to bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015.”.

6.—(1) Section 23A (contributions credits for relevant parents and carers) is amended as follows.

(2) In subsection (1) omit paragraph (e).

(3) In subsection (6)(b) omit “or (e)”.

7. For the italic heading above section 36 substitute “Bereavement benefits: deaths before the day on which section 29 of the Pensions Act (Northern Ireland) 2015 comes into operation”.

8. Section 36 (bereavement payment) is repealed.

9. Section 36A (cases in which sections 37 to 41 apply) is repealed.

10.—(1) Section 37 (widowed mother’s allowance) is amended as follows.

(2) Before subsection (1) insert—

“(A1) This section applies only in cases where a woman’s husband has died before 9 April 2001.”.

(3) At the end of the heading insert “: deaths before 9 April 2001”.

11.—(1) Section 38 (widow’s pension) is amended as follows.

(2) Before subsection (1) insert—

“(A1) This section applies only in cases where a woman’s husband has died before 9 April 2001.”.

(3) At the end of the heading insert “: deaths before 9 April 2001”.

12. In section 39A (widowed parent’s allowance), for subsection (1) substitute—

“(1) This section applies where—

(a) a person’s spouse or civil partner has died before the day on which section 29 of the Pensions Act (Northern Ireland) 2015 comes into operation (but see subsection (1A)),

(b) the person has not married or formed a civil partnership after the death but before that day, and

(c) the person is under pensionable age on that day.

(1A) This section does not apply in cases where a woman’s husband has died before 9 April 2001.”.

**13.** Section 39B (bereavement allowance where no dependent children) is repealed.

**14.—(1)** Section 39C (rate of widowed parent’s allowance and bereavement allowance) is amended as follows.

(2) Omit subsection (2).

(3) Omit subsection (5).

(4) In the heading omit “and bereavement allowance”.

**15.** In section 48B (Category B retirement pension for widows and widowers), in subsection (8), for “the appointed day (as defined by section 36A(3))” substitute “9 April 2001”.

**16.** In section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B), in subsection (3)(a)(i), after “bereavement allowance” insert “under section 39B (before that section was repealed)”.

**17.—(1)** Section 60 (complete or partial failure to satisfy contribution condition) is amended as follows.

(2) In subsection (1) omit paragraph (ab).

(3) In subsection (3) omit paragraphs (a) and (bb).

**18.—(1)** Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.

(2) Omit paragraph 4 and the italic heading above it.

(3) Omit paragraphs 7 and 9.

**19.** In Schedule 4 (rates of benefits etc.) omit Part 2.

*The Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

**20.** The Administration Act is amended as follows.

**21.—(1)** Section 1 (entitlement to benefit dependent on claim) is amended as follows.

(2) For subsection (2) substitute—

“(2) Where under subsection (1) a person is required to make a claim or to be treated as making a claim for a benefit in order to be entitled to it, the person is not entitled to it in respect of any period more than 12 months before the date on which the claim is made or treated as made.

(2A) But subsection (2) does not apply—

(a) to disablement benefit or reduced earnings allowance, or

(b) in a case where a claim for the benefit is made or treated as made by virtue of section 3(2).”.

(3) In subsection (4), after paragraph (zb) (inserted by Schedule 12) insert—

“(zc) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

**22.** In section 2A (claim or full entitlement to certain benefits conditional on work-focused interview), in subsection (2)(c), omit “(other than a bereavement payment)”.

**23.—**(1) Section 3 (late claims for bereavement benefit where death is difficult to establish) is amended as follows.

(2) Subsection (3) is repealed.

(3) After subsection (4) add—

“(5) In subsection (2) “bereavement benefit” means—

(a) bereavement support payment, or

(b) widowed parent’s allowance.”.

**24.** In section 5 (regulations about claims for and payments of benefits), in subsection (2), after paragraph (zb) (inserted by Schedule 12) insert—

“(zc) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

**25.** In section 69 (overpayments - general), in subsection (11), before paragraph (b) insert—

“(ae) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

**26.** In section 115CA (interpretation of Part 6), in subsection (1), after paragraph (hl) (inserted by Schedule 12) insert—

“(hm) Part 5 of the Pensions Act (Northern Ireland) 2015;”.

**27.** In section 116B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “, Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “, section 29 of that Act”.

**28.** In section 118 (regulations as to notification of deaths), in subsection (1), after “, Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “, section 29 of that Act”.

**29.—**(1) Section 143 (general financial arrangements) is amended as follows.

(2) In subsection (1), after paragraph (za) (inserted by Schedule 12) insert—

“(zb) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

(3) In subsection (2)(a), after “, Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “, section 29 of that Act”.

(4) In subsection (3)(b), after “or Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “or section 29 of that Act”.

**30.** In section 149 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant enactments”, after paragraph (am) (inserted by Schedule 12) insert—

“(an) section 29 of the Pensions Act (Northern Ireland) 2015;”.

**31.—**(1) Section 155 (reciprocal agreements) is amended as follows.

(2) In subsection (3)(a), after “Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “, Part 5 of that Act”.

(3) In subsection (4), after paragraph (ag) (inserted by Schedule 12) insert—

“(ah) to Part 5 of the Pensions Act (Northern Ireland) 2015;”.

(4) In subsection (5)—

(a) after “Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “or section 29 of that Act”;

(b) after paragraph (ad) (inserted by Schedule 12) insert—

“(ae) bereavement support payment;”.

**32.** In section 163 (inalienability), in subsection (1), before paragraph (b) insert—

“(ae) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

**33.** In section 167(1) (interpretation), in the definition of “benefit”, at the end add “and bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015”.

#### *The Social Security (Northern Ireland) Order 1993 (NI 2)*

**34.** In Article 4 of the Social Security (Northern Ireland) Order 1993 (payments into National Insurance Fund out of appropriated money) in paragraph (1) in the definition of “estimated benefits expenditure”, after “(za),” (inserted by Schedule 12) insert “(zb),”.

#### *The Social Security (Northern Ireland) Order 1998 (NI 10)*

**35.** The Social Security (Northern Ireland) Order 1998 is amended as follows.

**36.** In Article 4 (use of computers), in paragraph (2), after sub-paragraph (m) (inserted by Schedule 12) insert “or

(n) section 29 of the Pensions Act (Northern Ireland) 2015;”.

**37.**—(1) Article 9 (decisions by Department) is amended as follows.

(2) In paragraph (3), after sub-paragraph (ab) (inserted by Schedule 12) insert—

“(ac) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”.

(3) In paragraph (4), after “Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “or section 29 of that Act”.

**38.** In Article 12 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, after “Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “and section 29 of that Act”.

**39.** In Article 27 (restrictions on entitlement in cases of error), in paragraph (7), in the definition of “benefit”—

(a) before paragraph (e) insert—

“(dg) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015;”;

(b) for paragraph (e) substitute—

“(e) any benefit corresponding to a benefit mentioned in any of the foregoing paragraphs of this definition; and”.

**40.** In Article 28 (correction of errors in decisions etc.), in paragraph (3)(j), after “Part 1 of the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 12) insert “or section 29 of that Act”.

*The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)*

**41.** The Social Security Fraud Act (Northern Ireland) 2001 is amended as follows.

**42.** In section 5A (definitions), in the definition of “disqualifying benefit”, before paragraph (d) insert—

“(cb) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 or under section 30 of the Pensions Act 2014;”.

**43.** In section 5A (definitions), in the definition of “sanctionable benefit”—

(a) at the end of paragraph (c), omit “or”;

(b) after paragraph (c) insert—

“(ca) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015; or”.

**44.** In section 9 (power to supplement and mitigate loss of benefit provisions), in subsection (3), after paragraph (bf) (inserted by Schedule 12) insert—

“(bg) bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 or under section 30 of the Pensions Act 2014;”.

*The Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

45. The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.

46. In section 660 (taxable benefits: UK benefits - Table A), in the table in subsection (1), in the entry relating to bereavement allowance, omit the words “SSCB(NI)A 1992 Section 39B” (in the second column).

47. In section 677 (UK social security benefits wholly exempt from tax), in Part 1 of Table B in subsection (1), in the entry relating to bereavement payments, omit the words “SSCB(NI)A 1992 Section 36” (in the second column).

SCHEDULE 17

Section 32.

AUTOMATIC TRANSFER OF PENSION BENEFITS ETC.

PART 1

AUTOMATIC TRANSFER OF PENSION BENEFITS

*Regulations providing for transfer of cash equivalent of transferable benefits*

1.—(1) The Department must make regulations with a view to ensuring that, where a qualifying member of an automatic transfer scheme has transferable benefits under another pension scheme, the cash equivalent of the transferable benefits—

- (a) is transferred to the automatic transfer scheme, and
- (b) is used to provide rights for the member under it.

(2) In this Schedule “automatic transfer scheme” means—

- (a) a work-based pension scheme, other than a scheme of a prescribed description, which is registered under Chapter 2 of Part 4 of the Finance Act 2004 and is a money purchase scheme, or
- (b) a pension scheme of a prescribed description.

(3) In this Schedule “qualifying member”, in relation to an automatic transfer scheme, means an active member of the scheme of a prescribed description.

(4) For the purposes of this Schedule a person has transferable benefits under a pension scheme if—

- (a) the scheme is a transferable benefits scheme,
  - (b) the person is a member of the scheme,
  - (c) contributions to the scheme by, or on behalf or in respect of, the member have ceased,
  - (d) the member has accrued rights to benefits under the scheme rules,
  - (e) all of those rights accrued on or after the prescribed date (which may be a date before the coming into operation of this paragraph),
  - (f) the cash equivalent of those benefits is less than the prescribed amount (but not nil), and
  - (g) any other prescribed conditions are met.
- (5) In this Schedule “transferable benefits scheme” means—
- (a) a work-based pension scheme, other than a scheme of a prescribed description, which is registered under Chapter 2 of Part 4 of the Finance Act 2004 and is a money purchase scheme, or
  - (b) a pension scheme of a prescribed description.
- (6) In sub-paragraph (4)—
- (a) the reference to “scheme rules” is to be read in accordance with section 96B of the Pension Schemes Act;
  - (b) “benefits” means—
    - (i) money purchase benefits other than money purchase benefits of a prescribed description, or
    - (ii) benefits of a prescribed description.

*Automatic transfer scheme to find out  
whether members have transferable benefits*

**2.—**(1) The regulations must require the trustees or managers of an automatic transfer scheme to take steps to find out whether a qualifying member of the scheme has transferable benefits under another pension scheme.

- (2) The regulations may make provision—
- (a) about when a step is to be taken (for example, within a prescribed period after a person becomes a qualifying member or at prescribed intervals);
  - (b) for the steps to be taken at any particular time to relate to a particular qualifying member, or to some or all qualifying members.

*Automatic transfer scheme to request transfer of cash equivalent*

**3.—**(1) The regulations must require the trustees or managers of an automatic transfer scheme to give a transfer notice if—

- (a) they find out that a qualifying member of the scheme has transferable benefits under another pension scheme, and
  - (b) any other prescribed conditions are met.
- (2) A “transfer notice” is a notice given to the trustees or managers of the other pension scheme requesting the transfer of the cash equivalent of the transferable benefits to the automatic transfer scheme.
- (3) The conditions that may be prescribed because of sub-paragraph (1)(b) include a condition that the trustees or managers must not give a transfer notice unless the qualifying member consents in accordance with the regulations.

*Right to opt out of automatic transfer*

- 4.—(1) If the regulations do not include the condition mentioned in paragraph 3(3), they must ensure that where the duty to give a transfer notice has arisen in relation to transferable benefits of a qualifying member of an automatic transfer scheme, the member can opt out of the transfer in accordance with the regulations.
- (2) The regulations must provide that, where the member does opt out—
- (a) the duty to give the transfer notice is not to be complied with, and
  - (b) the cash equivalent of the member’s transferable benefits is not to be transferred.

*Information to be given to qualifying members of automatic transfer schemes*

- 5.—(1) The regulations must require a prescribed person to give information to a qualifying member of an automatic transfer scheme who has transferable benefits under another scheme for the purpose of helping the member to decide whether (as applicable)—
- (a) to consent to the giving of a transfer notice in relation to the transferable benefits, or
  - (b) to opt out of the transfer of the cash equivalent of the transferable benefits.
- (2) The information to be given—
- (a) must include information about the effect of the regulations, and in particular the member’s power to consent or right to opt out (as applicable);
  - (b) may include other information, for example information about the schemes.



*Transferable benefits scheme to comply with request*

6.—(1) The regulations must require the trustees or managers of a pension scheme who receive a transfer notice requesting the transfer of the cash equivalent of a person's transferable benefits to do what is needed to carry out the request.

(2) The regulations may in particular—

- (a) require the trustees or managers of the scheme to take particular steps to carry out the request;
- (b) provide for the discharge, in prescribed circumstances, of any obligation to provide the transferable benefits.

(3) The regulations may provide for circumstances in which the duty to carry out the request does not apply.

*Automatic transfer scheme to use cash equivalent to provide rights under the scheme*

7.—(1) The regulations must require the trustees or managers of an automatic transfer scheme to whom the cash equivalent of a person's transferable benefits is transferred to use the cash equivalent to provide rights for the person under the scheme.

(2) The regulations may make provision about how that is to be done and in particular about—

- (a) the nature and value of the rights to be provided;
- (b) calculating and verifying the value of the rights to be provided.

*Cash equivalents: calculation and verification*

8.—(1) The regulations may provide for the manner in which cash equivalents are to be calculated and verified.

(2) The regulations may in particular—

- (a) provide that a cash equivalent is to be increased or reduced in prescribed circumstances;
- (b) make provision about the time by reference to which a cash equivalent is to be calculated for the purposes of a provision of the regulations.

(3) Regulations made because of sub-paragraph (2)(a) may provide for a cash equivalent to be reduced to nil.

*Disclosure of information and establishment of database*

9.—(1) The regulations must make provision about disclosure of information.

(2) The regulations may in particular require a person to disclose information to another person—

- (a) for the purposes of helping a person to comply with a duty imposed on the person by the regulations or by corresponding regulations made by the Secretary of State under paragraph 9 of Schedule 17 to the Pensions Act 2014, or
- (b) otherwise for the purposes of a provision of the regulations or of corresponding regulations made by the Secretary of State under paragraph 9 of Schedule 17 to the Pensions Act 2014.

(3) The regulations may require the Department or the Regulator to establish and operate a database containing information relating to people who have or had transferable benefits for the purposes of helping the trustees or managers of an automatic transfer scheme to comply with their duties under the regulations.

### *Compliance*

**10.—**(1) The regulations may make provision with a view to ensuring compliance with any provision of the regulations.

(2) For this purpose the regulations may in particular—

- (a) provide for the Regulator to issue a notice (a “compliance notice”) to a person with a view to ensuring the person’s compliance with a provision of the regulations;
- (b) provide for the Regulator to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of the regulations;
- (c) provide for the Regulator to issue a notice (a “penalty notice”) imposing a penalty on a person where the Regulator is of the opinion that the person has failed to comply with a compliance notice or third party compliance notice or has contravened a provision of the regulations;
- (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
- (e) confer other functions on the Regulator.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

- (a) £5,000, in the case of an individual, and
- (b) £50,000, in any other case.

*Record keeping*

- 11.**—(1) The regulations may require any person—
- (a) to make records;
  - (b) to preserve records for a prescribed period;
  - (c) to provide records to the Regulator on request.
- (2) The regulations may provide that Article 10 of the 1995 Order (civil penalties) applies to a person who fails to comply with those requirements.

*Further provision about the regulations*

- 12.** The regulations may—
- (a) impose or confer other functions on the trustees or managers of an automatic transfer scheme or transferable benefits scheme;
  - (b) confer a discretion on a person.

**PART 2**

**MERGER OF PENSION ACCOUNTS**

- 13.**—(1) The Department may by regulations make provision for the purposes of requiring dormant pension accounts of a qualifying member of an automatic transfer scheme to be merged into a current pension account of the member.
- (2) The regulations may not require a dormant pension account to be merged unless the accrued rights to benefits to which the account relates would be transferable benefits of the member if—
- (a) all other accrued rights to benefits of the member, and any relevant contributions, were ignored, and
  - (b) any other prescribed matter were ignored.
- (3) The regulations may in particular—
- (a) make provision for determining into which current pension account (if the member has more than one) a dormant pension account is to be merged;
  - (b) provide that the rules of the scheme that are to apply to a merged pension account are those that apply to the current pension account into which a dormant pension account is being merged;
  - (c) require the trustees or managers of the scheme to make a transfer of assets representing the accrued rights to benefits to which a dormant pension account relates;
  - (d) include provision corresponding or similar to any provision which may be made by regulations under Part 1.

(4) In this paragraph “pension account”, in relation to a member of a scheme, means an account relating to the member’s accrued rights to benefits in respect of a particular period of employment; and a pension account—

- (a) is “dormant” if relevant contributions in relation to the period of employment to which the account relates have ceased; and
- (b) is “current” if such contributions have not ceased.

(5) In this paragraph—

- (a) references to “accrued rights to benefits”, in relation to a member of a scheme, are to accrued rights to benefits under the applicable rules (within the meaning given by paragraph 1(6));
- (b) “employment” has the prescribed meaning;
- (c) “relevant contributions”, in relation to a member of a scheme, means contributions to the scheme by, or on behalf or in respect of, the member.

### PART 3

#### INTERPRETATION ETC.

##### *Interpretation etc.*

14.—(1) In this Schedule—

“active member”—

- (a) in relation to an occupational pension scheme, has the meaning given by Article 121(1) of the 1995 Order, and
- (b) in relation to a personal pension scheme, means a member of the scheme in respect of whom contributions are being paid into the scheme;

“automatic transfer scheme” has the meaning given by paragraph 1(2);

“managers”, in relation to a pension scheme (other than a scheme established under a trust), means the persons responsible for the management of the scheme;

“money purchase benefits” has the meaning given by section 176(1) of the Pension Schemes Act;

“money purchase scheme” has the meaning given by section 176(1) of the Pension Schemes Act;

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

“pension scheme” means—

- (a) an occupational pension scheme, or
- (b) a personal pension scheme;

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

“prescribed” means prescribed by regulations made by the Department;

“qualifying member” has the meaning given by paragraph 1(3);

“the Regulator” means the Pensions Regulator;

“transferable benefits”, and references to a person having transferable benefits, are to be read in accordance with paragraph 1(4);

“transferable benefits scheme” has the meaning given by paragraph 1(5);

“transfer notice” means a notice given under regulations made because of paragraph 3;

“work-based pension scheme” means—

- (a) an occupational pension scheme,
- (b) a personal pension scheme where direct payment arrangements (within the meaning of section 107A of the Pension Schemes Act) exist in respect of one or more members of the scheme who are workers, or
- (c) a personal pension scheme which is or has been registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (stakeholder pension schemes);

“worker” means a person—

- (a) who is a worker for the purposes of Part 1 of the Pensions (No. 2) Act, or
- (b) to whom a provision of Part 1 of that Act applies as if the person were a worker because of a provision of Chapter 7 of that Part;

but for the purposes of paragraph (b), ignore section 74 of that Act.

(2) The Department may by regulations make provision about when contributions to a pension scheme are to be regarded as having ceased for the purposes of paragraph 1(4)(c) or 13(4).

#### *Crown application*

**15.—**(1) This Schedule applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, references in this Schedule to a person in the person’s capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Schedule applies to persons employed by or under the Crown as it applies to persons employed by a private person.

*Overriding provision*

**16.—**(1) Regulations under this Schedule may provide that specified provisions override any provision of an automatic transfer scheme or transferable benefits scheme to the extent that it conflicts with them.

(2) A “specified provision” is a provision of regulations under this Schedule specified in the regulations for the purposes of this paragraph.

*Other provision relating to regulations under this Schedule*

**17.—**(1) Regulations under this Schedule may amend or otherwise modify any statutory provision (whenever passed or made).

(2) Regulations made because of sub-paragraph (1) may in particular amend section 170(1) of the Pension Schemes Act (levies towards certain expenditure) so as to include expenditure of the Department or the Commissioners for Her Majesty’s Revenue and Customs under the regulations or expenditure of the Secretary of State or the Commissioners for Her Majesty’s Revenue and Customs under regulations under paragraph 9(3) of Schedule 17 to the Pensions Act 2014.

**18.** Before making any regulations under this Schedule, the Department must consult such persons as it considers appropriate, but that duty to consult does not apply to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.

*Amendments*

**19.—**(1) The Pension Schemes Act is amended as follows.

(2) In section 90(2A) (right to cash equivalent)—

(a) in paragraph (a), after sub-paragraph (vii) insert—

“(viii) regulations made under Schedule 17 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (v) insert—

“(vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act (Northern Ireland) 2015.”.

(3) In section 96B(2) (meaning of “scheme rules”: occupational pension schemes)—

(a) in paragraph (a), after sub-paragraph (x) insert—

“(xi) regulations made under Schedule 17 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (vii) insert—

“(viii) regulations made under paragraph 16 of Schedule 17 to the Pensions Act (Northern Ireland) 2015.”.

(4) In section 97AI(7) (rights to cash transfer sum and contribution refund: further provisions)—

(a) in paragraph (a), after sub-paragraph (ix) insert—

“(x) regulations made under Schedule 17 to the Pensions Act (Northern Ireland) 2015;”;

(b) in paragraph (b), after sub-paragraph (vii) insert—

“(viii) regulations made under paragraph 17 of Schedule 17 to the Pensions Act (Northern Ireland) 2015.”.

**20.** In Article 233 of the 2005 Order (no indemnification for fines or civil penalties), in paragraph (1)(b)—

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

(b) after “2008” insert “or paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015”.

## SCHEDULE 18

Section 42.

### POWER TO RESTRICT CHARGES OR IMPOSE REQUIREMENTS IN RELATION TO SCHEMES

#### *Power to restrict charges*

**1.—**(1) The Department may by regulations make provision—

(a) prohibiting administration charges which are of a specified class or description, or which exceed specified limits, from being imposed on a member of a relevant scheme;

(b) prohibiting a relevant scheme from containing provision under which administration charges which are of a specified class or description, or which exceed specified limits, will or may be imposed on a member of the scheme.

“Specified” means specified in the regulations.

(2) The regulations—

(a) may make provision for the manner of, and criteria for, determining whether an administration charge is of a specified class or description or exceeds specified limits;

(b) may provide for the determination to be made in accordance with guidance issued from time to time by the Department.

(3) The regulations may impose duties on the trustees or managers of a relevant scheme or others.

(4) The regulations may provide that a scheme is not a qualifying scheme in relation to a jobholder for the purposes of Part 1 of the Pensions (No. 2) Act if a provision of the regulations—

- (a) is contravened, or
- (b) is contravened in a way specified in the regulations.

(5) In this paragraph—

“administration charge”, in relation to a member of a pension scheme, means any of the following to the extent that they may be used to meet the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members—

- (a) any payments made to the scheme by, or on behalf or in respect of, the member,
- (b) any income or capital gain arising from the investment of such payments, or
- (c) the value of the member’s rights under the scheme;

“relevant scheme” means a pension scheme of a description specified in the regulations.

*Power to impose requirements relating to administration or governance*

2.—(1) The Department may by regulations impose requirements relating to the administration or governance of a relevant scheme that must be satisfied in relation to the scheme.

(2) The regulations—

- (a) may make provision for the manner of, and criteria for, determining whether a requirement is satisfied;
- (b) may provide for the determination to be made in accordance with guidance issued from time to time by the Department.

(3) The regulations may impose duties on the trustees or managers of a relevant scheme or others.

(4) The regulations may provide that a scheme is not a qualifying scheme in relation to a jobholder for the purposes of Part 1 of the Pensions (No. 2) Act if a provision of the regulations—

- (a) is contravened, or
- (b) is contravened in a way specified in the regulations.



(5) In this paragraph “relevant scheme” means a pension scheme of a description specified in the regulations.

### *Compliance*

3.—(1) The Department may by regulations make provision with a view to ensuring compliance with a provision of regulations under paragraph 1 or 2.

(2) The regulations may in particular—

- (a) provide for the Regulator to issue a notice (a “compliance notice”) to a person with a view to ensuring the person’s compliance with a provision of regulations under paragraph 1 or 2;
- (b) provide for the Regulator to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of regulations under paragraph 1 or 2;
- (c) provide for the Regulator to issue a notice (a “penalty notice”) imposing a penalty on a person where the Regulator is of the opinion that the person has failed to comply with a compliance notice or third party compliance notice or has contravened a provision of regulations under paragraph 1 or 2;
- (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
- (e) confer other functions on the Regulator.

(3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.

(4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—

- (a) £5,000, in the case of an individual, and
- (b) £50,000, in any other case.

### *Interpretation*

4.—(1) Expressions used in this Schedule and in Schedule 17 have the same meaning in this Schedule as in that Schedule (see paragraph 14 of that Schedule).

(2) In this Schedule “relevant scheme” is to be construed in accordance with paragraphs 1(5) and 2(5).

*Crown application*

5.—(1) This Schedule applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.

(2) Accordingly, a reference in this Schedule to a person in the person's capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(3) This Schedule applies to persons employed by or under the Crown as it applies to persons employed by a private person.

*Overriding provision*

6.—(1) The Department may by regulations provide that specified provisions override any provision of a relevant scheme to the extent that it conflicts with them.

(2) A "specified provision" is a provision of regulations under this Schedule specified in regulations made under sub-paragraph (1).

*Other provision relating to regulations under this Schedule*

7. The Department may by regulations amend or otherwise modify any statutory provision (whenever passed or made) in connection with any provision made by regulations under the preceding provisions of this Schedule.

8. Before making any regulations under this Schedule, the Department must consult such persons as it considers appropriate, but that duty to consult does not apply to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.

*Amendments*

9.—(1) The Pension Schemes Act is amended as follows.

(2) In section 90(2A) (right to cash equivalent)—

(a) in paragraph (a), after sub-paragraph (viii) (inserted by Schedule 17) insert

—  
“(ix) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015;”;

(b) in paragraph (b), after sub-paragraph (vi) (inserted by Schedule 17) insert

—  
“(vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

(3) In section 96B(2) (meaning of “scheme rules”: occupational pension schemes)—

(a) in paragraph (a), after sub-paragraph (xi) (inserted by Schedule 17) insert

—  
“(xii) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 17) insert

—  
“(ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

(4) In section 97AI(7) (rights to cash transfer sum and contribution refund: further provisions)—

(a) in paragraph (a), after sub-paragraph (x) (inserted by Schedule 17) insert—

“(xi) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 17) insert

—  
“(ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

**10.** In Article 233 of the 2005 Order (no indemnification for fines or civil penalties), in paragraph (1)(b), after “or paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 17) insert “or paragraph 3 of Schedule 18 to that Act.”.

**11.—**(1) Section 16 of the Pensions (No. 2) Act (automatic enrolment: qualifying schemes) is amended as follows.

(2) In subsection (3), omit paragraphs (a), (aa) and (ab).

(3) After subsection (3) insert—

“(3A) See also paragraphs 1(4) and 2(4) of Schedule 18 to the Pensions Act (Northern Ireland) 2015, which confer power to make regulations providing for a scheme not to be a qualifying scheme in relation to a jobholder in certain circumstances.”.

(4) Omit subsections (4) and (5).

**12.** In consequence of the amendments made by paragraph 11, section 11 of the Pensions Act (Northern Ireland) 2012 (qualifying schemes: administration charges) is repealed.

## SCHEDULE 19

Section 45.

## PROHIBITION ORDERS: CONSEQUENTIAL AMENDMENTS

*The Pensions (Northern Ireland) Order 1995 (NI 22)*

1. The 1995 Order is amended as follows.
2. In Article 6 (removal or suspension of trustees: consequences)—
  - (a) in paragraphs (1) and (3), after “Article 3” insert “or 3A”;
  - (b) in paragraph (4), after “Article 3” insert “, 3A”.
3. In Article 7 (appointment of trustees), in paragraph (1), after “Article 3,” insert “by Article 3A”.
4. In Article 9 (removal and appointment of trustees: property), after “a trustee” insert “or a trustee is removed under Article 3A”.

*The Pensions (Northern Ireland) Order 2005 (NI 1)*

5. The 2005 Order is amended as follows.
6. In Article 7 (functions exercisable by the Determinations Panel), in paragraph (6), after sub-paragraph (e) insert—
 

“(ea) Article 3A(3) of that Order (application for waiver of prohibition);”.
7. In Article 61 (register of prohibited trustees), in paragraph (1), for the words from “of all” to the end substitute “(“the prohibition register”) of—
  - (a) all persons who are prohibited under Article 3 of the 1995 Order, and
  - (b) all persons appearing to the Regulator to be prohibited under Article 3A of that Order.”.
8. In Article 91 (Pensions Regulator’s regulatory functions: standard procedure), in paragraph (6), after sub-paragraph (i) insert—
 

“(ia) the power under Article 3A(3) of that Order to give a notice waiving a prohibition;”.
9. In Article 92 (Pensions Regulator’s regulatory functions: special procedure), in paragraph (5), after sub-paragraph (j) insert—
 

“(ja) the power under Article 3A(3) of that Order to give a notice waiving a prohibition;”.
- 10.—(1) Schedule 2 (Pensions Regulator’s reserved regulatory functions) is amended as follows.
  - (2) After paragraph 5 insert—

“**5A.** The power under Article 3A(3) to give a notice waiving a prohibition.”.

(3) In paragraph 9(a), after “orders)” insert “or by Article 3A”.

## SCHEDULE 20

Section 48.

### PENSION PROTECTION FUND: INCREASED COMPENSATION CAP FOR LONG SERVICE

#### PART 1

##### THE NEW COMPENSATION CAP

1. Schedule 6 to the 2005 Order (pension compensation provisions) is amended as follows.

2. In paragraph 26 (the compensation cap), for the definition of “the compensation cap” in sub-paragraph (7) substitute—

““the compensation cap” has the meaning given by paragraph 26A;”.

3. After paragraph 26 insert—

“**26A.**—(1) This paragraph gives the meaning of “the compensation cap” for the purposes of paragraph 26.

(2) The amount of the compensation cap for a person depends on the person’s age and length of pensionable service at the time when the person first becomes entitled to the relevant compensation.

(3) “The compensation cap” for a person who has 20 or fewer years of pensionable service at that time is the standard amount.

(4) “The compensation cap” for a person who has more than 20 years of pensionable service at that time is—

(a) the standard amount, plus

(b) for each additional year, an amount found by multiplying the standard amount by 3%.

(5) A person has an “additional year” for each whole year of pensionable service that exceeds 20 years of pensionable service.

(6) If the total amount calculated under sub-paragraph (4)(b) would exceed the standard amount, it is to be treated as being equal to the standard amount.

(7) In sub-paragraphs (3) and (4) “the standard amount”—

(a) for a person who is 65 years old at the relevant time, means the amount specified by the Department by order, and

(b) for a person of any other age at the relevant time, means the amount specified under paragraph (a) as adjusted in accordance with actuarial adjustment factors published by the Board.

(8) A person credited with a length of notional pensionable service because of pension credit rights is to be treated for the purposes of this paragraph as having pensionable service of that length (in addition to any pensionable service that the person is treated as having under sub-paragraph (9)).

(9) In any case where the Board is satisfied that, under the admissible rules, a person is entitled to benefits that are not attributable to a particular period of pensionable service, the Board may for the purposes of this paragraph treat the person as having a length of pensionable service to reflect those benefits (which is in addition to any other pensionable service that the person has).

(10) In any case where the Board is satisfied that it is not possible to identify the length of some or all of a person's pensionable service under the admissible rules, the Board may, having regard to those rules, determine its length for the purposes of this paragraph.

(11) Where a person becomes entitled to relevant compensation in respect of benefits under two or more connected occupational pension schemes at the same time, this paragraph applies in relation to the relevant compensation in respect of each benefit as if—

- (a) a reference to the length of the person's pensionable service were a reference to the total length of the person's pensionable service under all of the schemes (counting any period of overlap once only), and
- (b) sub-paragraphs (9) and (10) apply for the purposes of working out the length of the person's pensionable service in respect of each scheme as if a reference to the admissible rules were to the admissible rules of that scheme.

(12) When applying this paragraph in relation to relevant compensation in respect of a benefit, ignore any pensionable service that relates to a benefit that is not from the same source.

(13) For the purposes of sub-paragraph (12)—

- (a) benefits attributable to a person's pensionable service under a scheme are from the same source as benefits attributable to the person's pensionable service under that or a connected occupational pension scheme,
- (b) benefits under a scheme which are attributable to a pension credit from a transferor are from the same source as benefits under that or a connected occupational pension scheme which are attributable to a pension credit from the same transferor, and
- (c) benefits are not otherwise from the same source.

- (14) Expressions used in this paragraph have the same meaning as in paragraph 26.”.
4. In paragraph 24(2), at the end insert “of the periodic compensation at that time”.
  5. In paragraph 26(9), after “this paragraph” insert “and paragraph 26A”.
  6. In paragraph 27 (increasing the compensation cap in line with earnings), for “paragraph 26(7)” substitute “paragraph 26A(7)”.
  7. In paragraph 18(2) of Schedule 4 to the Pensions (No. 2) Act, for “the compensation cap” to the end substitute “a modified version of the compensation cap in paragraph 26A of Schedule 6 to the 2005 Order.”.

## PART 2

### EFFECT OF CHANGE IN TRANSITIONAL CASES

#### *Recalculation of periodic compensation going forwards*

- 8.—(1) This paragraph applies in relation to a person if—
  - (a) the person is entitled to periodic compensation under paragraph 3, 11 or 15 of Schedule 6 to the 2005 Order,
  - (b) the compensation is restricted in accordance with paragraph 26 of that Schedule (compensation cap), and
  - (c) the person first became entitled to the compensation before the commencement date.

(2) The protected pension rate for the person is to be recalculated as if the amendments made by Part 1 had always been in operation and the recalculated protected pension rate has effect for the person as from the commencement date.

(3) For the purposes of that recalculation, paragraph 26A(7) of Schedule 6 to the 2005 Order (inserted by Part 1) has effect as if—

  - (a) the references to an order made by the Department were references to the relevant old order, and
  - (b) the reference to actuarial adjustment factors were a reference to the relevant old actuarial adjustment factors.

(4) In this paragraph—

“the protected pension rate”—

  - (a) for a person entitled to periodic compensation under paragraph 3 or 15 of Schedule 6 to the 2005 Order means the protected pension rate for the purposes of sub-paragraph (3)(a) of that paragraph;

- (b) for a person entitled to periodic compensation under paragraph 11 of that Schedule, means the protected notional pension for the purposes of subparagraph (3)(a) of that paragraph;

“the relevant old order” means the order in operation under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person first became entitled to the periodic compensation;

“the relevant old actuarial adjustment factors” means the actuarial adjustment factors published by the Board under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person first became entitled to the periodic compensation.

(5) Nothing in this paragraph affects increases already accrued under paragraph 28 of Schedule 6 to the 2005 Order in relation to periods before the commencement date.

*New cap does not generally affect old payments*

9.—(1) Nothing in this Schedule affects—

- (a) periodic compensation for a person for periods before the commencement date, or
- (b) lump sum compensation for a person who became entitled to the compensation before the commencement date.

(2) In this paragraph—

“periodic compensation” means compensation within paragraph 26(4)(a), (b) or (d) of Schedule 6 to the 2005 Order,

“lump sum compensation” means compensation within paragraph 26(4)(c) or (e) of that Schedule.

*Survivors' compensation*

10. When working out the annual rate of a person's periodic compensation under paragraph 4(3), 13(3) or 18(3) of Schedule 6 to the 2005 Order, take into account any effect that paragraph 8 would have had on the dead person's rate if it were not for the death.

*Cases involving early payment or postponement of compensation*

11. Nothing in this Schedule affects the amount of—

- (a) an actuarial reduction under paragraph 25 of Schedule 6 to the 2005 Order in a case where a person became entitled to periodic compensation or lump sum compensation before the commencement date, or



- (b) an actuarial increase under paragraph 25A of that Schedule in a case where the commencement of periodic compensation or the payment of lump sum compensation was postponed before the commencement date (even if it continues to be postponed on or after that date).

*Recalculation of terminal illness lump sums given in the past year*

**12.**—(1) This paragraph applies in relation to a person who is alive on the commencement date if—

- (a) the person has become entitled to a terminal illness lump sum under paragraph 25E of Schedule 6 to the 2005 Order at any time in the period of one year ending with the commencement date, and
- (b) the amount of the terminal illness lump sum was restricted in accordance with paragraph 26 of that Schedule (compensation cap).

(2) The terminal illness lump sum for the person is to be recalculated under Schedule 6 to the 2005 Order as if the amendments made by Part 1 of this Schedule had been in operation at the time that the person became entitled to it.

(3) For the purposes of that recalculation, paragraph 26A(7) of Schedule 6 to the 2005 Order (inserted by Part 1) has effect as if—

- (a) the references to an order made by the Department were references to the relevant old order, and
- (b) the reference to actuarial adjustment factors were a reference to the relevant old actuarial adjustment factors.

(4) In sub-paragraph (3)—

“the relevant old order” means the order in operation under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person became entitled to the terminal illness lump sum;

“the relevant old actuarial adjustment factors” means the actuarial adjustment factors published by the Board under paragraph 26(7) of Schedule 6 to the 2005 Order (as originally enacted) at the time when the person became entitled to the terminal illness lump sum.

*Meaning of “the pension compensation provisions” in Part 3 of the 2005 Order*

**13.** Article 146(2) of the 2005 Order is to be treated as including a reference to this Part among “the pension compensation provisions”.

## PART 3

SCHEMES UNDERGOING ASSESSMENT OR  
WINDING UP ON THE COMMENCEMENT DATE*Schemes undergoing assessment on the commencement date*

14.—(1) This paragraph applies in relation to an eligible scheme that is undergoing assessment on the commencement date.

*Continue to use the old cap as the basis of assessment*

(2) For the purposes of the following, ignore any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order—

- (a) any provision in which the definition of “protected liabilities” in Article 115 of that Order applies, and
- (b) any provision in which the definition of “protected benefits quotation” in Article 135(8) of that Order applies.

*Going forwards, pay pensions on the basis of the new cap*

(3) For the purposes of Article 122(2) of the 2005 Order take into account any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of that Order on the assessment date.

*Schemes that begin winding up before the commencement date*

15.—(1) This paragraph applies in relation to an eligible scheme that is being wound up if the winding up began (or is treated as having begun) before the commencement date.

*Use the old cap when working out the preferential liabilities (generally)*

(2) For the purposes of Articles 73 and 73A of the 1995 Order, ignore any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order.

*Going forwards, pay pensions on the basis of the new cap during assessment*

(3) If for any period the scheme is being wound up and is also undergoing assessment (“the overlap period”), sub-paragraph (4) applies.

(4) For the purposes of Article 73A of the 1995 Order, as it applies in relation to the overlap period, take into account any effect that this Schedule has on the compensation which would be payable if the Board assumed responsibility for the scheme in accordance with Chapter 3 of Part 3 of the 2005 Order.

*Meaning of “undergoing assessment”*

**16.** For the purposes of this Part of this Schedule an eligible scheme is “undergoing assessment” if an assessment period has begun in relation to the scheme but has not yet ended.

*Meaning of “eligible scheme”*

**17.** Article 110(4) of the 2005 Order (list of provisions in relation to which regulations may provide that a scheme remains an “eligible scheme”) is to be treated as including a reference to this Part of this Schedule.

## PART 4

### INTERPRETATION AND POWER TO MAKE FURTHER TRANSITIONAL PROVISION

*Interpretation*

**18.** In this Schedule “the commencement date” means the date on which it comes fully into operation.

**19.** Other expressions used in this Schedule have the same meaning as in Part 3 of the 2005 Order.

*Further transitional provision*

**20.** The inclusion of Parts 2 and 3 does not prevent transitional provision being made by order under section 53(5).

**21.—(1)** In relation to a case involving multiple benefits, transitional provision made by order under section 53(5) may, in particular—

- (a) disapply or modify any provision of this Schedule;
- (b) make provision similar to any provision of this Schedule.

(2) For these purposes, “a case involving multiple benefits” means a case mentioned in paragraph 26(9) of Schedule 6 to the 2005 Order.

**22.—(1)** Transitional provision made by order under section 53(5) may, in particular, make provision in relation to compensation payable under Chapter 1 of

Part 3 of the Pensions (No. 2) Act (compensation sharing on divorce etc.) that is similar to any provision of Part 2 of this Schedule.

(2) Regulations under paragraph 18 of Schedule 4 to the Pensions (No. 2) Act which restrict an amount payable to a person in any period by reference to a modified version of the compensation cap in paragraph 26A of Schedule 6 to the 2005 Order (inserted by Part 1 of this Schedule) may also make provision similar to any provision of Part 3 of this Schedule.