



## 2016 CHAPTER 1

### PART 1

#### CATEGORIES OF PENSION SCHEME

##### **Meaning of “pensions promise” etc**

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

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

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

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

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

factors used to determine what proportion of that amount is available for the provision of the particular benefit.

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