These notes refer to the Welfare Reform and Pensions Act 1999 (c.30) which received Royal Assent on 11 November 1999

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

Pension debits

Chapter I

Section 101A which defines the scope of the Chapter, reflects section 69(3) of the Pension Schemes Act 1993 and effectively embraces all types of occupational pension scheme.

Section 101B contains the definition of some terms used in this Chapter. Note: – the definition "normal benefit age" parallels "normal pension age" used elsewhere in the Act, the distinction being that "normal pension age" relies on an individual having been in an employment to which the scheme applies, which is not relevant in relation to pension credit rights.

Section 101C

Subsection (1) is self-explanatory. Early payment of pension may be permissible as an alternative to pension credit benefit in prescribed circumstances under section 101D(2)(b).

Subsection (2) provides that a payment of pension credit in lump sum form (that is a separate lump sum benefit payable in addition to any pension) cannot be made before normal benefit age, except in prescribed circumstances.

We intend to use the regulation-making power to permit lump sum payments in circumstances similar to those set out in Regulation 5 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991: for example, where the former spouse's earning capacity is destroyed or seriously impaired by physical or mental infirmity or when the former spouse has reached the age of 50.

Section 101D provides for pension credit rights to be treated in broadly the same way as rights for deferred members.

Subsection (1): we intend to use the regulation-making power to permit pension credit benefit to be assured by the purchase of an insurance policy or annuity contract entered into with an appropriate insurance company or friendly society.

Subsection (2) permits pension credit benefit to be transferred from one pension scheme or arrangement to another.

We intend to use the regulation-making power at (2)(b) in much the same way that section 73(2) of the Pension Schemes Act 1993 is used to prescribe alternatives to short service benefit and allow for early and deferred retirements. Regulations would allow benefits to be bought-out by insurance policies or annuity contracts. These would largely mirror regulations 7 and 11 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991.

Subsection (4) mirrors the provisions to protect early leavers in section 73(4) of the Pension Schemes Act 1993. We intend to use the regulation-making power to prescribe conditions similar to those set out in regulation 12(3) of the Preservation of Benefit Regulations, which rely on actuarial certification to ensure that pension credit benefits are adequately protected and secure if transferred without the consent of the former spouse.

Section 101E broadly corresponds to the provisions in section 81 of the Pension Schemes Act 1993. It sets out conditions which, if complied with by the trustees or managers of a scheme, will result in their being statutorily discharged from their liability to provide pension credit benefit. A discharge of liability can be secured by the purchase of an insurance policy or annuity contract that meets prescribed requirements.

We intend to use the regulation-making power in subsection (1)(c) to parallel those in Part II of The Occupational Pension Schemes (Discharge of Liability) Regulations. For example, the regulations will set out the conditions on which insurance policies and annuities may be assigned, surrendered, and commuted and set out special provisions in relation to safeguarded rights.