

# PENSIONS ACT 2004

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 4 – Financial Planning for Retirement

##### Summary

850. Sections under this Part of the Act provide the Secretary of State with the power to promote and facilitate financial planning for retirement and enable him to receive the information to do so. They also provide powers to require schemes to provide combined pension forecasts and employers to provide their employees with access to information and advice about pensions and saving for retirement.

##### Retirement planning

#### *Section 234: Promoting and facilitating financial planning for retirement*

851. *Subsections (1) and (2)* enable the Secretary of State and the Department for Social Development in Northern Ireland to take action for the purpose of promoting or facilitating financial planning for retirement. The action can include providing facilities to enable people to:

- estimate the financial resources they are likely to need after retirement;
- estimate the financial resources that are likely to be available to them after retirement (from both pensions and other sources);
- ascertain what action might be taken to increase financial resources available to them after retirement.

852. *Subsection 3* provides that the section does not authorise the Secretary of State or the Department for Social Development in Northern Ireland to take action that section 21 of the Financial Services and Markets Act 2000 would otherwise prohibit them from taking.

#### *Section 235: Supply of information for purposes of section 234*

853. This section allows anyone holding certain information about pensions and savings to supply it to the Secretary of State or the Department for Social Development in Northern Ireland. *Subsection (1)* provides that the section applies to information:

- for determining pensions and benefits that may be payable to a person;
- relating to a person's financial resources;
- about action taken regarding providing facilities for personal saving or promoting or facilitating personal saving.

854. *Subsection (2)* provides that the information can be supplied to and used by the Secretary of State or the Department for Social Development in Northern Ireland for the purposes of the functions conferred by *section 234(1)*. The section limits the extent

to which information supplied to the Secretary of State or the Department for Social Development in Northern Ireland can be further disclosed by them. *Subsection (3)* provides that information supplied under *subsection (2)* cannot be disclosed onwards except;

- where the information concerns an individual -
  - to that individual or a person authorised by the individual;
  - to another person with the individual's consent;
- in any event -
  - to a person to whom it can be supplied under *subsection (2)*;
  - for the institution or purposes of relevant criminal proceedings.

855. *Subsection (4)* provides that “relevant criminal proceedings” mean criminal proceedings under the Pensions Schemes Act 1993, the Pensions Act 1995, the Pensions Act 2004 or any Northern Ireland enactment corresponding to any of those three Acts.

856. *Subsection (6)* provides that this section is subject to *sections 88 and 202* (tax information disclosed to the Regulator or the Board of the Pensions Protection Fund).

### ***Section 236: Use and supply of information: private pensions policy and retirement planning***

857. This section introduces *Schedule 10*, which makes provision about the use and supply of information for purposes relating to private pensions policy and retirement planning.

### ***Schedule 10: Use and supply of information: private pensions policy and retirement planning***

858. *Paragraph 1* amends section 3 of the Social Security Act 1998 to extend the uses to which information held by the Secretary of State or the Department for Social Development in Northern Ireland can be put. The effect is that information held by the Secretary of State or Department for Social Development in Northern Ireland for purposes relating to social security, child support or war pensions or employment or training can be used for purposes related to private pensions policy or promoting financial planning for retirement. Also, information held by the Secretary of State or the Department for Social Development in Northern Ireland for purposes related to private pensions policy or promoting financial planning for retirement can be used for purposes relating to social security, child support or war pensions or employment or training.

859. Private pensions policy is defined (in this context and in the rest of the Schedule) as policy relating to occupational pension schemes or personal pension schemes.

860. *Paragraph 2* allows information held by the Commissioners of the Inland Revenue or Customs and Excise (or persons providing services to them) to be supplied to the Secretary of State or the Northern Ireland Department (or persons providing services to them) for use for functions relating to private pensions policy and promoting financial planning for retirement.

861. An authorised officer is defined as an officer of the Secretary of State or the Northern Ireland Department authorised by the Secretary of State or the Northern Ireland Department.

862. *Paragraph 3* amends section 122D of the Social Security Administration Act 1992 to allow the Secretary of State to use information relating to housing benefit or council tax benefit for purposes relating to private pensions policy or promoting financial planning for retirement.

### ***Section 237: Combined pension forecasts***

863. This section provides a power to allow regulations to be made requiring trustees or managers of an occupational or personal pension scheme to provide scheme members with combined (state and occupational or personal) pension forecasts at the times specified in the regulations. The intention is that this should be a reserve power of the Secretary of State, its use depending on the extent to which combined pension forecasts are issued by schemes on a voluntary basis. *Section 298* (disclosure of state pension information) is also relevant in this context, since it facilitates the provision of state pension information to occupational and personal pension schemes who apply for such information in order to provide a combined pension forecast.

## **Employee information and advice**

### ***Section 238: Information and advice to employees***

864. *Subsection (1)* provides a power to make regulations requiring employers to act so as to enable employees to have access to information and advice about pensions and saving for retirement. The regulations for example, would define the type of information and advice employers must provide for employees to access. *Subsection (2)* provides that regulations under *subsection (1)* may provide that they shall:
- apply to certain prescribed employers and employees;
  - make different provision for different employers and employees;
  - make provision as to the action employers must take;
  - make provision describing the information and advice to which requirements apply;
  - make provision describing the type of person authorised to provide such information and advice.
865. *Subsection (3)* also requires employers to provide information to the Regulator about what they have done to comply with any regulations introduced under *subsection (1)* *Subsection (4)* provides that regulations may prescribe the information to be provided under *subsection (3)*, as well as the form, manner and time period in which it is to be provided. *Subsection (5)* enables the Regulator to apply sanctions under section 10 of the Pensions Act 1995 where an employer fails (without reasonable excuse) to comply with the requirement to provide information to the Regulator in accordance with *subsection (3)*). The intention is that the use of these powers, including the content of the secondary legislation, will be informed by pilots conducted with employers on a voluntary basis.