

# PENSIONS ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – the Pensions Regulator**

#### **New powers in respect of occupational and personal pension schemes**

#### *Section 21: Pension liberation: repatriation orders*

88. This section is concerned with the Regulator's power to make repatriation orders. A repatriation order can be made where a restraining order has effect and the Regulator is satisfied that the restrained account contains money liberated from a pension scheme where pension liberation has occurred.
89. *Subsection (2)* provides that the Regulator can order the deposit taker to pay a sum no greater than the liberated amount to a pension scheme, to an annuity or insurance policy or to the liberated member. Where the Regulator orders payment to a pension scheme it may also direct the trustees or managers of that scheme to apply the monies in the manner directed, so as to provide benefits under the scheme to or in respect of the liberated member.
90. *Subsection (3)* provides that where the Regulator makes a repatriating order under *subsection (2)* he may determine the sums to be paid out of the restrained account on the basis of what appears to be just and reasonable. This may be done where the Regulator has concluded that the restrained account contains money in relation to two or more liberated members. He will decide this by taking an overall view of transactions in the account before the restraining order was made.
91. *Subsection (4)* allows for regulations to be made to modify the provisions of the Pension Schemes Act 1993 where the Regulator directs trustees or managers of a pension scheme how to apply the repatriated amount (*subsection (2)(b)*).
92. Under *subsection (5)*, the Regulator may impose a civil penalty (under section 10 of the Pensions Act 1995) on a deposit taker who fails, without a reasonable excuse, to comply with a direction to pay the sum from the account in the manner specified in *subsection (2)*.
93. *Subsection (6)* states that the Regulator may impose a civil penalty (under section 10 of the Pensions Act 1995) on a trustee or manager who fails to take reasonable steps to comply with a direction to apply the sum from the account in the manner specified in *subsection (2)*.