These notes refer to the Pensions Act 2007 (c.22)
which received Royal Assent on 26 July 2007

PENSIONS ACT 2007

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. This section sets out the current position in each policy area, and how the Act will change it.

4. Many of the changes listed below are based on policy proposals set out in the Government's White Paper *Security in Retirement: Towards a New Pensions System*, published in May 2006 (hereafter referred to as 'the White Paper').

5. For ease of reference when reading these explanatory notes, please note the following abbreviations for existing pieces of legislation amended by the Act:

   - SSAA1992 – Social Security Administration Act 1992
   - SSCBA1992 – Social Security Contributions and Benefits Act 1992
   - PSA1993 – Pension Schemes Act 1993
   - PA1995 – Pensions Act 1995
   - WRPA1999 – Welfare Reform and Pensions Act 1999
   - CPA2004 – Civil Partnerships Act 2004
   - PA2004 – Pensions Act 2004

State Pensions Glossary

Pension categories

6. There are four categories of state pension provided under the SSCBA1992:

   - Category A
   - Category B
   - Category C (now obsolete)
   - Category D

7. A Category A pension is contributory. It consists of two parts, either or both of which may be payable:

   - Basic state pension – dependent upon the number of qualifying years a person has in their working life;
   - Additional state pension (also referred to as state second pension) – dependent upon earnings, or deemed earnings in a person's working life since April 1978.

8. A Category B pension is also contributory. Like a Category A pension, it can consist of either a basic state pension, an additional state pension, or both. It is payable by virtue of a spouse's or civil partner's qualifying years and earnings.

9. A Category D pension is non-contributory. It is payable when a person:
   - reaches age 80; and
   - satisfies certain residence conditions; and either
   - is not entitled to another category of state pension; or
   - is entitled to one at a lower rate than the Category D rate.

Earnings Limits

10. See below an explanation of the terms relating to the different earnings limits for the purposes of accruing state pension.

11. LEL - the "lower earnings limit" (currently £87 per week) is the minimum level of weekly earnings on which a person is treated as paying National Insurance contributions for benefit purposes. A person receiving contribution credits or paying flat rate voluntary or self employed contributions is treated as having earnings at the LEL for each weekly credit or contribution. The LEL is currently linked to the standard rate of basic pension. Under the reforms this link will be broken when basic pension starts to be increased in line with average earnings.

12. PT – the "primary threshold" (currently £100 per week) is the minimum level of weekly earnings on which an employed person pays National Insurance contributions. It is the weekly equivalent of the standard personal allowance for Income Tax.

13. UEL – the "upper earnings limit" (currently £670 per week) is the maximum level of weekly earnings on which an employed person pays National Insurance contributions other than at the 1% NHS contribution and under the current scheme accrues state second pension. It is set at approximately seven times the PT (see above). Under the reforms to state second pension the UEL will be replaced by an upper accruals point which will not be linked to the PT.

14. QEF – the "qualifying earnings factor" is the minimum level of earnings on which a person must have paid, been treated as having paid, or been credited with National Insurance contributions in a tax year in order to make it a qualifying year for basic pension – the QEF is currently £4,524 per annum, 52 times the weekly LEL (see above)

15. LET – the "low earnings threshold" (currently £13,000 per annum) relates to state second pension only. It is:
   - the level of earnings up to which, under the current scheme, state second pension accrues at the 40% rate and, under the simplified scheme as set out in this Act, state second pension will accrue at the flat rate; and
   - the amount of earnings a person is deemed to have if they earn above the QEF but below the LET or they are accruing state second pension because they are a carer or are sick or disabled.

16. The LET is increased annually in line with growth in average earnings.

17. UET – the "upper earnings threshold" – this term relates to state second pension only and is used to refer to the top of the band of earnings over the LET on which state second pension accrues at the 10% rate. The UET is set at 3 times the LET minus two times the QEF – so currently it is (£13,000 x 3) – (£4,524 x 2) = £29,952 which is rounded to £30,000.

State Pensions Measures

Category A and B retirement pensions: single contribution condition

Current position

18. Two contribution conditions are required to be satisfied for entitlement to the following benefits:

- Category A and B basic state pension;
- Widowed mother's allowance;
- Widowed parent's allowance;
- Bereavement allowance; and
- Widow's pension.

19. In the case of a Category A pension, the contribution conditions apply to the claimant. For the other benefits listed the conditions apply with respect to the claimant's spouse or civil partner (or deceased spouse or civil partner).

20. The first contribution condition is that the relevant insured person must, in any tax year since 6 April 1975, have actually paid Class 1 contributions on earnings of at least 50 times the weekly lower earnings limit for the tax year in question in respect of tax years 1975/76 – 77/78 or 52 times the weekly lower earnings limit for the tax year in question in respect of tax years from 1978/79 onwards. Equivalent number of Class 2 or Class 3 contributions will also suffice. Alternatively a claimant must have paid 50 flat-rate contributions at any time before 6 April 1975.

21. The second contribution condition is that that person must have achieved a minimum number of "qualifying years" during his working life to be entitled to the full rate of benefit. The minimum number of qualifying years required for a full rate Category A or B basic state pension is currently 44 years for a man and 39 years for a woman. A "qualifying year" is one in which a person's earnings factor for the year is not less than the qualifying earnings factor for that year.

Changes

22. For people reaching state pension age (a term interchangeable with 'pensionable age') from 6 April 2010, the existing contribution conditions for Category A and B pensions will be replaced with a single contribution condition. The same new condition will apply to the spouse or civil partner of a claimant of a Category B pension where the spouse or civil partner reaches state pension age on or after 6 April 2010 (or dies on or after that date without having reached that age).

23. For people reaching state pension age before 6 April 2010, and for those claiming bereavement benefits (whether before or after 6 April 2010), existing contribution conditions will continue to apply.

24. For those reaching state pension age from 6 April 2010, the number of years needed to qualify for a full Category A or B pension is to be reduced from 44 years for a man and 39 years for a woman to 30 qualifying years for men and women alike. A person who has less than 30 qualifying years will be entitled to a proportion of the full basic state pension for each qualifying year they have built up.

Category B retirement pension – removal of restriction on entitlement

Current position

25. Currently, in order for a married woman to qualify for a Category B pension based on her husband's contributions:

- both she and her husband must have reached state pension age;
- her husband must have satisfied the contribution conditions for a Category A pension; and
- her husband must have made a claim for his Category A pension.

26. A wife cannot receive her Category B pension until such time as her husband makes a claim for his Category A pension.

27. Where a husband chooses to defer his Category A pension, increments may be added to his wife's Category B pension. She may also have the option of taking a lump sum payment if her Category B pension has been deferred for at least 12 months. However, both of these are contingent on her not receiving any Category A pension during the period her Category B pension is deferred (if she does receive Category A pension in this period, she can later receive her Category B pension, but without the increments or lump sum). Thus, a situation may arise in which a wife is required to relinquish entitlement to her Category A pension in order to avoid losing increments or a lump sum payment in respect of her deferred Category B pension.

28. From 2010, Category B pensions will become available to married men and people in civil partnerships on the same basis as they are currently available to married women, where their spouse or civil partner was born on or after 6 April 1950.

Changes

29. The Act removes the restriction on a person's entitlement to a Category B pension that their spouse or civil partner must have made a claim for their Category A pension. The change will have effect from 6 April 2010. As a result, where one member of a married couple or civil partnership has deferred his or her Category A pension and the other member has reached pension age, the other member will have the choice of claiming a Category B pension (and where applicable any Category A pension based on their own contributions) or deferring their Category B pension (and any Category A pension to which they are also entitled) in order to accrue either increments or a lump sum.

30. As a consequence of other changes made by the Act, the extent to which people will be reliant on Category B pensions derived from their spouse's or civil partner's contributions will be significantly reduced.

Contributions credits for relevant parents and carers

Current position

31. Home responsibilities protection has been available for complete tax years since 1978. It helps to protect the basic state pension and certain bereavement benefits[1] of someone precluded from regular employment because they are caring for a child or a sick or disabled person. Home responsibilities protection is not a 'credit'. Instead it works by reducing the number of qualifying years needed for a full basic state pension by up to half of the working life. Home responsibilities protection cannot reduce the number of qualifying years to below 20 for either men or women. From 2010, home responsibilities protection will not be able to reduce the number of qualifying years to below 22 for men. As state pension age equalises for men and women between 2010

---

1 Widowed parent's allowance and bereavement allowance.

and 2020, the limit on the number of qualifying years which can be reduced by home responsibilities protection will increase for women from 20 to 22.

32. Home responsibilities protection is available for complete tax years throughout which someone has been:

- awarded child benefit for a child aged under 16;
- regularly engaged for at least 35 hours a week in caring for someone who receives, for a minimum of 48 weeks a year, attendance allowance, or the higher or middle rate of the care component of disability living allowance, or constant attendance allowance. A similar provision exists, with slightly different rules, for income support recipients who are substantially engaged in caring for a disabled person who has claimed or is receiving one of the qualifying benefits;
- from 2003, an approved foster parent or carer; or
- covered by certain combinations of these conditions (*Regulation 2* of the *Social Security Pension (Home Responsibilities) Regulations 1994 (S.I. 1994/702* refers).

33. For example, someone who is awarded home responsibilities protection for 13 years of caring would, as a result, only have to satisfy the second contribution condition (described at paragraph 21 above) for 31 years instead of the 44 normally required for a full basic state pension.

Changes

34. The new crediting arrangements will allow a parent, a registered foster parent or a carer (i.e. those engaged in caring as defined by regulations) reaching state pension age from 6 April 2010 to build up, in certain circumstances, entitlement to a Category A basic state pension, and for their spouse or civil partner to build up entitlement to an associated Category B pension. In addition, bereavement allowance and widowed parents' allowance[2], payable to a surviving spouse or civil partner, will be calculated by reference to the new credits in circumstances where the contributor dies on or after 6 April 2010.

35. For those people reaching state pension age on or after 6 April 2010, each complete year (subject to specified upper limits) of home responsibilities protection awarded under the existing rules of the scheme will be converted into a qualifying year for basic state pension and relevant bereavement benefits.

Category A and C retirement pensions: abolition of adult dependency increases

Current position

36. Adult dependency increases are payable in respect of a 'dependant' who:

a) does not have earnings or an occupational or personal pension of more than a prescribed amount (generally £59.15 per week, but different rules apply where the dependant does not live with the pensioner); and

b) is not receiving pension or benefit in his or her own right at a rate equal to or greater than that of the adult dependency increase (generally £52.30 per week, but a lower rate is payable where the pensioner does not fully satisfy the contribution conditions for basic state pension).

37. Adult dependency increases of state pension are currently payable in respect of the following, providing they meet the criteria set out above:

---

2 Bereavement benefits were introduced on 9 April 2001, replacing the previous system of widow's benefits which were only payable to women.

- A wife;
- A husband – providing his wife was receiving an adult dependency increase of incapacity benefit in respect of him immediately before she reached state pension age; and
- A person having care of the pensioner's child or children.

38. As an adult dependency increase in respect of a wife is payable at the same rate as a Category B pension there is no financial advantage in a man continuing to claim an adult dependency increase in respect of his wife once she has attained state pension age.

39. The PA1995 and the CPA2004 provide for women and people in civil partnerships to be eligible for adult dependency increases from 6 April 2010 under the rules which currently apply to men. The PA1995 also provides for the state pension age for women to increase from 60 to 65 between 2010 and 2020.

Changes

40. The changes will abolish adult dependency increases with effect from 6 April 2010 and make provision for entitlements up to this date to be protected to 5 April 2020.

Up-rating of basic state pension and other benefits

Current position

41. Currently, the basic state pension is required to be uprated annually in line with prices. The Secretary of State is required to consider how this movement should be measured. For contributory benefits, including the basic state pension, up-rating has, in practice, taken place according to the Retail Prices Index. However, in recent years, the Government has given a commitment to uprate by the greater of 2.5 per cent or the Retail Prices Index. Since giving this commitment the Retail Prices Index has always been higher.

42. From the time state pension credit was introduced in October 2003, the Secretary of State has uprated the standard minimum guarantee annually in line with earnings, in reliance on a discretionary power in the existing legislation. There is currently no mandatory requirement to uprate the standard minimum guarantee in state pension credit.

43. The lower earnings limit, currently £87 per week (equating to an annual qualifying earnings factor of £4,524), is the earnings point at which employees start to build up entitlement to contributory working age and pension benefits, by treating an individual as if they have paid National Insurance contributions. National Insurance contributions do not actually become payable until an individual has earnings at or above the primary threshold, currently £100 a week, (£5,200 per annum). At present, the amount of the lower earnings limit increases in line with prices, because it is linked to the weekly rate of Category A basic state pension.

44. Similarly, the rate of the basic allowance in widowed mother's allowance, widow's pension, widowed parent's allowance and bereavement allowance also increases in line with prices because they are linked to the rate of Category A basic state pension. The higher permanent rate of the widow's pension and widower's pension in Industrial Death Benefit has also historically been the same as the rate of Category A basic state pension.

Changes

45. The changes will require the basic state pension to be uprated annually in line with earnings rather than prices, and will cover the up-rating of Category A, Category B, Category C and Category D pensions.

46. The Government stated in the White Paper:

    ““our objective, subject to affordability and the fiscal position, is to do this in 2012 but in any event at the latest by the end of the next Parliament. We will make a statement on the precise date at the beginning of the next Parliament”.

47. The changes will also require the standard minimum guarantee in state pension credit to be uprated annually in line with earnings.

48. In addition, the link between the amount of the lower earnings limit and the weekly rate of the basic state pension in a Category A pension will be broken. This will mean that the amount of the lower earnings limit will not automatically increase in line with earnings in the future. Instead, any future increase in the lower earnings limit will be at the discretion of the Treasury.

49. The provisions of the Act will ensure that the rate of the basic allowance in widowed mother’s allowance, widow’s pension, widowed parent’s allowance and bereavement allowance will continue to be uprated in line with prices, like other pre-retirement benefits. However, the proposals will ensure that the rate of widow’s pension and widower’s pension in industrial death benefit will be uprated in line with earnings in order to maintain the link with the rate of Category A pensions.

Deemed earnings factors for purposes of additional pension

Current position

50. The state second pension was introduced in 2002. It replaced the state earnings related pension scheme to provide a more generous additional state pension for:

    - employed earners with earnings equal to the lower earnings limit for a full tax year;
    - carers who have no earnings or earnings below the annual lower earnings limit, in any year throughout which:
        - they are awarded child benefit for a child under 6;
        - they are entitled to carer’s allowance; or
        - they receive home responsibilities protection (paragraph 31 refers);
    - disabled people with broken work records in any year throughout which they:
        - receive severe disablement allowance; or
        - are entitled to long-term incapacity benefit.

51. In addition, those entitled to severe disablement allowance or long-term incapacity benefit must satisfy a labour market attachment condition when they reach state pension age. This condition requires that they have worked and paid Class 1 National Insurance contributions for at least one-tenth of their working life since 1978.

52. Carers and disabled people in these groups are treated as if they have earnings at the qualifying earnings factor (52 times the lower earnings limit) and, along with employed earners who have earnings at the lower earnings limit but below the low earnings threshold, are also boosted to (i.e. deemed to be earning at) the low earnings threshold[3].

---

3 £13,000 per annum in 2007/2008

In other words, these groups are treated as having Band 1 earnings (see paragraph 59) for the purposes of calculating entitlement to state second pension for a given tax year.

53. Employed earners with earnings above the low earnings threshold would accrue state second pension according to their band of earnings (see paragraphs 58-63).

Changes

54. The provisions of this Act will increase the number of people who are deemed to be earning at the low earnings threshold, and so accruing state second pension as if they had Band 1 earnings until the proposed new simplified state second pension is introduced.

55. The changes allow persons to be deemed to be earning at the low earnings threshold for a tax year starting with that commencing 6 April 2010, if they satisfy any of three conditions:

- the first is that the person has earnings equal to or greater than the qualifying earnings factor for the year but less than the low earning threshold;
- the second is that the person has earnings less than the qualifying earnings factor but is entitled to enough new earnings factor credits to bring his earnings factor up to the qualifying earnings factor;
- the third is that a person has no earnings but is entitled to 52 of the new credits for the year.

56. The new earnings credits, of 1/52 of the qualifying earnings factor for the year, are available in respect of each week in which a person was:

- awarded child benefit for a child under 12;
- a foster parent;
- caring for someone with a qualifying disability benefit for at least 20 hours a week; or
- entitled to carer's allowance;
- entitled to severe disablement allowance or long-term incapacity benefit. The labour market attachment test would no longer apply to disabled people from 6 April 2010.

57. People earning at or above the low earnings threshold will continue to accrue state second pension according to the band of earnings they are in until the new simplified state second pension is introduced (see paragraphs 58 – 63 below).

Additional pension: simplification of accrual rates

Current position

58. Paragraphs 60 – 63 detail how state second pension is to be accrued. In broad terms, for any given tax year, state second pension accrues on the portion of an employee's annual earnings between the annual value of the lower earnings limit and the upper earnings limit for Class 1 National Insurance contributions – called the "surplus earnings factor". This amount is revalued in line with growth in average earnings up to the last full tax year of a contributor's working life. The accumulated surplus earnings factors are then divided by the number of years in the person's working life to produce a "lifetime average" which is multiplied by the relevant accrual rate and divided by 52 to produce a weekly rate of additional pension.

59. People earning, or treated as earning, between the lower earnings limit and the upper earnings limit accrue state second pension on a cumulative basis depending on the level of their earnings. Earnings above the upper earnings limit do not accrue state second

pension. The table below sets out the current earnings accrual bands for state second pension that will apply from 2009/2010.

Earnings		***Percentage***
Band 1	Not exceeding low earnings threshold	40
Band 2	Exceeding low earnings threshold but not exceeding upper earnings threshold	10
Band 3	Exceeding upper earnings threshold but not exceeding upper earnings limit	20

Changes

60. Under the provisions of this Act, state second pension will be restructured.

61. The first step will be to merge Bands 2 and 3, so that all earnings exceeding the low earnings threshold (but not exceeding the upper earnings limit) will fall into Band 2 and accrue additional pension at a rate of 10%. This change will have effect for the tax year 2010-11 onwards.

62. In addition, from a date to be determined by the Secretary of State by order, the current 40% accrual band (Band 1) for earnings between the lower earnings limit and the low earnings threshold will be replaced with a weekly flat rate accrual amount of £1.50 (giving an equivalent annual amount of £78.00). This will be accrued by all contributors and people credited into state second pension in respect of each year of contribution. For a time, the additional earnings-related component of state second pension (accruing at 10%) will remain in place. This component will ultimately be withdrawn by around 2030, leaving a flat-rate benefit.

63. These changes will have an effect on the contracted-out rebate for defined benefit schemes. If a pension scheme member is opted out of state second pension they receive a “rebate” from the Government, delivered through reduced-rate National Insurance contributions, which is based on the amount of state second pension foregone. Therefore changes to state second pension need to be taken into account when calculating the rebate.

Increase in state pension age

Current position

64. For men, state pension age is currently 65. For women this has been 60 but, by virtue of the PA1995, this is only maintained for those women born before 6 April 1950. The changes in that Act were designed to remove inequalities within the State Pension scheme between men and women, including the five-year differential in state pension age which has existed since 1940. Over the period from April 2010 to April 2020, state pension age for women will therefore be gradually increased to 65, affecting all women born in the period between 6 April 1950 and 5 April 1955. For women born on or after 6 April 1955, state pension age will be 65, the same as for men.

Changes

65. In the White Paper, the Government proposed raising the state pension age in the context of a growing pensioner population resulting from increasing longevity and falling birth rates.

66. The Act provides for state pension age to increase by one year per decade between 2020 and 2050, with each change phased in over two consecutive years in each decade.

67. The first increase, from 65 to 66, will be phased in between April 2024 and April 2026; the second, from 66 to 67, will be phased in between April 2034 and April 2036; and the third, from 67 to 68, between April 2044 and April 2046. These changes will therefore affect anyone born after 5 April 1959 – that is anyone below the age of 47 on 5 April 2006 (who will therefore reach the age of 65 on or after 6 April 2024).

68. A number of social security benefits either become payable or cease to be payable when state pension age is reached. The Act provides for these age thresholds to rise in line with rising state pension age. The benefits to which this applies include jobseeker's allowance, incapacity benefit (and the new employment and support allowance which is intended to replace incapacity benefit[4]), bereavement benefits and state pension credit.

69. In the case of attendance allowance and disability living allowance, the age threshold is currently set at 65. By 2020, it will therefore have become aligned with pensionable age for both women and men. The Act replaces the reference to age 65 with pensionable age with effect from 6 April 2024, so that the minimum age for entitlement to attendance allowance and the upper age at which a person may qualify for disability living allowance will increase in line with rising state pension age.

Non-State Pensions Measures

Conversion of guaranteed minimum pensions

Current position

70. Sections 13 to 23 of the PSA1993 set out the requirements on contracted-out salary related occupational pension schemes to provide a guaranteed minimum pension to members contracted out of the state earnings related pension scheme through membership of occupational schemes between 6 April 1978 and 5 April 1997. From 6 April 1997 the requirements applying to contracted-out schemes were simplified and no further rights to guaranteed minimum pensions accrued from that date onwards.

Changes

71. In the White Paper, the Government proposed to introduce a facility for schemes to convert members' rights to a guaranteed minimum pension into rights to an ordinary scheme pension, calculated under the scheme's own rules, subject to certain safeguards to protect the members' interests. Each member's post conversion benefit would be required to be at least as actuarially valuable as their rights immediately prior to conversion.

72. By conducting a guaranteed minimum pensions conversion exercise, a scheme may be able to adopt a unified and streamlined benefit structure which will enable administrative savings to be made as well as offering advantages to members (in terms of understanding their rights in the scheme and being able to transfer them to other schemes more easily). It would be for scheme trustees to decide whether they wished to make use of this facility.

Abolition of contracting-out for defined contribution pension schemes

Current Position

73. Contracting-out provides a private sector alternative to the state second pension. Under the contracting-out arrangements, employees forego all or part of their additional state pension for the years in which they are contracted out and in return pay lower-rate National Insurance contributions and/or receive payments into their pension scheme. These reductions and payments are known collectively as the contracted-out rebate. Contracting-out is allowed for occupational pension schemes that contract out on a

---

4 See section 1 of the Welfare Reform Act 2007.

defined contribution (also known as money purchase) basis (known as a COMP) or on a defined benefit (salary-related) basis. Personal pension schemes are also allowed to contract out. A contracted-out personal pension scheme is referred to as an appropriate scheme (APP).

74. When a private pension scheme contracts out, Her Majesty's Revenue and Customs (HMRC) (which provides for the operational side of contracting-out) issues a certificate identifying the scheme's contracted-out status. Certificates for occupational pension schemes are referred to as "contracting-out" certificates, whilst certificates for personal pension schemes are referred to as "appropriate scheme certificates". When the scheme ceases to contract out, it surrenders the certificate. The certificate can be withdrawn by HMRC if the scheme is not complying with the relevant statutory requirements.

75. Money purchase schemes must, as a condition of contracting-out, provide protected rights. Protected rights are derived from the contracted-out rebate and the investment return on the rebate. They are subject to certain rules regarding where they can be invested, where they can be transferred, the purchase of a unisex annuity when the protected rights are secured, and the purchase of a dual life annuity if the scheme member is married or in a civil partnership at the point of annuitisation.

76. In addition to the protected rights, a scheme member may build up additional rights under the scheme's own rules. The rules applying to protected rights will not apply to the rights built up under the scheme rules unless the scheme has designated that they do so. If the scheme does not do so, the protected rights will have to be tracked separately from the scheme rights and they could be treated differently at the point of annuitisation.

77. Those who were contracted-out pre-1997 are still treated as having an entitlement to the additional state pension for the years in which they were contracted out up to 1997 and a contracted-out deduction is made from the additional state pension entitlement, to avoid double provision. When the scheme member dies, his or her surviving spouse or civil partner is entitled to some or all of the deceased member's additional state pension rights and, where the member was contracted-out pre-1997, a contracted-out deduction is also applied to the survivor benefit.

Changes

78. The Act abolishes contracting-out for occupational and personal pension schemes that contract out on a money purchase basis. Contracting-out certificates for COMPs and appropriate scheme certificates will be automatically cancelled. The result will be that, from the date of cancellation, members of schemes that had been contracted-out on a money purchase basis will be contracted back into the state second pension and will start to build up entitlement to a state second pension. The Act amends and repeals certain provisions of the PSA1993 and other legislation to abolish contracting-out for money purchase schemes. As a result the contracting-out rebate will no longer be available for money purchase schemes. The Act also removes the rules that apply to the protected rights, except for the rule concerning the provision of survivor benefits from the protected rights if the member is married or in a civil partnership at the point of annuitisation.

Dispute resolution arrangements

Current position

79. Currently, trustees or managers of occupational pension schemes are required to have in place formal arrangements for the resolution of disagreements relating to the scheme. The existing dispute resolution procedure requires a two stage process, with someone nominated by trustees giving a decision at the first stage, and then the matter being referred to the trustees if the applicant is still not satisfied.

Changes

80. The measure in the Act will make it possible to replace the two-stage internal dispute resolution procedure with a single-stage arrangement where all decisions would be taken by trustees or managers. This would not be compulsory, however, and schemes will be able to retain the present two-stage arrangements if they wish.

81. This amendment would give effect to the proposal announced in the 2002 Green Paper *Simplicity, security and choice: Working and saving for retirement*.

Removal of Secretary of State's role in approving actuarial guidance

Current position

82. In order for actuaries to calculate pension schemes' liabilities consistently, all are required to use an agreed set of guidelines. These guidelines are contained in documents referred to either as 'Guidance Notes' or as a 'Technical Memorandum'. There are seven Guidance Notes and one Technical Memorandum referred to in pensions legislation. The Secretary of State is required by primary legislation to approve three of these Guidance Notes and the Technical Memorandum.

83. Historically, the Actuarial Profession has produced these documents. The professional bodies for actuaries – the Institute of Actuaries in England and Wales and the Faculty of Actuaries in Scotland – have combined the role of regulator with that of professional body.

Changes

84. The Morris Review of the Actuarial Profession recommended that the Financial Reporting Council should establish a new regime to set actuarial standards and to oversee the regulation of the Profession. The Financial Reporting Council is the UK's independent regulator for corporate reporting and governance. The Government accepted this recommendation and the Financial Reporting Council has now set up the Board for Actuarial Standards to promote confidence in corporate reporting and governance by setting high quality actuarial standards. The Institute of Actuaries in England and Wales and the Faculty of Actuaries in Scotland continue to exist as the professional bodies for the profession in their respective jurisdictions.

85. On 6 April 2007, the Board for Actuarial Standards adopted and took responsibility for the existing versions of the pensions Guidance Notes and the Technical Memorandum.

86. In order to maintain the independence of the Financial Reporting Council, and through it the Board for Actuarial Standards, as the UK's independent regulator for corporate reporting and governance, the Act contains provisions removing from primary legislation the requirement for the Secretary of State to approve the three Guidance Notes and the Technical Memorandum.

Financial assistance scheme: increased levels of payments

Current position

87. Section 286 of the PA2004 requires the Secretary of State to make regulations setting up the financial assistance scheme ("FAS"). The FAS was announced on 14 May 2004 to assist those who had lost or who stood to lose significant amounts as a result of their pension scheme winding up underfunded with an insolvent employer. Regulations setting out the details of the FAS were made in July 2005 and the majority of those regulations came into force on 1 September 2005. Under those regulations and subsequent amendments, schemes must have started to wind-up between 1 January 1997 and 5 April 2005 and must meet certain other qualifying criteria in order for their members to qualify for assistance.

88. At present, members of qualifying schemes who were within 15 years of their normal retirement age on or before 14 May 2004 may qualify for assistance payments, which are tapered depending on proximity of the member to normal retirement age. Qualifying members are generally entitled to payments at age 65 (though early access to payments is possible for the terminally ill). Eligible survivors of qualifying members who have died may also qualify for payments (at a lower level) regardless of their age. FAS payments top up any pensions being paid by the scheme during its winding-up or at the end of the winding up (taking account of the amount of assets allocated to members) to a specified proportion of members' "expected pensions", as that term is defined in the July 2005 regulations (commonly referred to as members' "expected core pensions"). Payments are subject to a cap (currently £12,000 a year) and are currently subject to a de minimis amount (of £520 a year). In general, payments made whilst pension schemes are winding-up ("initial payments") are paid at a lower rate than final payments ("annual payments"), at up to 60% of expected core pensions.

Changes

89. An extension of the financial assistance scheme was announced by the Chancellor of the Exchequer in his budget speech of 21 March 2007. The Act makes provision, including by way of amendment to section 286 of the PA2004, to provide for part of that extension (the rest of the extension will be brought forward in regulations). The amendments to section 286 are designed to require regulations made under that section to provide for the removal of tapered assistance by requiring that the level of annual payments is set at no less than 80% of members' expected core pensions subject to any cap provided for in the regulations (and taking account of any assets allocated to members by their scheme). The amendments also ensure that the regulations must provide that that level of assistance will be received by all qualifying members, regardless of age. The Act also makes provision setting initial payments - paid whilst pension schemes are winding up - at a level of 80% and further provides that the level of those payments can be amended by regulations (which will be subject to the affirmative procedure). Regulations will be required to specify the precise level at which annual payments will be paid. However, the new provision to raise the level of initial payments to 80% takes effect from the date of Royal Assent.

90. The Act also requires the Secretary of State to make regulations imposing a temporary restriction on the purchase of annuities by trustees of qualifying schemes that are still winding up, unless they have entered into a binding commitment to do so or have obtained the permission of the FAS scheme manager. The regulations must be made as soon as is reasonably practicable and will apply for nine months from the date on which they come into force.

Personal Accounts Delivery Authority

Current position

91. As outlined in the White Paper, the Government intends to give effect to some form of personal accounts scheme from 2012. The Government intends to legislate for the personal accounts scheme in a planned future Bill.

92. However, to ensure delivery of a personal accounts scheme from 2012, much preliminary work must be done in advance of Royal Assent of the planned future Bill. The Government's intention is that the delivery and eventual governance of the personal accounts scheme should be independent of Government, utilising the knowledge and skills of individuals with experience of private occupational pensions administration. No existing organisations were identified that currently have the necessary remit, skills and capacity for the work needed to deliver a system of personal accounts or the capacity to expand and adapt their operations to commence the work within the required timeframe.

Changes

93. The Act establishes a body corporate called the Personal Accounts Delivery Authority (referred to as the 'Authority') to undertake the preliminary work necessary for the establishment of a personal accounts scheme.

94. The Authority is being established with a remit limited to:

- Providing advice and recommendations to Government, helping it to think through the operational and commercial implications of its policy options.
- Preparing for the implementation of a personal accounts scheme, such as formulating a commercial strategy for the personal accounts scheme by preparing specific products which comprise a financial, technical and commercial strategy.

95. The Authority will be at a distance from Government and will be able to manage its own affairs. Schedule 6 gives details on the membership and structure of the Authority.

96. The Act also gives the Secretary the State the power to wind up the Authority if he considers that, owing to the abandonment or modification of relevant proposals on the personal accounts scheme, it is no longer necessary to have an Authority.

97. The Act gives the Authority limited powers, as detailed in paragraph 94. The Government will consider options to extend this remit in legislation planned for a later date, subject to the agreement of Parliament.