

PENSIONS ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 5: Removal of Secretary of State's role in approving actuarial guidance

Part 3: Personal Accounts Delivery Authority

Section 20: Personal Accounts Delivery Authority

365. *Section 20* establishes as from the passing of the Act a body corporate called the 'Personal Accounts Delivery Authority' (the "Authority") which is to have a remit covering the whole of Great Britain and Northern Ireland. The Authority is not a servant or agent of the Crown, and as such does not enjoy the associated status, immunity or privileges. The section also introduces *Schedule 6*, which contains provisions about the membership of the Authority and other matters.

Section 21: Initial function of the Authority

366. The Authority may do what it thinks appropriate to prepare for the implementation of, or for advising on the modification of, any relevant proposals about personal accounts.
367. In this section the phrase 'advising on the modification of any relevant proposals about personal accounts' relates to the Authority's advisory role in helping the Government understand the commercial and operational implications on implementation of policy proposals. This could amount to suggesting additions, omissions or variations in the proposals to reflect, for example, industry best practice.
368. *Subsection (2)* defines the meaning of 'relevant proposals' as being any proposals made by the Secretary of State connected with the establishment of a national low-cost portable pensions savings scheme, and any additional proposals that relate to this subject matter, or relate to matters that are incidental or supplemental to the proposals or to consequential or transitional matters. Proposals are to be considered relevant whether or not Parliament has given the approval on which their implementation would depend. The Government will make proposals relating to personal accounts and the Authority needs to be able to prepare for these before Parliament has given its approval. However, by virtue of *subsection (4)* the Authority will not be able to implement any proposals requiring the approval of Parliament in advance of Parliament giving its approval.
369. *Subsection (3)* provides the Authority with incidental powers in connection with the discharge of its main function.
370. *Subsection (4)* provides that the Authority may not implement any of the proposals requiring Parliament's approval unless such approval has been received. Before any such approval is given the Authority can only formulate proposals and take preparatory steps towards their implementation when approved and carry out any connected activities.

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

371. *Subsection (5)* provides that the Authority may not borrow money for the purpose of, or in connection with, performing its functions from anyone.
372. *Subsection (6)* provides that the Secretary of State may issue guidance to the Authority from time to time about the discharge of the Authority's functions as outlined in the section.
373. *Subsection (7)* obliges the Authority to have regard to any guidance that may be issued by the Secretary of State under *subsection (6)* in discharging its functions as outlined in the section.

Section 22: Management of the Authority

374. *Section 22* places the Authority under a duty, when managing its affairs, to have regard to such guidance concerning the management of public bodies as it considers appropriate and, subject to such guidance and insofar as they are applicable to the Authority, to generally accepted principles of good corporate governance.
375. Guidance on the management of public bodies includes that provided by the Cabinet Office, for example the *Guidance on Codes of Practice for Board Members of Public Bodies* (October 2004). Principles of good corporate governance include those currently set out in the *Combined Code* published by the Financial Reporting Council in June 2006.

Section 23: Winding up of the Authority on abandonment etc. of proposals

376. *Subsection (1)* provides that the Secretary of State may by order provide for the winding up and dissolution of the Authority if he considers that the condition in *subsection (3)* is met, namely, that as a result of the abandonment or modification of relevant proposals on the personal accounts scheme it is no longer necessary for the Authority to exist.
377. *Subsection (2)* provides that if the Secretary of State considers that the condition in *subsection (3)* is met at any time after 2008 he must, as soon as is reasonably practicable, make an order providing for the dissolution of the Authority.
378. *Subsection (4)* clarifies that the Secretary of State is not obliged to reintroduce an order for the Authority's dissolution by virtue of *subsection (2)* if such an order has been previously defeated in either House of Parliament.
379. *Subsection (5)* makes provision allowing the order to include, among other things, details on the transferring of the Authority's property, rights and liabilities to the Secretary of State on dissolution of the Authority.
380. *Subsection (6)* provides that the order can include consequential, incidental, or supplemental provisions, and transitional, transitory or saving arrangements that are considered appropriate by the Secretary of State as a result of the winding up and dissolution of the Authority.
381. *Subsection (7)* enables the Secretary of State to use the order to remove what will be redundant provisions from the Act in the event of the dissolution of the Authority.
382. *Subsection (8)* provides that the power to make an order for the Authority's dissolution is subject to the affirmative resolution procedure in both Houses of Parliament.