



# Pensions Act 2011

## 2011 CHAPTER 19

### PART 1

#### STATE PENSION

#### **1 Equalisation of and increase in pensionable age for men and women**

- (1) In Schedule 4 to the Pensions Act 1995 (equalisation of and increase in pensionable age for men and women) paragraph 1 is amended as follows.
- (2) In sub-paragraph (1) for “6th April 1959” substitute “6th December 1953”.
- (3) Omit sub-paragraph (4).
- (4) In table 1 for the entries (in both columns) relating to each of the periods from “6th April 1953 to 5th May 1953” to “6th March 1955 to 5th April 1955” substitute—

“6th April 1953 to 5th May 1953	6th July 2016
6th May 1953 to 5th June 1953	6th November 2016
6th June 1953 to 5th July 1953	6th March 2017
6th July 1953 to 5th August 1953	6th July 2017
6th August 1953 to 5th September 1953	6th November 2017
6th September 1953 to 5th October 1953	6th March 2018
6th October 1953 to 5th November 1953	6th July 2018
6th November 1953 to 5th December 1953	6th November 2018”

- (5) For table 2 substitute—

---

*Status: This is the original version (as it was originally enacted).*

---

“TABLE 2

<i>(1)</i>	<i>(2)</i>
<i>Period within which birthday falls</i>	<i>Day pensionable age attained</i>
6th December 1953 to 5th January 1954	6th March 2019
6th January 1954 to 5th February 1954	6th May 2019
6th February 1954 to 5th March 1954	6th July 2019
6th March 1954 to 5th April 1954	6th September 2019
6th April 1954 to 5th May 1954	6th November 2019
6th May 1954 to 5th June 1954	6th January 2020
6th June 1954 to 5th July 1954	6th March 2020
6th July 1954 to 5th August 1954	6th May 2020
6th August 1954 to 5th September 1954	6th July 2020
6th September 1954 to 5th October 1954	6th September 2020”

- (6) In sub-paragraph (6) for “5th April 1960” substitute “5th October 1954”.
- (7) Schedule 1 (equalisation of and increase in pensionable age for men and women: consequential amendments) has effect.

## 2 Abolition of certain additions to the state pension

- (1) In section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits)—

- (a) in subsection (1)(e)(i) for “person who is also entitled to a Category A or Category B retirement pension” substitute “relevant person”;
- (b) after subsection (1) insert—

“(1A) In subsection (1)(e)(i) “relevant person” means a person—

- (a) who became entitled to a Category A or Category B retirement pension before the day on which section 2(1) of the Pensions Act 2011 comes into force, and
- (b) to whom sums became payable by virtue of section 15(1) of the Pension Schemes Act 1993 (including sums payable by virtue of section 17(2)) before that day.

(1B) In subsection (1A)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to sums becoming payable before a day includes a reference to sums becoming payable on or after that day in respect of a period before that day.”

- (2) In that section after subsection (10A) insert—

“(10B) Subsection (10A) does not have effect unless—

- (a) the member became entitled to a Category A or Category B retirement pension before the day on which section 2(2) of the Pensions Act 2011 comes into force, and
- (b) the member’s postponed pension under the scheme became payable before that day.

(10C) In subsection (10B)—

- (a) a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day;
- (b) a reference to a pension becoming payable before a day includes a reference to a pension becoming payable on or after that day in respect of a period before that day.”

- (3) In section 151 of that Act (up-rating - supplementary) omit subsection (5).
- (4) The repeal made by subsection (3) does not affect the application of section 151(5) of that Act in relation to a person who became entitled to a Category A or Category B retirement pension before the day on which subsection (3) comes into force.
- (5) In Schedule 5 to the Social Security Contributions and Benefits Act 1992 (pension increase or lump sum where entitlement to retirement pension is deferred) omit paragraphs 5, 5A, 6, 6A and 7.
- (6) Schedule 2 (repeals and amendments consequential on subsection (5)) has effect.
- (7) The repeals made by subsection (5) do not affect the application of paragraphs 5 to 6A of Schedule 5 to the Social Security Contributions and Benefits Act 1992 in a case where—
  - (a) W became entitled to a Category A or Category B retirement pension before the day on which subsection (5) comes into force, and
  - (b) S died before that day;(and section 150(1)(d) of the Social Security Administration Act 1992 continues to apply accordingly).
- (8) The enactments amended by Schedule 2 have effect in relation to such a case as if the repeals and amendments made by that Schedule (apart from the amendments made by paragraph 3(7) and (8)) had not been made.
- (9) In subsection (7) “W” and “S” have the same meaning as in paragraph 5 of Schedule 5 to the Social Security Contributions and Benefits Act 1992.
- (10) In this section a reference to becoming entitled to a pension before a day includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day.

### **3 Consolidation of additional pension**

Schedule 3 (consolidation of additional pension) has effect.

**PART 2**

## AUTOMATIC ENROLMENT

**4 Automatic re-enrolment where scheme membership interrupted**

(1) In section 2 (continuity of scheme membership) of the Pensions Act 2008 (“the 2008 Act”) for subsection (3) substitute—

“(3) Subsection (1) is not contravened if by virtue of section 5 the jobholder becomes an active member of an automatic enrolment scheme with effect from—

- “(a) the day after the cessation referred to in paragraph (a) or (b) of subsection (1), or
- (b) a day within the prescribed period (if a period is prescribed).”

(2) In section 5 of the 2008 Act (automatic re-enrolment) after subsection (1) insert—

“(1A) This section also applies to a jobholder who—

- (a) is aged at least 22,
- (b) has not reached pensionable age, and
- (c) is not an active member of a qualifying scheme because there has been a period beginning at any time after the jobholder’s automatic enrolment date during which the requirements of section 1(1)(a) or (c) were not met (so that the person was not a jobholder for that period).

(1B) This section also applies to a jobholder who has ceased to be an active member of a qualifying scheme because of something other than an action or omission by the jobholder.”

(3) For subsection (4) of that section substitute—

“(4) Regulations may provide for subsection (2) not to apply in relation to a jobholder who in prescribed circumstances—

- (a) has ceased to be an active member of a qualifying scheme because of any action or omission by the jobholder, or by the employer at the jobholder’s request, or
- (b) is treated as not being an active member of a qualifying scheme because the jobholder has given notice under section 8.”

(4) In subsection (8) of that section omit “, after the automatic enrolment date,”.

(5) In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (4)—

- (a) in paragraph (a) omit “at any time after the jobholder’s automatic enrolment date,”;
- (b) in that paragraph omit “or a qualifying scheme of which the jobholder is an active member ceases to be such a scheme”;
- (c) in paragraph (b) omit “or the employer”;
- (d) in paragraph (c) for “time” substitute “event”.

(6) In section 54 of the 2008 Act (inducements)—

- (a) in subsection (1)(a) for “within the period prescribed under section 2(3)” substitute “with effect from—

- (i) the day after the membership is given up, or
  - (ii) a day within the prescribed period (if a period is prescribed)”;
- (b) in subsection (1)(b) for “within the period prescribed under section 2(3)” substitute “with effect from—
  - (i) the day on which the jobholder became an active member of the scheme to which the notice relates, or
  - (ii) a day within the prescribed period (if a period is prescribed)”.

## **5 Earnings trigger for automatic enrolment and re-enrolment**

- (1) In section 3 of the 2008 Act (automatic enrolment) for subsection (1) substitute—

- “(1) This section applies to a jobholder—
- (a) who is aged at least 22,
  - (b) who has not reached pensionable age, and
  - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”

- (2) After subsection (6) of that section insert—

“(6A) In this section “earnings” has the meaning given in section 13(3).

(6B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

- (3) In section 5 of the 2008 Act (automatic re-enrolment) for subsection (1) substitute—

- “(1) This section applies to a jobholder—
- (a) who is aged at least 22,
  - (b) who has not reached pensionable age, and
  - (c) to whom earnings of more than £7,475 are payable by the employer in the relevant pay reference period (see section 15).”

- (4) After subsection (7) of that section insert—

“(7A) In this section “earnings” has the meaning given in section 13(3).

(7B) In the case of a pay reference period of less or more than 12 months, subsection (1) applies as if the amount in paragraph (c) were proportionately less or more.”

## **6 Postponement or disapplication of automatic enrolment**

- (1) In section 3 of the 2008 Act (automatic enrolment) at the end of subsection (7) insert—

“This is subject to section 4.”

- (2) For section 4 of the 2008 Act substitute—

---

*Status: This is the original version (as it was originally enacted).*

---

#### **“4 Postponement or disapplication of automatic enrolment**

- (1) Where—
- (a) an employer (E) gives to a person employed by E on E’s staging date (“the worker”) notice that E intends to defer automatic enrolment for the worker until a date specified in the notice (“the deferral date”), and
  - (b) any prescribed requirements in relation to the notice are met,
- the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.
- (2) Where—
- (a) a person (“the worker”) begins to be employed by an employer (E) after E’s staging date,
  - (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
  - (c) any prescribed requirements in relation to the notice are met,
- the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.
- (3) Where—
- (a) a person (“the worker”) employed by an employer (E) becomes, after E’s staging date, a jobholder to whom section 3 applies,
  - (b) E gives the worker notice that E intends to defer automatic enrolment until a date specified in the notice (“the deferral date”), and
  - (c) any prescribed requirements in relation to the notice are met,
- the worker’s automatic enrolment date is the deferral date if on that date section 3 applies to the worker as a jobholder of E; if not, subsection (4) applies.
- (4) Where this subsection applies, section 3(2) does not apply in relation to any employment of the worker by E in the period beginning with the starting day and ending with the deferral date.
- (5) A notice under this section may be given on or before the starting day or within a prescribed period after that day.
- (6) The deferral date may be any date in the period of three months after the starting day.
- (7) An employer who gives a worker a notice under subsection (1) or (2) may not give the worker a notice under subsection (3) in relation to any occasion on or before the deferral date specified in the notice on which the worker becomes a jobholder to whom section 3 applies.
- (8) In this section—
- “staging date”, in relation to an employer of a particular description, means the date prescribed under section 12 in relation to employers of that description;
- “starting day” means—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) E’s staging date, in the case of a notice under subsection (1);
  - (b) the day on which the worker begins to be employed by E, in the case of a notice under subsection (2);
  - (c) the day on which the worker becomes a jobholder to whom section 3 applies, in the case of a notice under subsection (3).”
- (3) In section 5 of the 2008 Act (automatic re-enrolment) omit subsection (5).
- (4) In section 6 of the 2008 Act (timing of automatic re-enrolment)—
  - (a) omit subsections (3) and (6);
  - (b) in subsection (4) for “second case” substitute “first case”;
  - (c) in subsection (5) for “third case” substitute “second case”.
- (5) In section 7 of the 2008 Act (jobholder’s right to opt in) omit paragraph (b) of subsection (2) and the “or” before it.
- (6) In section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) in subsection (7)—
  - (a) for “applies, section” substitute “applies—
    - (a) section”;
  - (b) for “day on which” substitute “day with effect from which”;
  - (c) at the end insert—
    - “(b) section 4 applies as if—
      - (i) the reference in subsection (1) to the employer’s staging date were a reference to the employer’s first enrolment date;
      - (ii) in that subsection, for “the workers’s automatic enrolment date is the deferral date” there were substituted “the day with effect from which arrangements fall to be made by virtue of section 30 in respect of the jobholder is changed to the deferral date”;
      - (iii) in subsections (4) to (6), references to the starting day were references to the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”

## **7 Timing of automatic re-enrolment**

In section 6 of the 2008 Act (timing of automatic re-enrolment) in subsection (1)(b) for “three years” substitute “2 years and 9 months”.

## **8 Review of earnings trigger and qualifying earnings band**

(1) For section 14 of the 2008 Act (review of qualifying earnings band) substitute—

### **“14 Review of earnings trigger and qualifying earnings band**

- (1) The Secretary of State must in each tax year consider whether any of the amounts in sections 3(1)(c), 5(1)(c) and 13(1)(a) and (b) should be increased or decreased.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) If the Secretary of State considers that any of those amounts should be increased or decreased, the Secretary of State may make an order substituting in the provisions in question the amounts that the Secretary of State thinks appropriate.
- (3) For the purposes of subsection (1) the Secretary of State may take into account any of the factors specified in subsection (4) (as well as any others that the Secretary of State thinks relevant).
- (4) The factors are—
  - (a) the amounts for the time being specified in Chapter 2 of Part 3 (personal allowances) of the Income Tax Act 2007;
  - (b) the amounts for the time being specified in regulations under section 5 of the Social Security Contributions and Benefits Act 1992 (earnings limits and thresholds for Class 1 national insurance contributions);
  - (c) the amount for the time being specified in section 44(4) of that Act (rate of basic state pension);
  - (d) the general level of prices in Great Britain, and the general level of earnings there, estimated in such manner as the Secretary of State thinks fit.”

- (2) For the italic heading before section 13 of the 2008 Act substitute—

*“Qualifying earnings and earnings trigger”.*

- (3) In section 143(5) of the 2008 Act (statutory instruments subject to affirmative resolution procedure) in paragraph (c) after “section” insert “14(2),”.

## **9 Rounded figures for earnings trigger and qualifying earnings band**

After section 15 of the 2008 Act insert—

### **“15A Power to specify rounded figures**

- (1) The Secretary of State may by order specify rounded figures for the purposes of section 3(6B), 5(7B) or 13(2) in the case of pay reference periods of any length specified in the order.
- (2) A rounded figure so specified applies in place of the amount that would otherwise apply (“the exact amount”).
- (3) The Secretary of State must decide in relation to any particular amount whether to specify—
  - (a) a figure that is a whole number of pounds, or
  - (b) a figure that is divisible by 10 pence, or
  - (c) a figure that includes a whole number of pennies.
- (4) It is for the Secretary of State to decide whether to round any particular amount up or down.

Accordingly, a figure specified under this section may be the figure within paragraph (a) or (b) or (c) of subsection (3) that is closest to the exact amount



or the one that is next closest to it (or, if two figures are joint closest, it may be either of those).”

## **10 Qualifying schemes: administration charges**

- (1) Section 16 of the 2008 Act (qualifying schemes) is amended as follows.
- (2) In subsection (3) for paragraph (a) substitute—
  - “(a) administration charges due from J while J is an active member exceed a prescribed amount,
  - (aa) administration charges due from former active members while J is an active member exceed a prescribed amount,
  - (ab) while J is an active member, the scheme contains provision under which administration charges that will be due from J when J is no longer an active member will exceed a prescribed amount, or will do so in particular circumstances.”.
- (3) After that subsection insert—
  - “(4) For the purposes of subsection (3) administration charges are due from a person to the extent that—
    - (a) any payments made to the scheme by, or on behalf or in respect of, the person,
    - (b) any income or capital gain arising from the investment of such payments, or
    - (c) the value of the person’s rights under the scheme,may be used to defray the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members.
  - (5) In subsection (3)(aa) “former active member” means a person who at some time after the automatic enrolment date was both a jobholder and an active member but is no longer an active member.”

## **11 Test scheme standard for schemes that produce sum of money for provision of benefits**

- (1) In section 22 of the 2008 Act (test scheme standard) after subsection (7) insert—
  - “(8) In the case of a scheme under which a sum of money is made available for the provision of benefits to a relevant member, references in this section to pensions are to be read as references to such sums.”
- (2) For section 23 of the 2008 Act substitute—

### **“23 Test scheme**

- (1) A test scheme is an occupational pension scheme which satisfies—
  - (a) the requirement in subsection (2),
  - (b) the requirement in subsection (4) or requirements prescribed under subsection (6) (as appropriate), and
  - (c) any further requirements that are prescribed.

---

*Status: This is the original version (as it was originally enacted).*

---

- (2) The scheme must either—
  - (a) provide for a member to be entitled to a pension commencing at the appropriate age and continuing for life, or
  - (b) provide for a sum of money to be made available for the provision of benefits to a member commencing at the appropriate age and continuing for life.
- (3) The appropriate age is 65 or any higher age prescribed.
- (4) In the case of a scheme that provides entitlement to a pension as mentioned in subsection (2)(a), the annual rate of the pension at the appropriate age must be—
  - (a) 1/120th of average qualifying earnings in the last three tax years preceding the end of pensionable service,  
multiplied by
  - (b) the number of years of pensionable service, up to a maximum of 40.
- (5) Section 13(1) (qualifying earnings) applies for the purposes of subsection (4) as if the reference to a pay reference period were a reference to a tax year.
- (6) In the case of a scheme that provides for a sum of money to be made available as mentioned in subsection (2)(b), regulations must prescribe requirements relating to that sum.”

## 12 Certification that alternative to quality requirement is satisfied

- (1) Section 28 of the 2008 Act (sections 20, 24 and 26: certification that quality requirement is satisfied) is amended as follows.
- (2) For the heading substitute “**Certification that quality requirement or alternative requirement is satisfied**”.
- (3) In subsection (1) for “any jobholder of an employer” substitute “each of an employer’s relevant jobholders”.
- (4) After subsection (1) insert—
  - “(1A) In this section—
    - (a) “relevant jobholder” means a jobholder to whom the certificate in question applies;
    - (b) a reference to a scheme includes a reference to part of a scheme.”
- (5) In subsection (2)—
  - (a) for “state that” substitute “state—
    - (a) that”;
  - (b) for “the jobholders” substitute “relevant jobholders”;
  - (c) at the end insert “, or
    - (b) that, in relation to those jobholders, the scheme is in that person’s opinion able to satisfy a prescribed alternative requirement throughout the certification period.”
- (6) After subsection (2) insert—

“(2A) Alternative requirements must be such that, assuming all jobholders to be active members of schemes to which this section applies, for at least 90% of jobholders—

- (a) employer contributions, and
- (b) total contributions,

would be likely to be no less if every scheme satisfied an alternative requirement applicable to it than if every scheme satisfied the relevant quality requirement.

(2B) In subsection (2A)—

“alternative requirement” means a requirement prescribed under subsection (2)(b);

“employer contributions”, in relation to an active member of a scheme, means the amount of contributions that have to be paid under the scheme in respect of the member by the employer;

“total contributions”, in relation to an active member of a scheme, means the total amount of contributions that have to be paid under the scheme in respect of the member by the employer and by the member.

(2C) The Secretary of State—

- (a) must apply the test in subsection (2A) when regulations under subsection (2)(b) are first made, and
- (b) must carry out subsequent reviews of whether the test continues to be satisfied.

A review under paragraph (b) must be carried out during 2017, and after that each review must be completed no more than three years after the completion of the previous one.”

(7) In subsection (6)—

- (a) in paragraph (e) for “any jobholder” substitute “any relevant jobholder”;
- (b) in paragraph (f) for “jobholders” substitute “relevant jobholders”.

(8) In section 32 of the 2008 Act (power to modify by resolution) in subsection (1)(b) for the words after “the scheme” substitute “to satisfy—

- (i) the requirements contained in section 20(1),
- (ii) those requirements as modified under section 24(1)(a), or
- (iii) a requirement prescribed under section 28(2)(b).”

### **13 Certification for non-UK schemes**

(1) Section 28 of the 2008 Act is amended as follows.

(2) After subsection (3) insert—

“(3A) This section also applies to—

- (a) a money purchase scheme that is an occupational pension scheme within section 18(b);
- (b) a personal pension scheme of a prescribed description for which provision is made under section 27;
- (c) a hybrid scheme that is an occupational pension scheme within section 18(b), to the extent prescribed.”

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) In subsection (4) at the end insert—  
     “(d) for a scheme within subsection (3A), means a prescribed requirement.”
- (4) In paragraphs (e) and (f) of subsection (6) for “section 26 agreements” substitute “contribution agreements”.
- (5) In subsection (8)—  
     (a) for ““section 26 agreements” means the agreement” substitute ““contribution agreements” means—  
         “(a) the agreement”;
- (b) at the end insert “, or  
         (b) any agreement of the same or a similar kind that is required, in the case of a scheme within subsection (3A)(b), by regulations under section 27.”

#### **14 Transitional period for defined benefits and hybrid schemes to be optional**

- (1) Section 30 of the 2008 Act (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (2) In subsection (3) for “Where this subsection applies” substitute “If by the end of the prescribed period the employer has given the jobholder notice that the employer intends to defer automatic enrolment until the end of the transitional period for defined benefits and hybrid schemes”.
- (3) In subsection (4) for “at any time” substitute “a notice is given under subsection (3) and at any later time”.
- (4) After subsection (7) insert—  
     “(7A) The Secretary of State may by regulations make provision about the form and content of a notice under subsection (3).”

#### **15 Arrangements where transitional conditions cease to be satisfied**

- (1) Section 30 of the 2008 Act is amended as follows.
- (2) In subsection (5) after “money purchase scheme” insert “or personal pension scheme”.
- (3) In subsection (6)(b) omit “(in accordance with section 20(1))”.

#### **16 Power of managers to modify by resolution**

In section 32 of the 2008 Act (power of trustees to modify by resolution) in subsection (1) and in the heading after “trustees” insert “or managers”.

#### **17 No indemnification for civil penalties**

In section 256 of the Pensions Act 2004 (no indemnification for fines or civil penalties) in subsection (1)(b)—

- (a) for “or section” substitute “, section”;
- (b) after “1993 (c. 48)” insert “or section 40 or 41 of the Pensions Act 2008”.

## **18 Power to exempt certain cross-border employment from enrolment duty**

In Part 7 of the Pensions Act 2004 (cross-border activities within European Union) after section 292 insert—

### **“292A Exemption from enrolment duty under Part 1 of Pensions Act 2008**

Regulations may provide for section 2(1), 3(2), 5(2), 7(3), 9(2) or 54 of the Pensions Act 2008 (employer’s obligations regarding membership of a qualifying scheme) not to apply in relation to a person’s employment of—

- (a) an individual in relation to whom the person is a European employer, or
- (b) someone whom the person reasonably believes to be such an individual.”

## **PART 3**

### **OCCUPATIONAL PENSION SCHEMES**

#### *Indexation and revaluation*

## **19 Indexation and revaluation**

- (1) Section 84 of the Pension Schemes Act 1993 (basis of revaluation of accrued benefits) is amended as follows.
- (2) In subsection (5)(b) for the words from “maintains” to “index” substitute “, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain”.
- (3) Omit subsection (6).
- (4) Schedule 3 to the 1993 Act (which sets out methods for revaluing accrued benefits for the purposes of section 84 of the 1993 Act) is amended as follows.
- (5) After paragraph 1(4) insert—
  - “(5) The sub-paragraphs above are subject to sub-paragraph (6).
  - (6) If paragraph 2A applies to the pension or other benefit, the final salary method is to apply the requirement of the rules of the scheme mentioned in paragraph 2A(1).”
- (6) After paragraph 2 insert—
  - “2A (1) This paragraph applies to the pension or other benefit if the rules of the scheme under which it is payable contain a requirement that the accrued benefit be revalued by adding to the accrued benefit an amount of at least the relevant amount.
  - (2) “The accrued benefit” has the same meaning as in paragraph 1.
  - (3) “The relevant amount” means the amount which, ignoring paragraph 1(5) and (6), would be the additional amount specified in paragraph 1(1A), (1B), (1C) or (1D) (as the case may be) were the appropriate higher

---

*Status: This is the original version (as it was originally enacted).*

---

reevaluation percentage and the appropriate lower reevaluation percentage to be determined on the following basis.

(4) The higher reevaluation percentage and the lower reevaluation percentage for the reevaluation period mentioned in paragraph 2(7) are to be taken to be the percentages which would have been specified in the Secretary of State’s order—

(a) had the following been substituted for paragraph 2(3)(a)—

“(a) the percentage increase in the retail prices index for the reference period in relation to the reevaluation period (“the inflation percentage”), and”,

(b) had, in paragraph 2(3A)(a), the words “the percentage which appears to the Secretary of State to be” been omitted,

(c) had paragraph 2(4) been omitted,

(d) had, in paragraph 2(5), the words “sub-paragraph (3)(a)” been substituted for “that sub-paragraph”,

(e) had, in paragraph (b) of the definitions of “the higher maximum rate” and “the lower maximum rate” in paragraph 2(6), the words “retail prices index” been substituted for “general level of prices”, and

(f) had the following been inserted after paragraph 2(6)—

“(6A) In this paragraph “retail prices index” means—

(a) the general index of retail prices (for all items) published by the Statistics Board (or any predecessor), or

(b) where that index is not published for a month, any substituted index or figures published by the Board (or any predecessor).””

(7) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.

(8) For subsections (3) and (4) substitute—

“(3) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if under the rules of the scheme the rate or part is for the time being being increased at intervals of not more than twelve months by at least the relevant percentage.

(4) For the purposes of subsection (3) the relevant percentage is—

(a) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or

(b) if lower, the default percentage for that period.

(4ZA) Subsection (2) does not apply to the annual rate of a pension under an occupational pension scheme, or to a part of that rate, if subsection (4ZB) applies to the rate or part.

(4ZB) Subject to subsection (4ZD), this subsection applies to the rate or part if, under the rules of the scheme, the rate or part is for the time being being increased,

---

*Status: This is the original version (as it was originally enacted).*

---

and since the relevant time has always been increased, at intervals of not more than twelve months by at least—

- (a) the percentage increase in the retail prices index for the reference period, being a period determined, in relation to each periodic increase, under the rules, or
- (b) if lower, the default percentage for that period.

(4ZC) In subsection (4ZB) “the relevant time” means—

- (a) the beginning of 2011 or, if later, the time when the pension became a pension in payment, or
- (b) if the pension was transferred to the scheme from another occupational pension scheme as a pension in payment after the beginning of 2011, the time of the transfer.

(4ZD) If the pension was transferred to the scheme as mentioned in subsection (4ZC) (b), subsection (4ZB) does not apply to the rate or part unless, immediately before the transfer, subsection (4ZB) (read with this subsection if relevant) applied to the rate or part by reference to the scheme from which the pension was transferred (or would have applied had subsection (4ZB) been in force immediately before the transfer).

(4ZE) If only part of the pension is attributable to pensionable service or, as the case may be, to payments in respect of employment carried on on or after the appointed day, in subsections (3) to (4ZD) references to the annual rate of the pension are references to so much of that rate as is attributable to that part.

(4ZF) For the purposes of subsections (4) and (4ZB) the default percentage for a period is the percentage for that period which corresponds to—

- (a) in the case of a category X pension, 5% per annum, and
- (b) in the case of a category Y pension, 2.5% per annum.

(4ZG) In subsections (4) and (4ZB)—

“consumer prices index” means—

- (a) the general index of consumer prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board;

“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) where that index is not published for a month, any substituted index or figures published by the Board.”

(9) Section 40 of the Welfare Reform and Pensions Act 1999 (indexation of certain pensions giving effect to pension credit rights) is amended as follows.

(10) In subsection (1) for “increases in the retail prices index” substitute “relevant percentage increases”.

(11) After subsection (2A) insert—

“(2AA) In subsection (1) “relevant percentage increases” means percentage increases estimated by the Secretary of State from time to time for the purposes

---

*Status: This is the original version (as it was originally enacted).*

---

of paragraph 2(3)(a) of Schedule 3 to the Pension Schemes Act 1993 for revaluation periods of 12 months.”

## **20 Pension compensation: annual increases in periodic compensation**

(1) In Schedule 7 to the Pensions Act 2004 (pension compensation provisions) paragraph 28 (annual increase in periodic compensation) is amended as follows.

(2) In sub-paragraph (3) in paragraph (a) of the definition of “appropriate percentage” for “retail prices index” substitute “general level of prices in Great Britain”.

(3) After sub-paragraph (3) insert—

“(3A) For the purposes of paragraph (a) of the definition of “appropriate percentage” in sub-paragraph (3), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.

(3B) The Secretary of State must publish any decision made under sub-paragraph (3A).”

(4) In paragraph 37(1) of that Schedule (definitions) omit the definition of “retail prices index”.

(5) In Schedule 5 to the Pensions Act 2008 (pension compensation payable on discharge of pension compensation credit) paragraph 17 (annual increase in periodic compensation) is amended as follows.

(6) In sub-paragraph (4) in paragraph (a) of the definition of “the appropriate percentage” for “retail prices index” substitute “general level of prices in Great Britain”.

(7) After sub-paragraph (4) insert—

“(4A) For the purposes of paragraph (a) of the definition of “the appropriate percentage” in sub-paragraph (4), the Secretary of State may (from time to time) decide, as the Secretary of State thinks fit, the manner in which percentage increases in the general level of prices in Great Britain are to be determined.

(4B) The Secretary of State must publish any decision made under sub-paragraph (4A).”

## **21 Indexation requirements for cash balance benefits**

(1) Section 51 of the Pensions Act 1995 (annual increase in rate of certain pensions) is amended as follows.

(2) In subsection (1) for “subsection (6)” substitute “subsections (6) and (7)”.

(3) After subsection (6) insert—

“(7) This section does not apply to any pension (or part of a pension) under a relevant occupational pension scheme which—

(a) is a cash balance benefit (see section 51ZB), and



---

*Status: This is the original version (as it was originally enacted).*

---

- (b) first comes into payment on or after the day on which section 21 of the Pensions Act 2011 comes into force.
- (8) An occupational pension scheme is a “relevant occupational pension scheme” if—
- (a) it has not, on or after the appointed day, been contracted-out by virtue of satisfying section 9(2) of the Pension Schemes Act 1993, or
  - (b) it has, on or after the appointed day, been so contracted-out, but no person is entitled to receive, or has accrued rights to, benefits under the scheme attributable to the period on or after that day when it was so contracted-out.”
- (4) After section 51ZA of the Pensions Act 1995 insert—

**“51ZB Meaning of “cash balance benefit”**

- (1) For the purposes of section 51(7)(a), a pension provided to or in respect of a member of an occupational pension scheme is a “cash balance benefit” if conditions 1 and 2 are met.
- (2) Condition 1 is that the rate of the pension is calculated by reference to a sum of money (“the available sum”) which is available under the scheme for the provision of benefits to or in respect of the member.
- (3) Condition 2 is that under the scheme—
  - (a) there is a promise about the amount of the available sum, but
  - (b) there is no promise about the rate or amount of the benefits to be provided.
- (4) The promise mentioned in subsection (3)(a) includes in particular a promise about the change in the value of, or the return from, payments made under the scheme by the member or by any other person in respect of the member.
- (5) The promise mentioned in subsection (3)(b) includes a promise that—
  - (a) the amount of the available sum will be sufficient to provide benefits of a particular rate or amount;
  - (b) the rate or amount of a benefit will represent a particular proportion of the available sum.
- (6) But a pension is not prevented from being a cash balance benefit merely because under the scheme there is a promise that—
  - (a) the rate or amount of a benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of a benefit which was (or would have been) payable to the member;
  - (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available sum.”

*Pension Protection Fund*

**22 Pension Protection Fund**

Schedule 4 (which makes provision relating to the Pension Protection Fund) has effect.

---

*Status: This is the original version (as it was originally enacted).*

---

*Financial assistance scheme*

**23 Financial assistance scheme: amount of payments**

- (1) In section 286 of the Pensions Act 2004 (financial assistance scheme) after subsection (1B) insert—

“(1C) Regulations under subsection (1) may prescribe circumstances in which subsection (1A) does not apply.”

- (2) In section 18 of the Pensions Act 2007 (financial assistance scheme: increased levels of payments) after subsection (9) insert—

“(9A) The Secretary of State may by regulations—

- (a) prescribe circumstances in which subsections (5) and (6) do not apply where the scheme manager has made a determination as specified in subsection (4), and
- (b) make alternative provision for the amount of any initial payment payable to the member or the survivor of the member in those circumstances,

and, accordingly, subsection (8) does not apply in those circumstances.”

- (3) In that section in subsection (10) (affirmative resolution procedure) after “subsection (9)” insert “or (9A)”.

**24 Financial assistance scheme: transfer of assets**

In section 286 of the Pensions Act 2004 (financial assistance scheme) in subsection (3) (c) (power to make provision for property, rights and liabilities of qualifying pension schemes to be transferred to the scheme manager) for “the scheme manager” substitute “a prescribed person”.

*Miscellaneous*

**25 Payment of surplus to employer: transitional power to amend scheme**

- (1) Section 251 of the Pensions Act 2004 (payment of surplus to employer: transitional power to amend scheme) is amended as follows.

- (2) In subsection (1) after “scheme” insert—

“(a) which is one to which section 37 of the Pensions Act 1995 applies, and

(b)”.

- (3) After subsection (2) insert—

“(2A) But subsection (2) does not apply in the case of any of the payments listed in paragraphs (c) to (f) of section 175 of the Finance Act 2004 (authorised employer payments other than public service scheme payments or authorised surplus payments).”

- (4) In subsection (3) for “then applied” substitute “applied immediately before the commencement of section 250”.

- (5) In subsection (6)—
- (a) after paragraph (a) insert—
    - “(aa) may be exercised even if the payments to which it relates are, to any extent, payments to which subsection (2) does not apply.”;
  - (b) in paragraph (b) for “only be exercised once” substitute “be exercised, after the commencement of section 25 of the Pensions Act 2011, only once (whether or not also exercised before 6 April 2011)”;
  - (c) in paragraph (c) for “five years after the commencement of this section” substitute “on 6 April 2016”.
- (6) After subsection (6) insert—
- “(6A) A resolution passed under this section after the commencement of section 25 of the Pensions Act 2011 may amend or revoke a resolution passed under this section before 6 April 2011.”
- (7) The amendments made by this section do not affect the continued operation of any resolution passed under section 251(3) or (4) of the 2004 Act before 6 April 2011.

## **26 Contribution notices and financial support directions**

- (1) Section 38 of the Pensions Act 2004 (contribution notices where avoidance of employer debt) is amended as follows.
- (2) In subsections (5)(c)(i) and (6)(b)(ii) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.
- (3) After subsection (13) insert—
- “(14) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”
- (4) Section 43 of the Pensions Act 2004 (financial support directions) is amended as follows.
- (5) In subsection (9) for “determination by the Regulator to exercise the power to issue” substitute “giving of a warning notice in respect of”.
- (6) After subsection (11) insert—
- “(12) In this section “a warning notice” means a notice given as mentioned in section 96(2)(a).”
- (7) In section 96 of the Pensions Act 2004 (exercise of regulatory functions: standard procedure) after subsection (6) insert—
- “(6A) Subsection (6B) applies in relation to a warning notice given to a person—
- (a) in respect of a contribution notice under section 38, or
  - (b) in respect of a financial support direction under section 43.
- (6B) Regulations may provide that no determination notice in respect of the contribution notice or the financial support direction may be given after the end of the prescribed period beginning with the day on which the warning notice is given.”

---

*Status: This is the original version (as it was originally enacted).*

---

## 27 Technical amendment to Schedule 4 to the Pensions Act 2007

In Schedule 4 to the Pensions Act 2007 (abolition of contracting-out for defined contribution pension schemes) in paragraph 60(4) for paragraphs (b) and (c) substitute—

- “(b) in the definition of “the percentage for contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme.”;
  - (ii) omit paragraph (b) and the preceding “and”;
- (c) in the definition of “the percentage for non-contributing earners”—
  - (i) omit the words “(a) in relation to a salary related contracted-out scheme.”;
  - (ii) omit paragraph (b) and the preceding “and”.

## 28 Technical amendment to section 42(6) of the Pension Schemes Act 1993

- (1) In section 42 of the Pension Schemes Act 1993 (review and alteration of rates of contributions applicable under section 41) in subsection (6) for “paragraph 2(3)” substitute “the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” in paragraph 2(5)”.

- (2) After that subsection insert—

“(7) Until paragraph 60(4) of Schedule 4 to the Pensions Act 2007 comes into force, subsection (6) has effect as if the reference to the definition of “the percentage for contributing earners” or “the percentage for non-contributing earners” were a reference to paragraph (a) of either of those definitions.”

## PART 4

### MONEY PURCHASE BENEFITS

## 29 Definition of money purchase benefits

- (1) In section 181 of the Pension Schemes Act 1993 (interpretation), in the definition of “money purchase benefits” in subsection (1), for “which are not average salary benefits” substitute “which fall within section 181B”.

- (2) After section 181A of that Act insert—

### “181B Money purchase benefits: supplementary

- (1) This section applies for the purposes of the definition of “money purchase benefits” in section 181(1).
- (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.
- (3) A benefit which is a pension in payment falls within this section if—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
- (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."
- (3) In section 99 of the Pensions Act 2008 (interpretation) in the definition of "money purchase benefits" for "which are not average salary benefits" substitute "which fall within section 99A".
- (4) After that section insert—

**"99A Money purchase benefits: supplementary**

- (1) This section applies for the purposes of the definition of "money purchase benefits" in section 99.
- (2) A benefit other than a pension in payment falls within this section if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member.
- (3) A benefit which is a pension in payment falls within this section if—
  - (a) its provision to or in respect of the member is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this section by virtue of subsection (2).
- (4) For the purposes of subsection (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this section references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."
- (5) In paragraph 1(2) of Schedule 10A to the Building Societies Act 1986 (disclosures about directors etc), in the definition of "money purchase benefits", for "which are not average salary benefits" substitute "which fall within paragraph 1A".
- (6) In that Schedule, after paragraph 1 insert—
  - "1A (1) This paragraph applies for the purposes of the definition of "money purchase benefits" in paragraph 1(2).
  - (2) A benefit other than a pension in payment falls within this paragraph if its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the director.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) A benefit which is a pension in payment falls within this paragraph if—
  - (a) its provision to or in respect of the director is secured by an annuity contract or insurance policy made or taken out with an insurer, and
  - (b) at all times before coming into payment the pension was a benefit falling within this paragraph by virtue of sub-paragraph (2).
- (4) For the purposes of sub-paragraph (2) it is immaterial if the calculation of the rate or amount of the benefit includes deductions for administrative expenses or commission.
- (5) In this paragraph references to a pension do not include income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004)."
- (7) The amendments made by subsections (1) and (2) are to be regarded as having come into force on 1 January 1997.
- (8) The amendments made by subsections (3) and (4) are to be regarded as having come into force at the same time as section 99 of the Pensions Act 2008.

### **30 Transitional**

- (1) The Secretary of State may by regulations make transitional provision in relation to the coming into force of the amendments in section 29.
- (2) That provision includes in particular—
  - (a) provision disapplying the amendments in section 29 in relation to an occupational or personal pension scheme which is wound up before the coming into force of that section;
  - (b) provision disapplying the amendments in section 29 to any extent, or as regards any period, in respect of an occupational or personal pension scheme in relation to which those amendments would otherwise have applied on the coming into force of that section;
  - (c) provision modifying the application of an enactment in respect of an occupational or personal pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section;
  - (d) provision requiring trustees or managers of an occupational pension scheme in relation to which the amendments in section 29 apply on the coming into force of that section to obtain an actuarial valuation of a description specified in the regulations.
- (3) In subsection (2) “occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act 1993.

### **31 Consequential and supplementary**

- (1) The Secretary of State may by regulations make consequential or supplementary provision in relation to the amendments made by section 29.
- (2) In section 307 of the Pensions Act 2004 (modification of Act) in subsection (2) after paragraph (b) insert—
  - “(ba) Part 3 (scheme funding).”

### **32 Power to make further provision**

- (1) The Secretary of State may by regulations amend for any purpose the definition of “money purchase benefit” in the Pension Schemes Act 1993, the Pensions Act 2008 or Schedule 10A to the Building Societies Act 1986.
- (2) Regulations under subsection (1) may in particular amend the provisions inserted by section 29 above.
- (3) Regulations under this section may include transitional, consequential or supplementary provision.

### **33 Regulations**

- (1) Regulations under this Part may—
  - (a) make different provision for different cases (including different provision for pension schemes of different descriptions);
  - (b) provide for a person to exercise a discretion in dealing with any matter;
  - (c) amend Acts (as well as other enactments);
  - (d) have retrospective effect.
- (2) Regulations under this Part must be made by statutory instrument.
- (3) A statutory instrument containing regulations under this Part which amend an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument containing any other regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

## **PART 5**

### JUDICIAL PENSIONS

### **34 Contributions towards cost of judicial pensions etc**

- (1) After section 9 of the Judicial Pensions and Retirement Act 1993 insert—

#### *“Contributions*

#### **9A Contributions towards cost of judicial pension etc**

- (1) The appropriate Minister may, by regulations made with the concurrence of the Treasury, make provision for and in connection with requiring contributions to be made towards the cost of the liability for relevant benefits.
- (2) The prescribed contributions are to be—
  - (a) made by the person to or in respect of whom the relevant benefits are to be, or may be, provided;
  - (b) made for the person’s period of service in qualifying judicial office;
  - (c) in the form of deductions from the salary payable for that service.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) But no contribution is to be made by a person—
- (a) for any period of service during which an election under section 13 is in force in respect of the person;
  - (b) for any period of service after the person has completed, in the aggregate, 20 years' service in qualifying judicial office;
  - (c) for any other prescribed period of service;
  - (d) in any prescribed circumstances.
- (4) For the purposes of subsection (3)(b), it does not matter whether the person's service in qualifying judicial office was service before or after the commencement of section 34(1) of the Pensions Act 2011 (but no contribution is to be made for a person's service before that commencement).
- (5) In this section—
- “prescribed” means specified in, or determined in accordance with, regulations;
- “relevant benefits” means—
- (a) a pension under section 2;
  - (b) a lump sum under section 4;
  - (c) payments by way of pension or lump sum under section 19, so far as relating to a pension or lump sum within paragraph (a) or (b).”
- (2) Schedule 5 (which makes provision for contributions towards the cost of certain other judicial pensions etc) has effect.

## PART 6

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **35 Grants by the Secretary of State to advisory bodies etc**

- (1) Section 174 of the Pension Schemes Act 1993 (grants by the Pensions Regulator to advisory bodies etc) is amended as follows.
- (2) After subsection (2) insert—
  - (3) The Secretary of State may make grants on such terms and conditions as the Secretary of State thinks fit to any person or body of persons providing advice or assistance, or carrying out other prescribed functions, in connection with occupational or personal pensions.”
- (3) For the heading substitute “Grants to advisory bodies etc”.

#### **36 Service of documents and electronic working**

- (1) After section 144 of the Pensions Act 2008 insert—



### **“144A Service of documents and electronic working**

In sections 303 to 305 of the Pensions Act 2004 (service of documents and electronic working) references to that Act are to be treated as including references to the following provisions of this Act—

Chapters 2 and 3 of Part 1;

section 60(1)(c);

Chapter 1 of Part 3.”

- (2) In section 60 of that Act (requirement to keep records) in subsection (1)(c) for “, on request, to the Regulator” substitute “to the Regulator on receiving a notification requesting them”.
- (3) In section 150 of that Act (extent) in subsection (2)(f) for “143 to 146” substitute “143, 144, 145 and 146”.

### *General*

#### **37 Extent**

An amendment or repeal by this Act has the same extent as the enactment amended or repealed.

#### **38 Commencement**

- (1) Any provision of Part 2 that amends another Act so as—
  - (a) to modify a power to make an order or regulations, or
  - (b) to confer any such power,comes into force, for the purposes of the exercise of the power, on the day on which this Act is passed.
- (2) The following provisions of this Act come into force on that day—
  - (a) sections 30 to 33;
  - (b) section 37;
  - (c) this section;
  - (d) section 39.
- (3) The following provisions of this Act come into force at the end of the period of 2 months beginning with that day—
  - (a) section 1 (and Schedule 1);
  - (b) section 25;
  - (c) section 27;
  - (d) section 28.
- (4) The other provisions of this Act come into force in accordance with provision made by order by the Secretary of State.
- (5) An order under subsection (4) may appoint different days for different purposes.
- (6) The Secretary of State may by order make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

---

*Status: This is the original version (as it was originally enacted).*

---

(7) An order under subsection (4) or (6) is to be made by statutory instrument.

**39 Short title**

This Act may be cited as the Pensions Act 2011.