These notes refer to the Pensions Act 2011 (c.19)
which received Royal Assent on 3 November 2011

PENSIONS ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Money purchase benefits

Section 29: Definition of money purchase benefits

157. *Section 29* amends the definition of "money purchase benefits" in the PSA 1993 and equivalent definitions in the PA 2008 and the Building Societies Act 1986. In each case the effect is that, in order for a benefit to qualify as a money purchase benefit, the amount or rate of the benefit must be calculated only by reference to assets which must necessarily suffice to provide the benefit. If any other factor such as a guaranteed investment return or other guarantee of the amount were used at any time to calculate the benefit, it is not a money purchase benefit. The aim is to ensure that only benefits which cannot develop a deficit in funding can be money purchase benefits.

158. In the case of a scheme pension in payment, the pension must be backed by an annuity contract or insurance policy to be a money purchase benefit.

159. Deductions permitted by statute, such as a lien in respect of loss resulting from a criminal or negligent act, would not affect the classification of the benefit.

160. *Subsections (7) and (8)* provide retrospective effect to the new definitions in the PSA 1993 and the PA 2008.

Section 30: Transitional

161. *Section 30* provides a power to make transitional provision. This includes the power to disapply the new definition, and the power to modify the application of other legislation in cases where the amended definition does apply.

Section 31: Consequential and supplementary

162. *Section 31* provides a power to make consequential or supplementary provision (including provision amending other legislation).

163. *Subsection (2)* extends the power in section 307 of the PA 2004 to allow the provisions of that Act relating to scheme funding to be modified in relation to hybrid schemes, multi-employer schemes or partnerships. This power allows provision to be made for hybrid schemes which may provide both money purchase and defined benefits, so that regulatory requirements are able to be separately applied to the different parts of the scheme.

Section 32: Power to make further provision

164. *Section 32* provides for a power to make further amendments to the definition of money purchase benefits if it should be necessary to do so in the future.

Section 33: Regulations

165. *Section 33* requires affirmative procedure for regulations made under Part 4 of the Act which amend primary legislation, and negative resolution procedure for the rest. Regulations made under Part 4 are able to make retrospective provision (including retrospective amendments to other legislation).