



# Pension Schemes Act 2015

## 2015 CHAPTER 8

### PART 4

#### PENSIONS FLEXIBILITIES

#### CHAPTER 1

##### PENSIONS GUIDANCE

#### **47 Pensions guidance**

Schedule 3 contains amendments of the Financial Services and Markets Act 2000, and of other legislation, that are about the giving of pensions guidance to pension scheme members, and survivors of pension scheme members, with a right or entitlement to flexible benefits.

#### CHAPTER 2

##### INDEPENDENT ADVICE

##### *Great Britain*

#### **48 Independent advice in respect of conversions and transfers: Great Britain**

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
  - (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;

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- (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
  - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Secretary of State may by regulations make provision about—
  - (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
  - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Secretary of State may by regulations—
  - (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
  - (a) the valuation of the subsisting rights;
  - (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Great Britain.
- (6) Where the trustees or managers fail to carry out a check required by this section, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
  - “appropriate independent advice” means advice that—
    - (a) is given by an authorised independent adviser, and
    - (b) meets any other requirements specified in regulations made by the Secretary of State;
  - “authorised independent adviser” means a person who—
    - (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Secretary of State, <sup>[F1]</sup>or is acting as an appointed representative (within the meaning given by section 39(2) of that Act) in relation to a regulated activity so specified,] and
    - (b) meets such other requirements as may be specified in regulations made by the Secretary of State for the purpose of ensuring that the person is independent;
  - “safeguarded benefits” means benefits other than—
    - (a) money purchase benefits, and
    - (b) cash balance benefits.

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#### Textual Amendments

- F1** Words in s. 48(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), ss. [34\(2\)](#), [41\(3\)](#); S.I. 2016/627, reg. 2(1)(y)

#### Modifications etc. (not altering text)

- C1** S. 48 excluded (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations 2015 \(S.I. 2015/742\)](#), regs. 1(2), [2](#)
- C2** S. 48(1) restricted (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations 2015 \(S.I. 2015/742\)](#), regs. 1(2), [5\(1\)](#)

#### Commencement Information

- I1** S. 48 wholly in force; s. 48 in force at Royal Assent for specified purposes; s. 48 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### 49 Power to require employer to arrange advice for purposes of section 48

- (1) The Secretary of State may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 48.
- (2) Regulations under subsection (1) may, in particular—
- (a) impose limitations on the amount that an employer may be required to pay;
  - (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;
  - (c) provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a failure by an employer to comply with the regulations.
- (3) In this section “employer” has the meaning given by regulations made by the Secretary of State.

#### Commencement Information

- I2** [S. 49](#) wholly in force; [s. 49](#) in force at Royal Assent for specified purposes; [s. 49](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

### 50 Independent advice: consequential amendments: Great Britain

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 99 (trustees' duties after exercise of option), after subsection (2) insert—
- “(2A) Subsection (2) does not apply if—
- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
  - (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

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- (3) In section 101J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 18(3) of Schedule 4 to this Act) insert—

“(2B) Subsection (1) does not apply if—

- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
- (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

### *Northern Ireland*

## **51 Independent advice in respect of conversions and transfers: Northern Ireland**

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
- (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
  - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
  - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Department for Social Development in Northern Ireland may by regulations make provision about—
- (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
  - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Department for Social Development in Northern Ireland may by regulations—
- (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
- (a) the valuation of the subsisting rights;
  - (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Northern Ireland.
- (6) Where the trustees or managers fail to carry out a check required by this section, Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil

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penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.

(7) Failure to carry out a check required by this section does not affect the validity of any transaction.

(8) In this section—

“appropriate independent advice” means advice that—

- (a) is given by an authorised independent adviser, and
- (b) meets any other requirements specified in regulations made by the Department for Social Development in Northern Ireland;

“authorised independent adviser” means a person who—

- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Department for Social Development in Northern Ireland, [<sup>F2</sup>or is acting as an appointed representative (within the meaning given by section 39(2) of that Act) in relation to a regulated activity so specified,] and
- (b) meets such other requirements as may be specified in regulations made by the Department for Social Development in Northern Ireland for the purpose of ensuring that the person is independent;

“safeguarded benefits” means benefits other than—

- (a) money purchase benefits, and
- (b) cash balance benefits.

#### Textual Amendments

**F2** Words in s. 51(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), **ss. 34(3), 41(3)**; [S.I. 2016/627](#), **reg. 2(1)(y)**

#### Modifications etc. (not altering text)

**C3** S. 51 excluded (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/165\)](#), **regs. 1(1), 2** (with **reg. 2**)

#### Commencement Information

**I3** S. 51 wholly in force; s. 51 in force at Royal Assent for specified purposes; s. 51 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 52 Power to require employer to arrange advice for purposes of section 51

(1) The Department for Social Development in Northern Ireland may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 51.

(2) Regulations under subsection (1) may, in particular—

- (a) impose limitations on the amount that an employer may be required to pay;
- (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;

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- (c) provide for Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) to apply to a failure by an employer to comply with the regulations.

- (3) In this section “employer” has the meaning given by regulations made by the Department for Social Development in Northern Ireland.

#### **Commencement Information**

- I4** [S. 52](#) wholly in force; [s. 52](#) in force at Royal Assent for specified purposes; [s. 52](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

### **53 Independent advice: consequential amendments: Northern Ireland**

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—
  - “(2A) Subsection (2) does not apply if—
    - (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
    - (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”
- (3) In section 97J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 64(3) of Schedule 4 to this Act) insert—
  - “(2B) Subsection (1) does not apply if—
    - (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
    - (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

#### *Income tax exemption*

### **54 Independent advice: income tax exemption**

- (1) In Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: exemptions), in Chapter 9 (exemptions: pension provision), after section 308A insert—

#### **“308B Independent advice in respect of conversions and transfers of pension scheme benefits**

- (1) No liability to income tax arises in respect of—

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- (a) the provision to an employee or former employee of appropriate independent advice, or
  - (b) the payment or reimbursement, to or in respect of an employee or former employee, of the cost of such advice,if conditions A to C are met.
- (2) Condition A is that the provision, payment or reimbursement is required by regulations under section 49 or 52 of the Pension Schemes Act 2015 (power to require employer to arrange independent advice in respect of conversions and transfers).
- (3) If condition A is met only as respects part of the payment or reimbursement because the amount of the payment or reimbursement exceeds the amount required to be paid or reimbursed, subsection (1) applies in respect of that part.
- (4) Condition B is that the provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements.
- (5) Condition C is that such other requirements as may be specified in regulations made by the Treasury are satisfied in relation to the provision, payment or reimbursement.
- (6) In this section—
  - “appropriate independent advice”—
    - (a) in relation to England and Wales and Scotland, has the meaning given by regulations under section 48 of the Pension Schemes Act 2015;
    - (b) in relation to Northern Ireland, has the meaning given by regulations under section 51 of that Act;
  - “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which an employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of appropriate independent advice or the payment or reimbursement of the cost of such advice.”
- (2) In that Part of that Act, in section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2), after paragraph (d) insert—
  - “(da) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits),”.
- (3) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

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## CHAPTER 3

### DRAWDOWN, CONVERSION OF BENEFITS AND LUMP SUMS

#### *Great Britain*

#### **55 Sums or assets that may be designated as available for drawdown: Great Britain**

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.
- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.
- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

#### **56 Provision about conversion of certain benefits for drawdown: Great Britain**

- (1) The Secretary of State may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
  - (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;
  - (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

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#### Commencement Information

- 15** [S. 56](#) wholly in force; [s. 56](#) in force at Royal Assent for specified purposes; [s. 56](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

### 57 Provision about calculation of lump sums: Great Britain

- (1) The Secretary of State may by regulations make provision about the calculation of lump sums in circumstances where—
  - (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.
- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
  - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

#### Commencement Information

- 16** [S. 57](#) wholly in force; [s. 57](#) in force at Royal Assent for specified purposes; [s. 57](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

### 58 Restrictions on conversion of benefits during winding up etc: Great Britain

- (1) In section 73A of the Pensions Act 1995 (operation of scheme during winding up period), after subsection (6) insert—

“(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”
- (2) In section 73B of that Act (sections 73 and 73A: supplementary), in subsections (1) and (3), after “section 73A(3)” insert “ or (6A) ”.
- (3) In section 135 of the Pensions Act 2004 (restrictions on winding up, discharge of liabilities etc during assessment period), in subsection (4), before paragraph (a) insert—

“(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit

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is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”.

## **59 Restriction on payment of lump sums during PPF assessment period: Great Britain**

(1) Section 138 of the Pensions Act 2004 (payment of scheme benefits during assessment period) is amended as follows.

(2) In subsection (1), after “Subsections (2)” insert “, (2A) ”.

(3) After subsection (2) insert—

“(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—

- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and
- (b) the assessment date referred to in Schedule 7 were the date on which the assessment period began.”

(4) In subsection (3), omit “But”.

(5) In subsection (5), for “subsection (2)” substitute “ subsections (2) and (2A) ”.

(6) In subsection (6), for “subsection (3)” substitute “ subsections (2A) and (3) ”.

(7) In subsection (7), after “Subsections (2),” insert “ (2A), ”.

(8) In subsection (8), after “subsections (2)” insert “, (2A) ”.

(9) In subsection (9), for “subsections (2) and (3)” substitute “ subsections (2) to (3) ”.

(10) After subsection (9) insert—

“(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of subsection (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.

(9B) Regulations may create exceptions to subsection (2A).”

(11) In subsection (12), for “subsection (2)” substitute “ subsections (2) and (2A) ”.

(12) In subsection (13), after “subsection (2)” insert “, (2A) ”.

### **Commencement Information**

**I7** [S. 59](#) wholly in force; [s. 59](#) in force at Royal Assent for specified purposes; [s. 59](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

## **60 Sections 55 to 57: consequential amendments**

(1) In section 101AI of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (8)—

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- (a) in paragraph (a), after sub-paragraph (ix) insert—
    - “(x) section 55 of the Pension Schemes Act 2015;
    - (xi) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
  - (b) in paragraph (b), after sub-paragraph (vii) insert—
    - “(viii) section 55(3) of the Pension Schemes Act 2015;
    - (ix) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”
- (2) In section 67A of the Pensions Act 1995 (the subsisting rights provisions: interpretation), in subsection (9)—
- (a) in paragraph (a), after sub-paragraph (x) (inserted by section 45 of this Act) insert—
    - “(xi) section 55 of the Pension Schemes Act 2015;
    - (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
  - (b) in paragraph (b), after sub-paragraph (viii) (inserted by section 45 of this Act) insert—
    - “(ix) section 55(3) of the Pension Schemes Act 2015;
    - (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”
- (3) In section 318 of the Pensions Act 2004 (interpretation), in subsection (3)—
- (a) in paragraph (a), after sub-paragraph (x) (inserted by Schedule 2 to this Act) insert—
    - “(xi) section 55 of the Pension Schemes Act 2015;
    - (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
  - (b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 2 to this Act) insert—
    - “(ix) section 55(3) of the Pension Schemes Act 2015;
    - (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”

### *Northern Ireland*

## **61 Sums or assets that may be designated as available for drawdown: Northern Ireland**

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.

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- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.
- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

## **62 Provision about conversion of certain benefits for drawdown: Northern Ireland**

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
  - (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;
  - (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

### **Commencement Information**

**I8** [S. 62](#) wholly in force; [s. 62](#) in force at Royal Assent for specified purposes; [s. 62](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

## **63 Provision about calculation of lump sums: Northern Ireland**

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the calculation of lump sums in circumstances where—
  - (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.

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- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
- (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
  - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

#### Commencement Information

- I9** [S. 63](#) wholly in force; [s. 63](#) in force at Royal Assent for specified purposes; [s. 63](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

### 64 Restrictions on conversion of benefits during winding up etc: Northern Ireland

- (1) In Article 73A of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (operation of scheme during winding up period), after paragraph (6) insert—
- “(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”
- (2) In Article 73B of that Order (Articles 73 and 73A: supplementary), in paragraphs (1) and (3), after “Article 73A(3)” insert “ or (6A) ”.
- (3) In Article 119 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (restrictions on winding up, discharge of liabilities etc during assessment period), in paragraph (4), before sub-paragraph (a) insert—
- “(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules,”.

### 65 Restriction on payment of lump sums during PPF assessment period: Northern Ireland

- (1) Article 122 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (payment of scheme benefits during assessment period) is amended as follows.
- (2) In paragraph (1), after “Paragraphs (2)” insert “, (2A) ”.
- (3) After paragraph (2) insert—
- “(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—
- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

- (b) the assessment date referred to in Schedule 6 were the date on which the assessment period began.”
- (4) In paragraph (3), omit “But”.
- (5) In paragraph (5), for “paragraph (2)” substitute “ paragraphs (2) and (2A) ”.
- (6) In paragraph (6), for “paragraph (3)” substitute “ paragraphs (2A) and (3) ”.
- (7) In paragraph (7), after “Paragraphs (2),” insert “ (2A), ”.
- (8) In paragraph (8), after “paragraphs (2)” insert “ , (2A) ”.
- (9) In paragraph (9), for “paragraphs (2) and (3)” substitute “ paragraphs (2) to (3) ”.
- (10) After paragraph (9) insert—
  - “(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of paragraph (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.
  - (9B) Regulations may create exceptions to paragraph (2A).”
- (11) In paragraph (12), for “paragraph (2)” substitute “ paragraphs (2) and (2A) ”.
- (12) In paragraph (13), after “paragraph (2)” insert “ , (2A) ”.

#### **Commencement Information**

**I10** [S. 65](#) wholly in force; [s. 65](#) in force at Royal Assent for specified purposes; [s. 65](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

## **66 Sections 61 to 63: consequential amendments**

- (1) In section 97AI of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (7)—
  - (a) in paragraph (a), after sub-paragraph (vii) insert—
    - “(viii) section 61 of the Pension Schemes Act 2015;
    - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
  - (b) in paragraph (b), after sub-paragraph (v) insert—
    - “(vi) section 61(3) of the Pension Schemes Act 2015;
    - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”
- (2) In Article 67A of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (the subsisting rights provisions: interpretation), in paragraph (9)—
  - (a) in sub-paragraph (a), after head (vii) insert—
    - “(viii) section 61 of the Pension Schemes Act 2015;
    - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
  - (b) in sub-paragraph (b), after head (v) insert—
    - “(vi) section 61(3) of the Pension Schemes Act 2015;

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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(vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”

(3) In Article 2 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (interpretation), in paragraph (4)—

(a) in sub-paragraph (a), after head (vii) insert—

“(viii) section 61 of the Pension Schemes Act 2015;

(ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;

(b) in sub-paragraph (b), after head (v) insert—

“(vi) section 61(3) of the Pension Schemes Act 2015;

(vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”

## CHAPTER 4

### TRANSFERS

#### *Rights to transfer benefits*

#### **67 Rights to transfer benefits**

Schedule 4 contains amendments that confer new statutory rights to transfer benefits.

#### *Great Britain*

#### **68 Restriction on transfers out of unfunded public service defined benefits schemes: Great Britain**

(1) The Pension Schemes Act 1993 is amended as follows.

(2) In section 95 (ways of taking right to cash equivalent), in subsection (2), after “occupational pension scheme” insert “ that is not an unfunded public service defined benefits scheme ”.

(3) In section 95, after subsection (2) insert—

“(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—

(a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—

(i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,

(ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and

(iii) the other scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (b) for acquiring rights allowed under the rules of a personal pension scheme if—
    - (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
    - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and
    - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
  - (c) for purchasing from one or more insurers such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury;
  - (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury.
- (2B) The Treasury may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in prescribed circumstances or in relation to prescribed schemes or schemes of a prescribed description.
- (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—
- (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
  - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 95(5) insert—
- “(5A) Except in such circumstances as may be prescribed in regulations made by the Secretary of State or the Treasury, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 95(6)—
- (a) after “subsections (2)” insert “, (2A) ”;
  - (b) after “subsection (2)” insert “ or (2A) ”.
- (6) In section 96 (further provisions concerning exercise of option under section 95), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A) ”.
- (7) In section 100 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A) ”.
- (8) The amendments made by this section have no effect in relation to an application made under section 95(1) of the Pension Schemes Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 95(2A)(a)(iii)	Section 95(2)(a)(ii)
Section 95(2A)(b)(iii)	Section 95(2)(b)(ii)
Section 95(2A)(c)	Section 95(2)(c)
Section 95(2A)(d)	Section 95(2)(d)
Section 95(5A)	Section 95(5)(a).

#### Commencement Information

**I11** [S. 68](#) wholly in force; [s. 68](#) in force at Royal Assent for specified purposes; [s. 68](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

## 69 Reduction of cash equivalents: funded public service defined benefits schemes: Great Britain

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 97 (calculation of cash equivalents), in subsection (1)—
  - (a) after “verified” insert “—  
(a)”;
    - (b) at the end insert “, and  
(b) where a designation has been made under section 97A or 97B, in accordance with regulations under section 97C.”
- (3) After section 97 insert—

### “97A Designation of funded public service defined benefits schemes

- (1) This section applies to funded public service defined benefits schemes other than schemes to which section 97B applies (equivalent provision for certain Scottish schemes).

A scheme to which this section applies is referred to below as an “eligible scheme”.

- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify—
  - (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (9) If the trustees or managers of a scheme, or part of a scheme, which is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify—
  - (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (10) In this section—
  - “eligible scheme” has the meaning given by subsection (1);
  - “funded public service defined benefits scheme” means a public service pension scheme that—
    - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
    - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
  - “local authority” means—
    - (a) a county or district council in England,
    - (b) a county or county borough council in Wales,
    - (c) a London borough council,
    - (d) the Greater London Authority,
    - (e) the Common Council of the City of London in its capacity as a local authority, or
    - (f) the Council of the Isles of Scilly;

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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“payment out of public funds” means a payment provided directly or indirectly—

(a) out of—

(i) the Consolidated Fund or any other account or source of money which cannot be drawn or spent other than by, or with the authority of, the Treasury, or

(ii) the Welsh Consolidated Fund, or

(b) by a local authority;

“the relevant person” means—

(a) in relation to a scheme established by virtue of paragraph 12 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the Independent Parliamentary Standards Authority and the trustees of the Parliamentary Contributory Pension Fund;

(b) in relation to a scheme established by virtue of paragraph 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the trustees of the Parliamentary Contributory Pension Fund;

(c) in any other case, either of the following—

(i) the Treasury, or

(ii) any Minister of the Crown by whom, or with whose approval, the scheme was established.

(11) The Treasury may by regulations modify the definitions of “local authority” and “the relevant person” in subsection (10).

### **97B Designation of funded public service defined benefits schemes: Scotland**

(1) This section applies to a funded public service defined benefits scheme that is—

(a) a scheme established by, or with the approval of, the Scottish Ministers;

(b) a scheme established by virtue of section 81(4)(b) of the Scotland Act 1998.

A scheme to which this section applies is referred to below as an “eligible scheme”.

(2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.

(3) The power under subsection (2) may be exercised only if the relevant person considers that—

(a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and

(b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify the Scottish Ministers.
- (9) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify the Scottish Ministers.
- (10) In this section—
  - “eligible scheme” has the meaning given by subsection (1);
  - “funded public service defined benefits scheme” means a public service pension scheme that—
    - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
    - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
  - “payment out of public funds” means a payment provided directly or indirectly—
    - (a) out of the Scottish Consolidated Fund, or
    - (b) by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
  - “the relevant person” means—
    - (a) in relation to a scheme falling within subsection (1)(a), the Scottish Ministers;
    - (b) in relation to a scheme falling with subsection (1)(b), the trustees of the Scottish Parliamentary Contributory Pension Fund.
- (11) The Scottish Ministers may by regulations modify the definition of “the relevant person” in subsection (10).”
- (4) After section 97B (inserted by subsection (3)) insert—

**“97C Reduction of cash equivalents in case of designated schemes**

- (1) The Treasury may by regulations provide that where, under section 95(1), a member of a designated scheme requires the trustees or managers to use a

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.

- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 97) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 95(1)) is designated under section 97A or 97B.”

#### Commencement Information

**I12** S. 69 wholly in force; s. 69 in force at Royal Assent for specified purposes; s. 69 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 70 Sections 68 and 69: consequential amendments

- (1) In the Pension Schemes Act 1993, in section 182 (orders and regulations: general provisions), after subsection (1) insert—

“(1A) Subsection (1) does not apply to the power of the Scottish Ministers to make regulations under section 97B(11).”

- (2) In that Act, in section 185 (consultations about other regulations), after subsection (5) insert—

“(5A) Subject to subsection (5C), before the Treasury (acting alone) make any regulations under section 95, 97A or 97C they shall consult such persons as they may consider appropriate.

(5B) Subject to subsection (5C), before the Scottish Ministers make any regulations under section 97B(11) they shall consult such persons as they may consider appropriate.

(5C) Subsections (5A) and (5B) do not apply to regulations in the case of which the Treasury or (as the case may be) the Scottish Ministers consider consultation inexpedient because of urgency or to regulations of the type described in subsection (2)(b) or (e).”

- (3) In that Act, in section 186 (Parliamentary control of orders and regulations)—
  - (a) in subsection (1) (negative procedure), after “Secretary of State” insert “ or the Treasury ”;
  - (b) in subsection (3) (affirmative procedure), after paragraph (e) insert “ , or  
(f) regulations made under section 97A(11) ”;
  - (c) after subsection (5) insert—

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

“(6) Regulations made by the Scottish Ministers under section 97B(11) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

(4) In the Pensions Act 2004, in section 18 (pension liberation: interpretation), in subsection (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

(5) The consultation requirement in section 185(5A) of the Pension Schemes Act 1993 (inserted by subsection (2)) may be satisfied by things done before the day on which this Act is passed.

#### **Commencement Information**

**I13** S. 70 wholly in force; s. 70 in force at Royal Assent for specified purposes; s. 70 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### *Northern Ireland*

#### **71 Restriction on transfers out of unfunded public service defined benefits schemes: Northern Ireland**

(1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

(2) In section 91(2), after “occupational pension scheme” insert “ that is not an unfunded public service defined benefits scheme ”.

(3) In section 91, after subsection (2) insert—

“(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—

(a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—

(i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,

(ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and

(iii) the other scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;

(b) for acquiring rights allowed under the rules of a personal pension scheme if—

(i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,

(ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

- (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
  - (c) for purchasing from one or more insurers such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;
  - (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel.
- (2B) The Department of Finance and Personnel may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in specified circumstances or in relation to specified schemes or schemes of a specified description.
- (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—
  - (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and
  - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 91(5) insert—

“(5A) Except in such circumstances as may be prescribed in regulations made by the Department or the Department of Finance and Personnel, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 91(6)—
  - (a) after “subsections (2)” insert “, (2A) ”;
  - (b) after “subsection (2)” insert “ or (2A) ”.
- (6) In section 92 (further provisions concerning exercise of option under section 91), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A) ”.
- (7) In section 96 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A) ”.
- (8) The amendments made by this section have no effect in relation to an application made under section 91 of the Pension Schemes (Northern Ireland) Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes (Northern Ireland) Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

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***New provision of Act***

Section 91(2A)(a)(iii)

Section 91(2A)(b)(iii)

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***Existing provision of Act***

Section 91(2)(a)(ii)

Section 91(2)(b)(ii)

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

Section 91(2A)(c)

Section 91(2)(c)

Section 91(2A)(d)

Section 91(2)(d)

Section 91(5A)

Section 91(5)(a).

#### Commencement Information

**I14** S. 71 wholly in force; s. 71(1)-(7) in force at Royal Assent for specified purposes; s. 71 in force so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 72 **Reduction of cash equivalents: funded public service defined benefits schemes: Northern Ireland**

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 93 (calculation of cash equivalents), in subsection (1)—
  - (a) after “verified” insert “—  
(a)”;
  - (b) at the end insert “, and  
(b) where a designation has been made under section 93A, in accordance with regulations under section 93B.”
- (3) After section 93 insert—

### “93A Designation of funded public service defined benefits schemes

- (1) The relevant Department may designate a funded public service defined benefits scheme as a scheme to which regulations under section 93B are to apply for a specified period of no more than 2 years.
- (2) The power under subsection (1) may be exercised only if the relevant Department considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
  - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90.
- (3) The power under subsection (1) may be exercised in relation to the whole or any part of a scheme.
- (4) In the application of subsection (2) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (5) A designation under subsection (1)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (6) The relevant Department must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant Department is the trustees or managers).
  - (7) If the trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, that is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are met in relation to the scheme or part they must notify—
    - (a) the Department of Finance and Personnel, and
    - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
  - (8) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are no longer met in relation to the scheme or part they must notify—
    - (a) the Department of Finance and Personnel, and
    - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
  - (9) In this section—
    - “funded public service defined benefits scheme” means a public service pension scheme that—
      - (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and
      - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
    - “local authority” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;
    - “payment out of public funds” means a payment provided directly or indirectly—
      - (a) out of the Northern Ireland Consolidated Fund, or
      - (b) by a local authority;
    - “the relevant Department”, in relation to a funded public service defined benefits scheme, means either of the following—
      - (a) the Department of Finance and Personnel, or
      - (b) any Northern Ireland department by whom, or with whose approval, the scheme was established.
  - (10) The Department of Finance and Personnel may by regulations make modifications of the definition of “the relevant Department” in subsection (9).”
- (4) After section 93A (inserted by subsection (3)) insert—

**“93B Reduction of cash equivalents in case of section 93A designated schemes**

- (1) The Department of Finance and Personnel may by regulations provide that where, under section 91(1), a member of a designated scheme requires

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the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.

- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 93) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 91(1)) is designated under section 93A.”

#### **Commencement Information**

**I15** S. 72 wholly in force; s. 72 in force at Royal Assent for specified purposes; s. 72 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### **73 Sections 71 and 72: consequential amendments**

- (1) In the Pension Schemes (Northern Ireland) Act 1993, in section 176 (general interpretation), in subsection (1), in the definition of “regulations”, after “means” insert “, unless the context otherwise requires, ”.
- (2) In that Act, in section 181 (Assembly etc control of regulations and orders)—
  - (a) in subsection (2) (regulations and orders subject to confirmatory procedure), at the end insert “ and to regulations made by the Department of Finance and Personnel under section 93A(10) ”;
  - (b) in subsection (4) (regulations and orders subject to negative resolution), for “shall” substitute “ and regulations made by the Department of Finance and Personnel under section 91 or 93B shall ”.
- (3) In the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), in Article 14 (pension liberation: interpretation), in paragraph (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

## **CHAPTER 5**

### **INTERPRETATION OF PART 4**

### **74 Meaning of “flexible benefit”**

In this Part “flexible benefit”, in relation to a member of a pension scheme or a survivor of a member, means—

- (a) a money purchase benefit,
- (b) a cash balance benefit, or

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (c) a benefit, other than a money purchase benefit or cash balance benefit, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor).

## **75 Meaning of “cash balance benefit”**

- (1) In this Part “cash balance benefit”, in relation to a member of a pension scheme or a survivor of a member, means a benefit calculated by reference to an amount available for the provision of benefits to or in respect of the member (“the available amount”) where there is a promise about that amount.
- (2) But a benefit is not a “cash balance benefit” if, under the scheme—
  - (a) a pension may be provided from the available amount to or in respect of the member, and
  - (b) there is a promise about the rate of that pension.
- (3) The promise mentioned in subsection (1) includes, in particular, a promise about the change in the value of, or the return from, payments made by the member or any other person in respect of the member.
- (4) The promise mentioned in subsection (2)(b) includes a promise that—
  - (a) the available amount will be sufficient to provide a pension of a particular rate;
  - (b) the rate of a pension will represent a particular proportion of the available amount.
- (5) A benefit is not excluded from the definition of “cash balance benefit” by subsection (2) merely because under the scheme there is a promise that—
  - (a) the rate or amount of the benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of the benefit which was (or would have been) payable to the member, or
  - (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 amount.

## **76 Interpretation of Part 4**

### *UK definitions*

- (1) In this Part—
  - “cash balance benefit” has the meaning given by section 75;
  - “dependants' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 18 of Schedule 28 to the Finance Act 2004;
  - “drawdown pension”, in relation to a member, has the meaning given by paragraph 4 of Schedule 28 to the Finance Act 2004;
  - “flexible benefit” has the meaning given by section 74;
  - “nominees' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27B of Schedule 28 to the Finance Act 2004;
  - “normal pension age”, in relation to a benefit for a member of a pension scheme or a survivor of a member, means—

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*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015, PART 4. (See end of Document for details)*

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- (a) the earliest age at which, or earliest occasion on which, the member or survivor is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill health or otherwise), or
  - (b) if there is no such age or occasion, normal minimum pension age as defined by section 279(1) of the Finance Act 2004;
- “subsisting right”—
- (a) in relation to a member of a pension scheme means—
    - (i) any right which has accrued to or in respect of the member to future benefits under the scheme, or
    - (ii) any entitlement to benefits under the scheme,
  - (b) in relation to a survivor of a member of a pension scheme, means any right to future benefits, or entitlement to benefits, which the survivor has under the scheme in respect of the member;
- “successors' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27G of Schedule 28 to the Finance Act 2004;
- “survivor”, in relation to a member of a pension scheme, means a person who has survived the member and has a right to future benefits, or is entitled to benefits, under the scheme in respect of the member;
- “trustees or managers” means—
- (a) in relation to a scheme established under a trust, the trustees, and
  - (b) in relation to any other scheme, the managers;
- “uncrystallised funds pension lump sum” has the meaning given by paragraph 4A of Schedule 29 to the Finance Act 2004.

#### *Great Britain only definitions*

- (2) In any provision of this Part as it extends to England and Wales and Scotland—
  - “money purchase benefits” has the meaning given by section 181 of the Pension Schemes Act 1993;
  - “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;
  - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993.

#### *Northern Ireland only definitions*

- (3) In any provision of this Part as it extends to Northern Ireland—
  - “money purchase benefits” has the meaning given by section 176 of the Pension Schemes (Northern Ireland) Act 1993;
  - “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;
  - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993.

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Point in time view as at 01/04/2018.

**Changes to legislation:**

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