

SCHEDULES

SCHEDULE 1

Section 40

EARLY LEAVERS: REVALUATION OF ACCRUED BENEFITS

- 1 The Pension Schemes Act 1993 is amended as follows.
2 Before section 83 insert—

“82A Overview and meaning of “the 2015 Act commencement date”

- (1) This Chapter is about the revaluation of benefits for early leavers.
(2) The table contains an overview of the contents of this Chapter.

<i>Section</i>	<i>General description</i>
Section 83	Benefits to which this Chapter applies
Sections 84 and 84A	Basis of revaluation: benefits accrued before the 2015 Act commencement date
Sections 84B and 84C	Basis of revaluation: benefits accrued on or after the 2015 Act commencement date
Section 84D	Special rules for hybrid benefits
Sections 84E and 84F	Revaluation by other methods
Section 85	Revaluation not to apply to substituted benefits
Sections 85A to 86B	Supplementary provision and definitions

- (3) In this Chapter “the 2015 Act commencement date” means the date on which paragraph 2 of Schedule 1 to the Pension Schemes Act 2015 comes into force.”

- 3 In section 83, for subsection (1A) substitute—
- “(1A) In subsection (1) “relevant benefits” means benefits that are—
- (a) retirement benefits payable to a member, or
 - (b) benefits payable in respect of a member.
- (1AA) This Chapter does not apply to any benefits payable by virtue of pension credit rights except, in the case of a salary related occupational pension scheme, to the extent that they involve the member being credited by the scheme with notional pensionable service.
- (1AB) Where this Chapter applies in relation to a benefit payable by virtue of a pension credit right, then—
- (a) if entitlement to the relevant pension credit arose before the 2015 Act commencement date, the benefit is to be treated for the purposes

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of sections 84(1) and 84B(2) as attributable to pensionable service before that date;

- (b) if entitlement to the relevant pension credit arose on or after the 2015 Act commencement date, the benefit is to be treated for the purposes of sections 84(1) and 84B(2) as attributable to pensionable service on or after that date.

(1AC) “Pension credit rights” means rights that are attributable (directly or indirectly) to a pension credit.”

4 For section 84 substitute—

“84 Old basis of revaluation: occupational pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(a) must be revalued in accordance with this section if it is attributable to pensionable service before the 2015 Act commencement date.
- (2) The benefit must be revalued using the final salary method unless it is—
 - (a) a money purchase benefit (see subsection (3)),
 - (b) an average salary benefit revalued in accordance with subsection (4), or
 - (c) a flat rate benefit revalued in accordance with subsection (5).
- (3) If the benefit is a money purchase benefit it must be revalued using the money purchase method.
- (4) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method.
- (5) If the benefit is a flat rate benefit it must be revalued using the default method if the trustees or managers of the scheme consider the default method to be more appropriate than the final salary method.

84A Old basis of revaluation: personal pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received before the 2015 Act commencement date.
- (2) The benefit must be revalued using the money purchase method.

84B New basis of revaluation: occupational pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(a) that is a collective benefit must be revalued using the default method.
- (2) A benefit of the kind mentioned in section 83(1)(a) that is not a collective benefit must be revalued in accordance with the following provisions of this section if it is attributable to pensionable service on or after the 2015 Act commencement date.
- (3) The benefit must be revalued using the default method unless it is—
 - (a) a money purchase benefit (see subsection (4)),

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- (b) a salary related benefit (see subsections (5) and (6)), or
 - (c) a flat rate benefit revalued in accordance with subsection (7).
- (4) If the benefit is a money purchase benefit it must be revalued using the money purchase method.
 - (5) If the benefit is a salary related benefit it must be revalued using the final salary method unless it is revalued in accordance with subsection (6).
 - (6) If the benefit is an average salary benefit it must be revalued using the average salary method if the trustees or managers of the scheme consider the average salary method to be more appropriate than the final salary method.
 - (7) If the benefit is a flat rate benefit it must be revalued using the final salary method if the trustees or managers of the scheme consider the final salary method to be more appropriate than the default method.

84C New basis of revaluation: personal pension schemes

- (1) A benefit of the kind mentioned in section 83(1)(b) must be revalued in accordance with this section if it is attributable to contributions received on or after the 2015 Act commencement date.
- (2) The benefit must be revalued using the default method unless it is a money purchase benefit.
- (3) If the benefit is a money purchase benefit it must be revalued using the money purchase method.

84D Hybrid benefits

- (1) This section modifies the revaluation requirements in this Chapter in relation to hybrid benefits.
- (2) “Hybrid benefit” means a benefit the rate or amount of which depends on which of two or more alternative methods of calculation produces the highest, or lowest, rate or amount.
- (3) For hybrid benefits—
 - (a) first, calculate the benefit using each of those methods and revalue in accordance with this Chapter, and
 - (b) then, determine which method of calculation produces the highest, or lowest, rate or amount.

84E Revaluation by other methods: general

The fact that an occupational pension scheme provides for the amount of the pension or other benefit for a member or for any other person in respect of the member to be increased during the pre-pension period—

- (a) by the percentages specified during that period under section 151(1) of the Social Security Administration Act 1992 (directions specifying percentage increases for up-rating purposes), or
- (b) under any arrangement which, in the opinion of the Secretary of State, maintains the value of the pension or other benefit by

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reference to the rise in the general level of prices in Great Britain during that period,

does not in itself result in conflict with section 84 or 84B, if the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or a member’s widow, widower, surviving same sex spouse or surviving civil partner has not been deducted.

84F Revaluation by other methods: transitional protection in certain cases

- (1) This section applies to a scheme which, before the 2015 Act commencement date, provided for any description of benefits to which this Chapter applies to be revalued by a method that the scheme was allowed to use under subsection (3A) or (3B) of old section 84.
- (2) The scheme may continue to use that method of revaluation in relation to that description of benefits for so long as it continues to contain that provision.
- (3) In subsection (1), “the old section 84” means section 84 as it had effect immediately before the substitution made by Schedule 1 to the Pension Schemes Act 2015.”

5 After section 85 insert—

“85A Power to add revaluation methods for personal pension schemes

- (1) Regulations may make provision enabling or requiring benefits of the kind mentioned in section 83(1)(b) to be revalued by the average salary or final salary method in specified cases.
- (2) Regulations under this section—
 - (a) may amend this Chapter (and may, in particular, amend the average salary or final salary method as applied in relation to benefits of the kind mentioned in section 83(1)(b));
 - (b) may not change the revaluation method to be used for a benefit the right to which has already accrued.”

6 After section 86 insert—

“86A The revaluation methods

The revaluation methods referred to in this Chapter are defined by the provisions listed in the table.

<i>Method</i>	<i>Provision</i>
Average salary method	Paragraph 3 of Schedule 3
Default method	Paragraph A1 of Schedule 3
Final salary method	Paragraphs 1 to 2A of Schedule 3
Money purchase method	Paragraph 5 of Schedule 3

86B Definitions of benefits referred to in this Chapter

- (1) In this Chapter—

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“average salary benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the member’s average salary over the period of service to which the benefit relates;

“final salary benefit” means a benefit under an occupational pension scheme that is calculated by reference to the member’s pensionable earnings, or highest, average or representative pensionable earnings, in a specified period ending at, or defined by reference to, the time when the member’s pensionable service in relation to that scheme ends;

“flat rate benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference solely to the member’s length of service;

“salary related benefit” means a benefit under an occupational pension scheme the rate or amount of which is calculated by reference to the salary of the member.

(2) In subsection (1) “pensionable earnings”, in relation to a pension scheme and a member of it, means earnings by reference to which benefits under the scheme are calculated.”

7 In section 186(3) (statutory instruments subject to affirmative procedure), after paragraph (b) insert—

“(ba) regulations under section 85A, or”.

8 In Schedule 3 to that Act (revaluation methods), before paragraph 1 insert—

“The default method

A1 The default method is to revalue the benefits in any way in which they would have been revalued if—

- (a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

9 Omit paragraphs 3A and 4 of that Schedule.

10 In paragraph 5(1) of that Schedule, for “if his pensionable service had not terminated” substitute “if—

- (a) in the case of an occupational pension scheme, the member’s pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

11 Omit the following, which are no longer needed given the earlier provisions of this Schedule—

- (a) paragraph 31(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999;
- (b) section 19(1) to (3) of the Pensions Act 2011.

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SCHEDULE 2

Section 46

OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

Pension Schemes Act 1993 (c. 48)

- 1 The Pension Schemes Act 1993 is amended as follows.
- 2 In section 83 (scope of provisions about revaluation of benefits excluding guaranteed minimum pensions), in subsection (4), for paragraph (a) (but not the “and” at the end) substitute—
 - “(a) it is not a scheme under which all the benefits that may be provided are money purchase benefits.”
- 3 In section 113 (disclosure of information about schemes to members etc), in subsection (10), for the definition of “relevant scheme” substitute—

““relevant scheme” means an occupational pension scheme under which all the benefits that may be provided are money purchase benefits.”
- 4 In section 124 (duty of Secretary of State to pay unpaid contributions to schemes), for subsection (3A) substitute—

“(3A) The sum payable under this section by virtue of subsection (3) shall be the lesser of the amounts mentioned in paragraphs (a) and (c) of that subsection in any case where the scheme is—

 - (a) a defined contributions scheme,
 - (b) a shared risk scheme under which all the benefits that may be provided are money purchase benefits, or
 - (c) a shared risk scheme under which all the benefits that may be provided are money purchase benefits or collective benefits.”
- 5 (1) In section 181 (interpretation), subsection (1) is amended as follows.
 - (2) At the appropriate places insert—

““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”

““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”

““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”

““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”.
 - (3) Omit the definition of “money purchase scheme”.

Pensions Act 1995 (c. 26)

- 6 The Pensions Act 1995 is amended as follows.
- 7 In section 37 (payment of surplus to employer), in subsection (1A)—
 - (a) after “does not apply in the case of” insert “—
(a)”;
 - (b) at the end insert—

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- “(b) any payments out of funds held for the purposes of providing collective benefits under the scheme (but see section 24 of the Pension Schemes Act 2015).”
- 8 In section 38 (power to defer winding up), in subsection (3), for paragraph (a) (but not the “or” at the end) substitute—
- “(a) a scheme under which all the benefits that may be provided are money purchase benefits.”
- 9 In section 51 (annual increase in rate of pension), in subsection (1)(a)(iii), for “is not a money purchase scheme” substitute “is not a defined contributions scheme”.
- 10 In section 51A (restrictions on increase where annuity tied to investments), in subsection (1), for “money purchase scheme” substitute “defined contributions scheme”.
- 11 In section 73 (preferential liabilities on winding up), for subsection (2) substitute—
- “(2) This section applies to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (2A) provides for the scheme to be exempt.
- (2A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits, or
- (b) a prescribed scheme or a scheme of a prescribed description.”
- 12 In section 75 (employer debt where deficiency in assets on winding up etc), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),

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the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

- 13 (1) Section 87 (schedules of payments to money purchase schemes) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies to an occupational pension scheme that is a scheme under which —
- (a) all the benefits that may be provided are money purchase benefits, or
- (b) all the benefits that may be provided are money purchase benefits or collective benefits,
- other than a scheme falling within a prescribed class or description.”
- (3) In subsection (2)(a), after “members of the scheme” insert “in respect of money purchase benefits”.
- (4) In the heading, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 14 For the italic cross-heading above section 87 substitute “Schemes providing money purchase benefits”.
- 15 In the heading to section 88 (schedules of payments to money purchase schemes: supplementary), for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 16 (1) Section 89 (application of further provisions to money purchase schemes) is amended as follows.
- (2) In subsection (1), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits and that are schemes”.
- (3) In subsection (2), for “money purchase schemes” substitute “schemes under which all the benefits that may be provided are money purchase benefits”.
- 17 In section 124 (interpretation), in subsection (1), at the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015,”
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015,”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015,”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description,”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015,”.
- 18 (1) Section 125 (interpretation of Part 1: supplementary) is amended as follows.
- (2) In subsection (1), for paragraph (a) (but not the “and” at the end) substitute—
- “(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits,”.

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- (3) In subsection (2), for paragraphs (a) and (b) substitute “under which some but not all of the benefits that may be provided are money purchase benefits”.

Welfare Reform and Pensions Act 1999 (c. 30)

- 19 In section 38 of the Welfare Reform and Pensions Act 1999 (treatment in winding up), in subsection (2A), for paragraph (a) (but not the “or” at the end) substitute—
“(a) a scheme under which all the benefits that may be provided are money purchase benefits.”

Financial Services and Markets Act 2000 (c. 8)

- 20 The Financial Services and Markets Act 2000 is amended as follows.
- 21 In section 137FA (FCA general rules: disclosure of information about pension scheme transaction costs etc), in subsection (8)—
- (a) at the appropriate place insert—
““money purchase benefit” has the meaning given by section 181(1) of the Pension Schemes Act 1993;”;
 - (b) omit the definition of “money purchase scheme”;
 - (c) in the definition of “relevant scheme” for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits and”.
- 22 (1) Section 142X (interpretation of provisions about ring-fencing) is amended as follows.
- (2) In subsection (2), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- (3) In subsection (4), for “Money purchase scheme” substitute “Money purchase benefits”.

Pensions Act 2004 (c. 35)

- 23 The Pensions Act 2004 is amended as follows.
- 24 In section 13 (improvement notices), in subsection (7)—
- (a) omit the “or” at the end of paragraph (e);
 - (b) after paragraph (f) insert “, or
 - (g) the Pension Schemes Act 2015.”
- 25 In section 17 (power of the Regulator to recover unpaid contributions), in subsection (3)—
- (a) in paragraph (b) of the definition of “due date”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”;
 - (b) in paragraph (a) of the definition of “employer contribution”, for “to money purchase schemes” substitute “in respect of money purchase benefits under certain schemes”.
- 26 (1) Section 23 (freezing orders) is amended as follows.

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- (2) In subsection (1), for “which is not a money purchase scheme” substitute “unless it is excluded by subsection (1A)”.
- (3) After that subsection insert—
- “(1A) A scheme is excluded if—
- (a) all the benefits that may be provided under the scheme are money purchase benefits, and
- (b) the scheme does not provide for there to be a third party promise about the rate or amount of any benefit at a time before the benefit comes into payment (see subsection (10A)).”
- (4) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.
- (5) After subsection (10) insert—
- “(10A) For the purposes of subsection (1A)(b), a scheme provides for there to be a third party promise if the scheme—
- (a) requires the promise to be obtained from a third party, or
- (b) provides for the member to be given the option of requiring a promise to be obtained from a third party (whether or not the option is subject to conditions).”
- 27 In section 38 (contribution notices where avoidance of employer debt), for subsection (1) substitute—
- “(1) This section applies in relation to a pension scheme that is—
- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,
- unless subsection (1A) provides for the scheme to be exempt.
- (1A) A scheme is exempt from this section if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
- the scheme is to be treated for the purposes of this section and sections 38A to 42 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 28 (1) Section 43 (financial support directions) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies in relation to a pension scheme that is—

- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this section if it is—

- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where—

- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),

the scheme is to be treated for the purposes of this section and sections 43A to 51 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”

(3) In subsection (2), for “such a scheme” substitute “a scheme to which this section applies”.

29 In section 52 (restoration orders where transactions at an undervalue), for subsection (1) substitute—

“(1) This section applies in relation to a pension scheme that is—

- (a) an occupational defined benefits scheme,
- (b) an occupational shared risk scheme, or
- (c) an occupational defined contributions scheme,

unless subsection (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this section if it is—

- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
- (b) a scheme under which all the benefits that may be provided are collective benefits,
- (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
- (d) a prescribed scheme or a scheme of a prescribed description.

(1B) Where—

- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and

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- (b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
the scheme is to be treated for the purposes of this section and sections 53 to 56 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 30 (1) Section 90 (codes of practice) is amended as follows.
- (2) In subsection (2)(i), for “money purchase schemes” substitute “certain schemes”.
- (3) In subsection (6), in the definition of “the pensions legislation”—
- (a) omit the “or” at the end of paragraph (c);
- (b) after paragraph (d) insert—
- “(e) Schedule 18 to the Pensions Act 2014, or
(f) the Pension Schemes Act 2015.”
- 31 In section 126 (schemes eligible for pension protection), for subsection (1) substitute—
- “(1) Subject to the following provisions of this section, in this Part references to an “eligible scheme” are to a pension scheme that is—
- (a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme.
- (1A) A scheme is not an eligible scheme if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
(b) a scheme under which all the benefits that may be provided are collective benefits,
(c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
(d) a prescribed scheme or a scheme of a prescribed description.
- (1B) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
(b) the scheme does not fall within paragraph (c) or (d) of subsection (1A),
the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”
- 32 For section 221 (application of scheme funding rules) substitute—
- “221 Pension schemes to which this Part applies**
- (1) The provisions of this Part apply to a pension scheme that is—
- (a) an occupational defined benefits scheme,
(b) an occupational shared risk scheme, or
(c) an occupational defined contributions scheme,
unless subsection (2) provides for the scheme to be exempt.

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- (2) A scheme is exempt from this Part if it is—
- (a) a scheme under which all the benefits that may be provided are money purchase benefits,
 - (b) a scheme under which all the benefits that may be provided are collective benefits,
 - (c) a scheme under which all the benefits that may be provided are money purchase benefits or collective benefits, or
 - (d) a prescribed scheme or a scheme of a prescribed description.
- (3) Where—
- (a) some of the benefits that may be provided under a scheme are collective benefits and some are not, and
 - (b) the scheme does not fall within paragraph (c) or (d) of subsection (2),
- the scheme is to be treated for the purposes of this Part as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.
- (4) Regulations under subsection (2)(d) may provide for exemptions from all or any of the provisions of this Part, but for the purposes of subsection (3)(b) a scheme falls within subsection (2)(d) only if it is exempt from all of the provisions of this Part.”
- 33 In section 254 (representative of non-European scheme to be treated as trustee), in subsection (3)—
- (a) omit the “or” at the end of paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) the Pension Schemes Act 2015.”
- 34 In section 258 (pension protection on transfer of employment: form of protection), in subsection (2)—
- (a) in paragraph (b), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”;
 - (b) in paragraph (c), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- 35 In section 286 (financial assistance scheme for members of certain pension schemes), in subsection (2), for sub-paragraph (i) of paragraph (a) of the definition of “qualifying pension scheme” (but not the “or” at the end) substitute—
- “(i) a scheme under which all the benefits that may be provided are money purchase benefits.”
- 36 In section 291 (duty of trustees or managers to act consistently with law of host member state), in subsection (4)—
- (a) omit the “or” at the end of paragraph (c);
 - (b) after paragraph (d) insert “, or
 - (e) the Pension Schemes Act 2015.”
- 37 In section 307 (modification of Pensions Act 2004 in relation to certain categories of schemes), in subsection (4), for paragraph (a) of the definition of “hybrid scheme” (but not the “but” at the end) substitute—
- “(a) which is not a scheme under which all the benefits that may be provided are money purchase benefits.”

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- 38 (1) Section 318 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) at the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”;
- (b) omit the definition of “money purchase scheme”.
- (3) In subsection (3)—
- (a) in paragraph (a), after sub-paragraph (vii) insert—
- “(viii) regulations made under Schedule 17 to the Pensions Act 2014;
- (ix) regulations made under Schedule 18 to the Pensions Act 2014;
- (x) regulations made under Part 2 of the Pension Schemes Act 2015;”;
- (b) in paragraph (b), after sub-paragraph (v) insert—
- “(vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
- (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
- (viii) regulations made under section 34 of the Pension Schemes Act 2015;”.

Pensions Act 2008 (c. 30)

- 39 The Pensions Act 2008 is amended as follows.
- 40 (1) Section 20 (quality requirement: UK money purchase schemes) is amended as follows.
- (2) In subsection (1), for “A money purchase scheme” substitute “An occupational defined contributions scheme”.
- (3) In the heading, for “money purchase schemes” substitute “occupational defined contributions schemes”.
- 41 In section 21 (quality requirement: UK defined benefits schemes) for “A defined benefits scheme” substitute “An occupational defined benefits scheme”.
- 42 In section 23A (alternative quality requirements for UK defined benefits schemes), in subsection (1), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.
- 43 (1) Section 24 (quality requirement: UK hybrid schemes) is amended as follows.

- (2) In subsection (1)—
- (a) for “A hybrid scheme” substitute “A shared risk scheme”;
 - (b) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
 - (c) in paragraph (b), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (d) after paragraph (b) insert—
 - “(c) the requirements under section 26 for a personal pension scheme that is a defined contributions scheme, subject to any prescribed modifications.”
- (3) In subsection (2), for “hybrid scheme” substitute “shared risk scheme”.
- (4) In the heading, for “hybrid schemes” substitute “shared risk schemes”.
- 44 (1) Section 26 (quality requirement: UK personal pension schemes) is amended as follows.
- (2) In subsection (1), after “personal pension scheme” insert “that is a defined contributions scheme”.
- (3) Omit subsection (3) (requirement for all benefits to be money purchase benefits).
- (4) In subsection (4), for “second condition” substitute “first condition”.
- (5) In subsection (6), for “third condition” substitute “second condition”.
- (6) In subsection (7), for “fourth condition” substitute “third condition”.
- 45 (1) Section 28 (certification that quality requirement or alternative requirement is satisfied) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), for “a money purchase scheme” substitute “an occupational defined contributions scheme”;
 - (b) in paragraph (b), after “a personal pension scheme” insert “that is a defined contributions scheme”;
 - (c) for paragraph (c) substitute—
 - “(c) a shared risk scheme, to the extent that requirements within section 24(1)(a) or (c) apply.”
- (3) In subsection (3A)—
- (a) for paragraph (a) substitute—
 - “(a) an occupational defined contributions scheme that is within section 18(b);”
 - (b) for paragraph (c) substitute—
 - “(c) an occupational shared risk scheme that is within section 18(b), to the extent prescribed;”.
- (4) In subsection (3B), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”.
- 46 For the heading to section 29 substitute “Transitional periods for certain schemes”.

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

- 47 (1) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (2) In subsection (1), for “hybrid schemes” substitute “shared risk schemes”.
- (3) In subsection (2)(b) and (c), for “a defined benefits scheme or a defined benefits member of a hybrid scheme” substitute “an occupational defined benefits scheme or a defined benefits member of a shared risk scheme”.
- (4) In subsection (3)—
- (a) in the opening words, for “hybrid schemes” substitute “shared risk schemes”;
 - (b) in the substituted subsection (2), for paragraphs (a) and (b) substitute—
 - “(a) an active member, with effect from the end of the transitional period for defined benefits and shared risk schemes, of an automatic enrolment scheme which is an occupational defined benefits scheme, or
 - (b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a shared risk scheme.”
- (5) In subsection (4), for “hybrid schemes” substitute “shared risk schemes”.
- (6) In subsection (5)—
- (a) in the substituted subsection (2)(a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (b) in the substituted subsection (2)(a), for “hybrid scheme” substitute “shared risk scheme”;
 - (c) in the substituted subsection (2)(aa), for “hybrid scheme” substitute “shared risk scheme”;
 - (d) in the substituted subsection (2), for paragraph (b) substitute—
 - “(b) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is—
 - (i) a personal pension scheme other than a shared risk scheme, or
 - (ii) an occupational pension scheme under which all the benefits that may be provided are money purchase benefits or collective benefits;”;
 - (e) in the substituted subsection (2)(c), for “hybrid scheme” substitute “shared risk scheme”;
 - (f) in the substituted subsection (2)(d), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (g) in the substituted subsection (2)(e), for “hybrid scheme” substitute “shared risk scheme”.
- (7) In subsections (8) and (9), for “hybrid schemes” substitute “shared risk schemes”.
- (8) In subsection (10)(a) and (b), for “hybrid scheme” substitute “shared risk scheme”.
- (9) In subsection (11)—
- (a) in paragraph (a), for “a defined benefits scheme” substitute “an occupational defined benefits scheme”;
 - (b) in paragraph (b), for “hybrid scheme” substitute “shared risk scheme”.

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- (10) In the heading, for “hybrid schemes” substitute “shared risk schemes”.
- 48 In section 35 (compliance notices), in subsection (5), for “a defined benefits scheme or a hybrid scheme” substitute “an occupational defined benefits scheme or a shared risk scheme”.
- 49 In section 38 (calculation and payment of contributions), in subsection (2)(e), for “a money purchase scheme, a hybrid scheme or a personal pension scheme” substitute “a defined contributions scheme or a shared risk scheme”.
- 50 (1) Section 99 (interpretation) is amended as follows.
- (2) For the definition of “defined benefits scheme” substitute—
- ““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act 2015;”.
- (3) At the appropriate places insert—
- ““collective benefit” has the meaning given by section 8 of the Pension Schemes Act 2015;”
- ““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act 2015;”
- ““occupational”, in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme, means an occupational pension scheme of that description;”
- ““shared risk scheme” has the meaning given by section 3 of the Pension Schemes Act 2015;”.
- (4) Omit the following definitions—
- “defined benefits”;
- “hybrid scheme”;
- “money purchase scheme”.

Pensions Act 2014 (c. 19)

- 51 (1) Schedule 17 to the Pensions Act 2014 (automatic transfer of pension benefits etc) is amended as follows.
- (2) In paragraph 1(2)(a) and (5)(a), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.
- (3) In paragraph 15(1) omit the definition of “money purchase scheme”.

SCHEDULE 3

Section 47

PENSIONS GUIDANCE

- 1 The Financial Services and Markets Act 2000 is amended as follows.
- 2 After section 333 insert—

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

“PART 20A

PENSIONS GUIDANCE

333A Introduction and definitions

- (1) This Part is about the giving of pensions guidance.
- (2) “Pensions guidance” means guidance given for the purpose of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor.
- (3) In this Part—
 - “flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;
 - “pensions guidance” has the meaning given by subsection (2);
 - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;
 - “survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.

Giving of pensions guidance

333B Treasury’s role in relation to pensions guidance

- (1) The Treasury must take such steps as they consider appropriate to ensure that people have access to pensions guidance.
- (2) The Treasury may—
 - (a) seek to increase awareness of the availability of the guidance;
 - (b) undertake or commission research relating to the giving of the guidance.

333C Giving of pensions guidance

- (1) The bodies listed in subsection (2) are to give pensions guidance in accordance with arrangements made with the Treasury.
- (2) Those bodies are—
 - (a) the Pensions Advisory Service Limited;
 - (b) the National Association of Citizens Advice Bureaux;
 - (c) the Scottish Association of Citizens Advice Bureaux;
 - (d) the Northern Ireland Association of Citizens Advice Bureaux.
- (3) The bodies listed in subsection (2) may give pensions guidance by arranging for it to be given by another person (including another listed body).
- (4) The National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux and the Northern Ireland

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Association of Citizens Advice Bureaux may jointly carry out their functions of giving pensions guidance.

- (5) The Treasury may by regulations repeal one or more of paragraphs (a) to (d) of subsection (2).
- (6) Regulations under subsection (5) may make consequential amendments of this Act.

333D Financial assistance to bodies involved in giving pensions guidance

- (1) The Treasury may make grants or loans or give any other form of financial assistance to—
 - (a) the Pensions Advisory Service Limited;
 - (b) the Northern Ireland Association of Citizens Advice Bureaux.

(For the power to make grants to the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux see section 40A of the Consumers, Estate Agents and Redress Act 2007.)

- (2) Any grant, loan or other form of financial assistance under subsection (1)—
 - (a) is to be made or given for the purpose of enabling the body to carry out its functions under section 333C(1), and
 - (b) may be made or given subject to such other terms as the Treasury consider appropriate.

Designation of guidance providers

333E Designation of providers of pensions guidance

- (1) In this Part “designated guidance provider” means—
 - (a) the Pensions Advisory Service Limited,
 - (b) the National Association of Citizens Advice Bureaux,
 - (c) the Scottish Association of Citizens Advice Bureaux,
 - (d) the Northern Ireland Association of Citizens Advice Bureaux, or
 - (e) a person designated by the Treasury as someone who must, in giving pensions guidance, comply with standards set by the FCA under section 333H.
- (2) Before designating a person under subsection (1)(e), the Treasury must—
 - (a) consult the FCA,
 - (b) notify the person to be designated, and
 - (c) consider any representations made.
- (3) The Treasury may revoke a designation under subsection (1)(e).
- (4) The Treasury must give notice in writing of a designation under subsection (1)(e) or the revocation of a designation under subsection (3) to the person designated or (as the case may be) the person whose designation has been revoked.
- (5) The Treasury must send a copy of a notice given under subsection (4) to—
 - (a) all other designated guidance providers, and

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- (b) the FCA.
- (6) The Treasury must from time to time publish, in such manner as they consider appropriate, a list of the persons who are designated under subsection (1)(e).

Co-operation and information sharing

333F Co-operation and information sharing

- (1) The following must co-operate with one another in matters relating to the giving of pensions guidance—
 - (a) each designated guidance provider;
 - (b) the Treasury.
- (2) Designated guidance providers and the Treasury may share information for the purposes of subsection (1).

False claims when giving pensions guidance

333G Offence of falsely claiming to be giving pensions guidance under Treasury arrangements

- (1) It is an offence for a person who is not giving pensions guidance under arrangements made with the Treasury—
 - (a) to describe himself (in whatever terms) as a person who is doing so, or
 - (b) to behave, or otherwise hold himself out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that he is doing so.
- (2) For the purposes of subsection (1), pensions guidance given by a designated guidance provider is given under arrangements made with the Treasury.
- (3) In proceedings for an offence under this section it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (4) A person guilty of an offence under this section is liable on summary conviction—
 - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both;
 - (b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
 - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.
- (5) In relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (6) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the

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reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

Standards for giving of pensions guidance by designated guidance providers

333H Standards for giving of pensions guidance by designated guidance providers

- (1) The FCA must from time to time set standards for the giving of pensions guidance by designated guidance providers.
- (2) A failure by a designated guidance provider to comply with a standard set under this section is actionable at the suit of a private person who suffers loss as a result of the failure, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) In subsection (2) “private person” has the same meaning as in section 138D.
- (4) Standards set under this section may provide for subsection (2) not to apply to a failure to comply with a specified provision of the standards.
- (5) Standards set under this section—
 - (a) may make different provision for different cases and may, in particular, make different provision in respect of different classes of designated guidance providers or different types of pensions guidance;
 - (b) may include incidental, supplemental, consequential or transitional provision.
- (6) The procedural provisions of this Act in the first column of the table apply to the setting of standards under this section as if references in those provisions to the making of rules (however expressed) were references to the setting of standards and with the additional modifications in the second column.

<i>Procedural provisions of this Act</i>	<i>Additional modifications</i>
Sections 138G and 138H	Treat the references to a rule-making instrument as references to a standard-making instrument.
Section 138I	Treat— <ol style="list-style-type: none">(a) subsection (1)(a) as if it were omitted;(b) subsection (2)(d) as if it referred to an explanation of the FCA’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
Section 138L	Treat the reference in subsection (1) to consumers (as defined in section 425A) as a reference to recipients of pensions guidance from designated guidance providers.

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333I Monitoring of compliance with standards by designated guidance providers

- (1) The FCA must maintain arrangements for monitoring compliance by designated guidance providers with the standards set under section 333H.
- (2) Sections 165 and 167 apply for the purpose of enabling the FCA to monitor compliance but as if—
 - (a) references to an authorised person or a former authorised person (other than in section 165(11)(d)) were references to a designated guidance provider or a former designated guidance provider;
 - (b) section 165(7)(b) to (d) were omitted;
 - (c) the reference in section 167(5A)(b) to the FCA or the PRA were a reference to the FCA.
- (3) Section 175 applies as if a power that the FCA or an investigator has by virtue of subsection (2) were a power under Part 11.
- (4) Section 177 applies as if a requirement imposed by virtue of subsection (2) were a requirement imposed under Part 11.
- (5) References in a provision of Part 11 to section 165, 167, 175 or 177 include the relevant section as applied with modifications by this section.

333J Failure by designated guidance providers to comply with standards: FCA recommendations

- (1) If the FCA considers that a designated guidance provider has failed to comply with a standard set under section 333H the FCA may—
 - (a) recommend steps that the designated guidance provider might take to prevent the continuance or recurrence of the failure or to make redress to those affected by the failure, and
 - (b) having made such a recommendation, recommend that the Treasury give a direction under section 333M.
- (2) The FCA must publish a recommendation made under subsection (1)(b) unless the FCA considers that to do so—
 - (a) would be against the public interest, or
 - (b) would be inappropriate for some other reason.
- (3) If the condition in subsection (2)(a) or (b) is satisfied in relation to a recommendation but would not be satisfied if the FCA published part only of the recommendation, the FCA may publish that part.
- (4) If the power conferred by section 333E(3) to revoke a designation is exercised before the power in subsection (1) the reference in subsection (1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.

333K FCA policy on making recommendations under section 333J

- (1) The FCA must prepare and issue a statement of its policy with respect to the making of recommendations under section 333J.

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- (2) The FCA may at any time alter or replace a statement issued under this section.
- (3) If a statement issued under this section is altered or replaced, the FCA must issue the altered or replaced statement.
- (4) The FCA may issue a statement under this section only with the consent of the Treasury.
- (5) A statement issued under this section must be published by the FCA in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of the statement.

333L FCA policy on making recommendations under section 333J: procedure

- (1) Before issuing a statement under section 333K, the FCA must—
 - (a) consult the Treasury, and
 - (b) publish a draft of the proposed statement in the way appearing to the FCA to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the FCA within a specified time.
- (3) Before issuing the proposed statement, the FCA must have regard to any representations made to it within the specified time.
- (4) If the FCA issues the proposed statement it must publish an account, in general terms, of—
 - (a) the representations made to it within the specified time, and
 - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1)(b) in a way which is, in the opinion of the FCA, significant, the FCA must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The FCA may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1)(b).
- (7) This section also applies to a proposal to alter or replace a statement.

333M Failure by designated guidance providers to comply with standards: Treasury directions

- (1) If the Treasury consider that a designated guidance provider has failed to comply with a standard set under section 333H the Treasury may direct the provider to take such steps as the Treasury consider appropriate—
 - (a) to prevent the continuance or recurrence of the failure;
 - (b) to make redress to those affected by the failure.
- (2) The Treasury may give a direction under subsection (1) only if the FCA has made a recommendation under section 333J(1)(b) (although the terms of the direction need not be the same as that recommended by the FCA).

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- (3) The Treasury must—
 - (a) give notice in writing of a direction under subsection (1), and
 - (b) send a copy of the notice to the FCA.
- (4) The notice must inform the designated guidance provider that representations about why the direction should not be published may be made to the Treasury within a specified time.
- (5) Once the time specified under subsection (4) has elapsed, the Treasury must publish the direction unless—
 - (a) the Treasury consider that to do so would be against the public interest;
 - (b) having considered representations made by the designated guidance provider within the specified time, the Treasury consider that it would be inappropriate to do so for some other reason.
- (6) If the condition in subsection (5)(a) or (b) is satisfied in relation to a direction but would not be satisfied if the Treasury published part only of the direction, the Treasury may publish that part.
- (7) A direction under subsection (1) is enforceable, on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.

333N Directions to designated guidance providers under section 333M: relationship with power to revoke a designation

- (1) The power conferred by section 333M(1) is exercisable in addition to, or instead of, the power conferred by section 333E(3) to revoke a designation.
- (2) If the power in section 333E(3) is exercised before the power in section 333M(1) the reference in section 333M(1) to a designated guidance provider is to be read as a reference to a person who, at the time of the failure to comply, was a designated guidance provider.
- (3) Subsection (1) does not limit the grounds on which the power in section 333E(3) may be exercised.

FCA's duties and power to give guidance

333O FCA's duties

- (1) The FCA must discharge its general pensions guidance functions with a view to securing an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (2) In discharging its general pensions guidance functions the FCA must have regard to—
 - (a) its strategic and operational objectives in section 1B(2) and (3), and
 - (b) the regulatory principles in section 3B.
- (3) In this section the FCA's "general pensions guidance functions" means its functions of—

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- (a) setting standards under section 333H,
- (b) issuing statements under section 333K,
- (c) giving general guidance under section 333P (see section 333P(9)),
- (d) making rules under section 333Q, and
- (e) determining the general policy and principles by reference to which it performs particular functions under this Part.

333P Power of the FCA to give guidance

- (1) The FCA may give guidance consisting of such information and advice relating to its functions under sections 333H, 333I, 333J, 333K and 333Q as it considers appropriate.
- (2) Subsection (3) applies where the FCA proposes to give guidance to designated guidance providers generally, or to a class of designated guidance provider, in relation to standards set under section 333H or rules made under section 333Q.
- (3) Where this subsection applies, subsections (1)(b), (2)(e) and (3) of section 138I apply to the proposed guidance as they apply to proposed rules, unless the FCA considers that the delay in complying with those provisions would be prejudicial to the interests of recipients of pensions guidance from designated guidance providers.
- (4) The FCA may—
 - (a) publish its guidance,
 - (b) offer copies of its published guidance for sale at a reasonable price, and
 - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.
- (5) On giving any general guidance, the FCA must give written notice to the Treasury without delay.
- (6) If the FCA alters any of its general guidance, it must give written notice to the Treasury without delay.
- (7) The notice under subsection (6) must include details of the alteration.
- (8) If the FCA revokes any of its general guidance, it must give written notice to the Treasury without delay.
- (9) In this section “general guidance” means guidance given by the FCA under this section which is—
 - (a) given to persons generally, to designated guidance providers generally or to a class of designated guidance provider,
 - (b) intended to have continuing effect, and
 - (c) given in writing or other legible form.

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Funding of pensions guidance

333Q Funding of FCA’s pensions guidance costs

- (1) For the purpose of meeting the FCA’s pensions guidance costs the FCA must make rules requiring designated guidance providers, or any specified class of designated guidance provider, to pay to the FCA specified amounts or amounts calculated in a specified way.
- (2) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (3) The amounts to be paid under the rules may include a component—
 - (a) to cover the expenses of the FCA in collecting the payments;
 - (b) to enable the FCA to maintain an adequate reserve.
- (4) In this section the “FCA’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the FCA in connection with the carrying out of the functions conferred on it by this Part other than by section 333R.

333R Funding of Treasury’s pensions guidance costs

- (1) The Treasury must, from time to time, notify the FCA of the amount of the Treasury’s pensions guidance costs.
- (2) Having been so notified, the FCA must make rules requiring authorised persons, or any specified class of authorised person, to pay to the FCA specified amounts or amounts calculated in a specified way with a view to recovering the amount notified under subsection (1).
- (3) The amounts to be paid under the rules may include a component to cover the expenses of the FCA in collecting the payments (“collection costs”).
- (4) Before the FCA publishes a draft of the rules it must consult the Treasury.
- (5) The rules may be made only with the consent of the Treasury.
- (6) The Treasury may notify the FCA of matters that they will take into account when deciding whether or not to give consent for the purposes of subsection (5).
- (7) The FCA must have regard to any matters notified under subsection (6) before publishing a draft of rules to be made under this section.
- (8) The FCA must pay to the Treasury the amounts that it receives under rules made under this section apart from amounts in respect of its collection costs (which it may keep).
- (9) The Treasury must pay into the Consolidated Fund the amounts received by them under subsection (8).
- (10) In this section the “Treasury’s pensions guidance costs” means the expenses incurred, or expected to be incurred, by the Treasury—
 - (a) in giving pensions guidance or arranging for it to be given by designated guidance providers,

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- (b) in meeting the expenses of designated guidance providers incurred in connection with the giving of the guidance (whether by means of the power conferred by section 333D or otherwise),
 - (c) in providing services to designated guidance providers to support them in giving the guidance,
 - (d) in increasing awareness of the availability of the guidance,
 - (e) in undertaking or commissioning research relating to the giving of the guidance, and
 - (f) otherwise in connection with the carrying out of its functions under section 333B.
 - (11) For the purposes of subsection (10)(b) “expenses of designated guidance providers”—
 - (a) includes expenses incurred by virtue of sections 333H(2), 333J, 333M and 333Q, and
 - (b) where a recommendation or direction has been made by virtue of section 333J(4) or 333N(2), includes expenses of a former designated guidance provider.
 - (12) The Treasury may by regulations amend the definition of the “Treasury’s pensions guidance costs” in subsection (10).”
- 3 In section 1B (the FCA’s general duties), after subsection (7) insert—
- “(7A) The FCA’s general functions do not include its general pensions guidance functions (see section 333O(3)).”
- 4 In section 1M (the FCA’s general duty to consult), after “section 1B” insert “and its duties under section 333O”.
- 5 In section 1S (reviews by independent person into discharge of FCA functions), in subsection (3) (excluded functions), after “(4)” insert “or its duties under section 333O(1) and (2)(a)”.
- 6 After section 137FA insert—

“137FB FCA general rules: disclosure of information about the availability of pensions guidance

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits.
- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
 - (a) the Secretary of State, and
 - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes, and

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survivors of members of pension schemes, with subsisting rights in respect of any flexible benefits.

(4) In this section—

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“pensions guidance” means pensions guidance given by virtue of Part 20A;

“relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—

(a) a personal pension scheme within the meaning of an order under section 22, or

(b) a stakeholder pension scheme within the meaning of such an order;

“subsisting right” has the meaning given by section 76 of the Pension Schemes Act 2015;

“survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.”

7 (1) Section 138F (notification of rules) is amended as follows.

(2) The existing text becomes subsection (1).

(3) After that subsection insert—

“(2) Subsection (1)(b) does not apply to rules made under or by virtue of section 137FB, 333Q or 333R.”

8 In section 138I (rules: consultation by the FCA)—

(a) in subsection (6) (exemption from requirement to carry out a cost benefit analysis), after paragraph (a) insert—

“(aa) section 137FB;”;

(b) in that subsection, after paragraph (c) insert—

“(ca) section 333Q;

(cb) section 333R;”;

(c) in subsection (10) (rules to which requirement to consult the PRA does not apply), after “apply to” insert “—

(a) rules made by the FCA under section 137FB, 333Q or 333R, or

(b)”.

9 In section 139A (power of the FCA to give guidance), after subsection (1) insert—

“(1A) The FCA may not give guidance under this section relating to its functions under sections 333H, 333I, 333J, 333K and 333Q (see section 333P for provision about the giving of guidance relating to these functions).”

10 In section 140A (competition scrutiny: interpretation), in subsection (1), in paragraph (a) of the definition of “regulating provisions”—

(a) in sub-paragraph (ii), after “section 139B(5)” insert “or 333P(9)”;

(b) after sub-paragraph (iv) insert—

“(v) standards set under section 333H;

(vi) statement issued by the FCA under 333K;”.

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- 11 In section 168 (appointment of persons to carry out investigations in particular cases), in subsection (2)(a), after “section 24(1)” insert “or 333G”.
- 12 In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333R”.
- 13 In Schedule 1ZA (the FCA), in paragraph 8 (arrangements for discharging functions)—
- (a) in sub-paragraph (3) (legislative functions that must be exercised by the FCA acting through its governing body), in paragraph (c)(i), for “or 312J” substitute “, 312J or 333K”;
 - (b) in sub-paragraph (3), after paragraph (d) insert—
“(e) setting standards under section 333H.”
 - (c) in sub-paragraph (4), after “section 139B(5)” insert “or 333P(9)”.
- 14 In that Schedule, in paragraph 11 (annual report), in sub-paragraph (1) (matters to be covered in the report), after paragraph (ha) insert—
“(hb) how, in its opinion, it has complied with its duties in section 333O,”.
- 15 In that Schedule, in paragraph 21 (FCA financial penalty scheme), in sub-paragraph (2) (list of “regulated persons” who may benefit from the scheme)—
- (a) omit the “and” at the end of paragraph (c);
 - (b) at the end of paragraph (d) insert “, and
 - (e) designated guidance providers.”
- 16 In that Schedule, in paragraph 23 (fees)—
- (a) in sub-paragraph (1), in the opening words, after “of this Act” insert “other than sections 333Q and 333R”;
 - (b) in sub-paragraph (1)(a), after “functions” insert “, other than its excepted functions,”;
 - (c) in sub-paragraph (2)(a), after “(ca)” insert “but not its excepted functions”;
 - (d) after sub-paragraph (2) insert—
“(2ZA) The “excepted functions” of the FCA are—
 - (a) its functions under sections 333E to 333Q, and
 - (b) its functions under section 333R so far as relating to the collection of payments.”
- 17 In section 85 of the Financial Services Act 2012 (relevant functions in relation to scheme for investigating complaints against FCA and other regulators), in subsection (4) (legislative functions of the FCA that are excluded)—
- (a) in paragraph (c)(i), for “or 312J” substitute “, 312J or 333K”;
 - (b) in paragraph (e), after “139B(5)” insert “or 333P(9)”;
 - (c) after paragraph (e) insert—
“(f) setting standards under section 333H of FSMA 2000.”
- 18 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

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

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333H(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333H(6) of FSMA
Section 333K(1) of FSMA	Section 333L(1) of FSMA
Section 333P(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333P(3) of FSMA
Section 333Q(1) of FSMA	Sections 138I(1) and 333Q(2) of FSMA.
Section 333R(2) of FSMA	Sections 138I(1) and 333R(4) of FSMA

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers—
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by—
 - (i) a cost benefit analysis, or
 - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
 - (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by—
 - (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
 - (ii) an explanation of the Financial Conduct Authority’s reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
- (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333H(6) of that Act.
- (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.
- (5) In this paragraph—
- “consultation requirement” includes—
 - (a) a requirement to publish a draft;
 - (b) a requirement under section 333E(2)(b) or (c) of FSMA;

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

“FSMA” means the Financial Services and Markets Act 2000.

- 19 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.

SCHEDULE 4

Section 67

RIGHTS TO TRANSFER BENEFITS

PART 1

GREAT BRITAIN AMENDMENTS

Judicial Pensions Act 1981 (c. 20)

- 1 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes Act 1993”.

Judicial Pensions and Retirement Act 1993 (c. 8)

- 2 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes Act 1993”.

Pension Schemes Act 1993 (c. 48)

- 3 The Pension Schemes Act 1993 is amended as follows.
- 4 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 93 (and before the Chapter heading above it) insert—
“PART 4ZA
- TRANSFERS AND CONTRIBUTION REFUNDS*”;
- (b) for the Chapter heading above section 93 substitute—
“CHAPTER 1
- TRANSFER RIGHTS: GENERAL*”;
- (c) for the Chapter heading above section 101AA substitute—
“CHAPTER 2

*EARLY LEAVERS: CASH TRANSFER
SUMS AND CONTRIBUTION REFUNDS*”.

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

- 5 In section 24F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 6 Until the coming into force of its repeal by Schedule 13 to the Pensions Act 2014, section 56 of the Pension Schemes Act 1993 (payment of state scheme premiums on termination of certified status: supplementary) has effect as if, in subsection (4)(b), for “Chapter 5 of Part 4” there were substituted “Chapter 2 of Part 4ZA”.
- 7 In section 73 (form of short service benefit and its alternatives), in subsection (3), for “Chapter IV of this Part” substitute “Chapter 1 of Part 4ZA”.
- 8 For sections 93 to 94 substitute—

“93 Scope of Chapter 1

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member’s accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
 - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
 - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
 - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
 - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
 - (a) money purchase benefits;
 - (b) flexible benefits other than money purchase benefits;
 - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member’s accrued rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.

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

- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
 - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
 - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
 - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
 - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
 - (b) a reference to a member’s “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

93A Right to statement of entitlement: benefits other than money purchase

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member’s transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member’s “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
 - (a) within the prescribed period beginning with the date of the application, and
 - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.
- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

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

94 Right to cash equivalent

- (1) A member of a pension scheme who has received a statement of entitlement under section 93A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
 - (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.”
- 9 (1) Section 95 (ways of taking right to cash equivalent) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.
 - (1A) In the case of a right acquired under section 94(1), the application must be made—
 - (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
 - (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”
 - (3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.
 - (4) After subsection (6) insert—
 - “(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”
 - (5) Omit subsections (7) and (8).
- 10 (1) Section 96 (further provisions concerning exercise of option under section 95) is amended as follows.
- (2) For subsection (1) substitute—
 - “(1) A member who has acquired a right to take a cash equivalent under section 94(1) or (2) may exercise the option conferred by section 95(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—
 - (a) in relation to the whole of that cash equivalent, or
 - (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”
 - (3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.
 - (4) For subsection (4) substitute—
 - “(4) Where a member of a pension scheme—

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

- (a) is entitled to make an application under section 95(1) in relation to any category of benefits, and
 - (b) is also entitled to give a transfer notice under section 101F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 101G(2)),

the member may not, if the scheme so provides, make an application under section 95(1) in relation to that category of benefits without also giving a transfer notice under section 101F(1) in relation to that category of benefits.”
- 11 (1) Section 97 (calculation of cash equivalents) is amended as follows.
 - (2) After subsection (1) insert—

“(1A) Where a member applies under section 95 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”
 - (3) In subsection (2)—
 - (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents” substitute “that relate to money purchase benefits”;
 - (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.
 - (4) In subsection (3), omit paragraph (a).
 - (5) For subsection (3A) substitute—

“(3A) For the purposes of subsection (3), the “appropriate date”—

 - (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 93A, and
 - (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 95.

(3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 95, the regulations may provide for the application under section 95 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 12 For section 98 substitute—

“98 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 94(1) loses that right if no application to take the cash equivalent is made within the period required by section 95(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 95, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 99(2A).

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

- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”
- 13 (1) Section 99 (trustees’ duties after exercise of option) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95 they must do what is needed to carry out what the member requires—
- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”
- (3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.
- (4) Omit subsection (3A).
- (5) After subsection (4A) insert—
- “(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”
- 14 After section 100 insert—

“100A Prohibition on excluding future accruals etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

100B Meaning of “scheme rules”: occupational pension schemes

- (1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
- (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and

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

- (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4 of this Act.
- (2) For the purposes of subsection (1)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security Act 1989;
 - (ii) Chapter 2 or 3 of Part 4 of this Act or regulations made under either of those Chapters;
 - (iii) this Part of this Act or regulations made under this Part;
 - (iv) Part 4A of this Act or regulations made under that Part;
 - (v) section 110(1) of this Act;
 - (vi) Part 1 of the Pensions Act 1995 or subordinate legislation made or having effect as if made under that Part;
 - (vii) section 31 of the Welfare Reform and Pensions Act 1999;
 - (viii) any provision mentioned in section 306(2) of the Pensions Act 2004;
 - (ix) regulations made under Schedule 17 to the Pensions Act 2014;
 - (x) regulations made under Schedule 18 to the Pensions Act 2014;
 - (xi) regulations made under Part 2 of the Pension Schemes Act 2015;
 - (xii) section 55 of the Pension Schemes Act 2015;
 - (xiii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;
 - (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security Act 1989;
 - (ii) section 129(1) of this Act;
 - (iii) section 117(1) of the Pensions Act 1995;
 - (iv) section 31(4) of the Welfare Reform and Pensions Act 1999;
 - (v) section 306(1) of the Pensions Act 2004;
 - (vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
 - (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
 - (viii) regulations made under section 34 of the Pension Schemes Act 2015;
 - (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.

100C Meaning of “normal pension age” in this Chapter

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—

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

- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
 - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
 - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

100D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 93(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 93A;

“member” is to be read in accordance with section 93(11);

“normal pension age” has the meaning given by section 100C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

- (a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and
- (b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 100B;

“statement of entitlement” has the meaning given by section 93A;

“transferrable rights” is to be read in accordance with section 93(11).”

- 15 (1) Section 101F (power to give transfer notice) is amended as follows.
- (2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.
- (3) After subsection (3) insert—

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

“(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”

(4) For subsection (4) substitute—

“(4) The cash equivalent for the purposes of subsection (1) shall—

- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 101H, and
- (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”

(5) For subsection (6A) substitute—

“(6A) Regulations may—

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
- (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
- (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.

(6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—

- (a) money purchase benefits;
- (b) flexible benefits other than money purchase benefits;
- (c) benefits that are not flexible benefits.”

16 For section 101G (restrictions on power to give transfer notice) substitute—

“101G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member’s pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
 - (a) the member has been provided with a statement under section 101H in relation to benefits in that category, and
 - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
- (4) Where an eligible member of a qualifying scheme—

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

- (a) is entitled to give a transfer notice in relation to any category of benefits, and
 - (b) is also entitled to make an application to the trustees or managers of the scheme under section 95(1) in relation to benefits in the same category (or would be entitled to do so but for section 95(1A)(a)),
the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 95(1) in relation to that category of benefits.
- (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
- (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
- (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member’s pension credit rights to benefits in a category when—
- (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”
- 17 (1) Section 101H (salary related schemes: statements of entitlement) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member’s pension credit rights in relation to categories of benefits other than money purchase benefits.
- (1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”
- (3) In the heading for “Salary related schemes” substitute “Benefits other than money purchase”.
- 18 (1) Section 101J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and
 - (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”
- (3) After subsection (2) insert—

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

“(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”

(4) For subsection (7) substitute—

“(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 101H is determined.”

19 In section 101M (effect of transfer on trustees’ duties), for the words from “pension credit benefit” to the end of the section substitute “benefits to which the transfer notice relates”.

20 After section 101N insert—

“101NA Prohibition on excluding transfers of some rights without others etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”

21 (1) Section 101P (interpretation) is amended as follows.

(2) In subsection (1), at the appropriate places insert—

““category”, in relation to benefits, has the meaning given by section 101F(6B);”

““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.

(3) In that subsection, omit the definition of “pension credit benefit”.

(4) Omit subsection (2).

(5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “in relation to benefits other than money purchase benefits”.

22 Omit section 101Q.

23 In section 129 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA”.

24 In section 130 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA”.

25 In section 153 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA”.

26 In section 179 (linked qualifying service), in subsection (1)(a)—

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

- (a) in the opening words, for “Chapter 4 or 5 of Part 4” substitute “Chapter 1 or 2 of Part 4ZA”;
- (b) in sub-paragraph (iii)—
 - (i) for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”;
 - (ii) for “Chapter 5” substitute “Chapter 2”.

27 In section 181 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

Pensions Act 1995 (c. 26)

28 The Pensions Act 1995 is amended as follows.

29 In section 67A (the subsisting rights provisions: interpretation), in subsection (9)(a), for sub-paragraph (ii) substitute—

- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;
- (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.

30 In section 73 (preferential liabilities on winding up), in subsection (9), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

31 In section 73B (sections 73 and 73A: supplementary), in subsection (7), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”.

32 In section 124 (interpretation of Part 1), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers)” substitute “Chapter 2 of Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds)”.

Learning and Skills Act 2000 (c. 21)

33 In section 135 (pensions: interpretation), in subsection (4), for “section 93(1A)” substitute “section 100D”.

Pensions Act 2004 (c. 35)

34 The Pensions Act 2004 is amended as follows.

35 (1) Section 18 (pension liberation: interpretation) is amended as follows.

(2) In subsection (2)(a)—

- (a) after “accrued rights” insert “or an entitlement”;
- (b) in sub-paragraph (ii), for “the applicable rules” substitute “the scheme rules”.

(3) In subsection (3)—

- (a) for paragraph (a) substitute—
 - “(a) section 94 of the Pension Schemes Act 1993 (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;
- (b) in paragraph (b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

(4) In subsection (4)(d), for “the applicable rules” substitute “the scheme rules”.

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- (5) Omit subsection (5).
- 36 In section 23 (freezing orders), in subsection (4)(g), for “salary related schemes” substitute “benefits other than money purchase”.
- 37 In section 24 (consequences of freezing order), in subsection (7), for paragraphs (a) and (b) substitute—
- “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 38 In section 73 (inspection of premises), in subsection (2)(d)—
- (a) for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”;
 - (b) for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 39 In section 135 (restrictions on winding up, discharge of liabilities etc), in subsection (6)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 40 In section 138 (payment of scheme benefits), in subsection (3)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
- 41 (1) Section 318 (interpretation) is amended as follows.
- (2) In subsection (2), for “an occupational pension scheme” substitute “a pension scheme”.
 - (3) In subsection (3)(a), for sub-paragraph (ii) substitute—
 - “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;
 - (ia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 42 (1) Schedule 7 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.
 - (3) In paragraph 32(1)(b), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

Scottish Parliamentary Pensions Act 2009 (asp 1)

- 43 (1) Schedule 1 to the Scottish Parliamentary Pensions Act 2009 (Scottish Parliamentary Pension Scheme) is amended as follows.
- (2) In paragraph 75, in Condition 6, for “section 93A(2)” substitute “section 93A(4)”.
 - (3) In paragraph 91(2)(g), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”.

Pensions Act 2014 (c. 19)

- 44 The Pensions Act 2014 is amended as follows.
- 45 In section 34 (power to prohibit offer of incentives to transfer pension rights), in subsection (7), in the definition of “salary related occupational pension scheme”, for “section 93(1A)” substitute “section 100D”.

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

- 46 In Schedule 17 (automatic transfer of pension benefits etc), in paragraph 1—
- (a) in sub-paragraph (4)(d), for “applicable rules” substitute “scheme rules”;
 - (b) for sub-paragraph (6) substitute—
 - “(6) In sub-paragraph (4)—
 - (a) the reference to “scheme rules” is to be read in accordance with section 100B of the Pension Schemes Act 1993;
 - (b) “benefits” means—
 - (i) money purchase benefits other than money purchase benefits of a prescribed description, or
 - (ii) benefits of a prescribed description.”

PART 2

NORTHERN IRELAND AMENDMENTS

Judicial Pensions Act 1981 (c. 20)

- 47 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993”.

Judicial Pensions and Retirement Act 1993 (c. 8)

- 48 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993”.

Pension Schemes (Northern Ireland) Act 1993 (c. 49)

- 49 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- 50 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 89 (and before the Chapter heading above it) insert—
 “PART 4ZA
- TRANSFERS AND CONTRIBUTION REFUNDS”;*
- (b) for the Chapter heading above section 89 substitute—
 “CHAPTER 1
- TRANSFER RIGHTS: GENERAL”;*
- (c) for the Chapter heading above section 97AA substitute—
 “CHAPTER 2

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

*EARLY LEAVERS: CASH TRANSFER
SUMS AND CONTRIBUTION REFUNDS”.*

- 51 In section 20F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 52 In section 52 (payment of state scheme premiums on termination of certified status: supplementary), in subsection (4)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 53 In section 69 (form of short service benefit and its alternatives), in subsection (3), for “Chapter IV of this Part” substitute “Chapter 1 of Part 4ZA”.
- 54 For sections 89 to 90 substitute—

“89 Scope of Chapter 1

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member’s accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
 - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
 - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
 - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
 - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
 - (a) money purchase benefits;
 - (b) flexible benefits other than money purchase benefits;
 - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member’s accrued rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or

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- (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.
- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
 - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
 - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
 - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
 - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
 - (b) a reference to a member’s “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

89A Right to statement of entitlement: benefits other than money purchase

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member’s transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member’s “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
 - (a) within the prescribed period beginning with the date of the application, and
 - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.

- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

90 Right to cash equivalent

- (1) A member of a pension scheme who has received a statement of entitlement under section 89A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
- (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.”

55 (1) Section 91 (ways of taking right to cash equivalent) is amended as follows.

(2) For subsection (1) substitute—

“(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.

(1A) In the case of a right acquired under section 90(1), the application must be made—

- (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”

(3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.

(4) After subsection (6) insert—

“(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”

(5) Omit subsections (7) and (8).

56 (1) Section 92 (further provisions concerning exercise of option under section 91) is amended as follows.

(2) For subsection (1) substitute—

“(1) A member who has acquired a right to take a cash equivalent under section 90(1) or (2) may exercise the option conferred by section 91(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—

- (a) in relation to the whole of that cash equivalent, or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”

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

- (3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.
- (4) For subsection (4) substitute—
- “(4) Where a member of a pension scheme—
- (a) is entitled to make an application under section 91(1) in relation to any category of benefits, and
- (b) is also entitled to give a transfer notice under section 97F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 97G(2)),
- the member may not, if the scheme so provides, make an application under section 91(1) in relation to that category of benefits without also giving a transfer notice under section 97F(1) in relation to that category of benefits.”
- 57 (1) Section 93 (calculation of cash equivalents) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where a member applies under section 91 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”
- (3) In subsection (2)—
- (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents (as defined in section 90(1A))” substitute “that relate to money purchase benefits”;
- (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.
- (4) In subsection (3), omit paragraph (a).
- (5) For subsection (3A) substitute—
- “(3A) For the purposes of subsection (3), the “appropriate date”—
- (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 89A, and
- (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 91.
- (3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 91, the regulations may provide for the application under section 91 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 58 For section 94 substitute—

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

“94 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 90(1) loses that right if no application to take the cash equivalent is made within the period required by section 91(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 91, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 95(2A).
- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”

59 (1) Section 95 (trustees’ duties after exercise of option) is amended as follows.

(2) For subsection (2) substitute—

“(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 91 they must do what is needed to carry out what the member requires—

- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”

(3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.

(4) Omit subsection (3A).

(5) After subsection (4A) insert—

“(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”

60 After section 96 insert—

“96A Prohibition on excluding future accruals etc

Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

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

96B Meaning of “scheme rules”: occupational pension schemes

- (1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—
- (a) the rules of the scheme, except so far as overridden by a relevant legislative provision,
 - (b) the relevant legislative provisions, to the extent that they have effect in relation to the scheme and are not reflected in the rules of the scheme, and
 - (c) any provision which the rules of the scheme do not contain but which the scheme must contain if it is to conform with the requirements of Chapter 1 of Part 4.
- (2) For the purposes of subsection (1)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
 - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) Chapter 2 or 3 of Part 4 or regulations made under either of those Chapters;
 - (iii) this Part or regulations made under this Part;
 - (iv) Part 4A or regulations made under that Part;
 - (v) section 106(1);
 - (vi) Part 2 of the Pensions (Northern Ireland) Order 1995 or orders or regulations made or having effect as if made under that Part;
 - (vii) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
 - (viii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;
 - (ix) section 61 of the Pension Schemes Act 2015;
 - (x) regulations made under section 62 or 63 of the Pension Schemes Act 2015;
 - (b) a relevant legislative provision is to be taken to override any of the provisions of the scheme if, and only if, it does so by virtue of any of the following provisions—
 - (i) paragraph 3 of Schedule 5 to the Social Security (Northern Ireland) Order 1989;
 - (ii) section 125(1);
 - (iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;
 - (iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
 - (v) Article 279(1) of the Pensions (Northern Ireland) Order 2005;
 - (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.

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

96C Meaning of “normal pension age” in this Chapter

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—
- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
 - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
 - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

96D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 89(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 89A;

“member” is to be read in accordance with section 89(11);

“normal pension age” has the meaning given by section 96C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 96B;

“statement of entitlement” has the meaning given by section 89A;

“transferrable rights” is to be read in accordance with section 89(11).”

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

- 61 (1) Section 97F (power to give transfer notice) is amended as follows.
- (2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.
- (3) After subsection (3) insert—
- “(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”
- (4) For subsection (4) substitute—
- “(4) The cash equivalent for the purposes of subsection (1) shall—
- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 97H, and
- (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”
- (5) For subsection (6A) substitute—
- “(6A) Regulations may—
- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
- (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
- (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
- (a) money purchase benefits;
- (b) flexible benefits other than money purchase benefits;
- (c) benefits that are not flexible benefits.”
- 62 For section 97G (restrictions on power to give transfer notice) substitute—

“97G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member’s pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
- (a) the member has been provided with a statement under section 97H in relation to benefits in that category, and
- (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.

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

- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
 - (4) Where an eligible member of a qualifying scheme—
 - (a) is entitled to give a transfer notice in relation to any category of benefits, and
 - (b) is also entitled to make an application to the trustees or managers of the scheme under section 91(1) in relation to benefits in the same category (or would be entitled to do so but for section 91(1A)(a)),
the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 91(1) in relation to that category of benefits.
 - (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
 - (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
 - (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member’s pension credit rights to benefits in a category when—
 - (a) payment of a pension in respect of any of the benefits has begun,
 - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
 - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”
- 63 (1) Section 97H (salary related schemes: statements of entitlement) is amended as follows.
- (2) For subsection (1) substitute—

“(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member’s pension credit rights in relation to categories of benefits other than money purchase benefits.

(1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”
 - (3) In the heading for “Salary related schemes” substitute “Benefits other than money purchase”.
- 64 (1) Section 97J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—

“(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and

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

- (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”
- (3) After subsection (2) insert—
- “(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”
- (4) For subsection (7) substitute—
- “(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 97H is determined.”
- 65 In section 97M (effect of transfer on trustees’ duties), for the words from “pension credit benefit” to the end of the section substitute “benefits to which the transfer notice relates”.
- 66 After section 97N insert—
- “97NA Prohibition on excluding transfers of some rights without others etc**
- Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—
- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”
- 67 (1) Section 97P (interpretation) is amended as follows.
- (2) In subsection (1), at the appropriate places insert—
- ““category”, in relation to benefits, has the meaning given by section 97F(6B);”
- ““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.
- (3) In that subsection, omit the definition of “pension credit benefit”.
- (4) Omit subsection (2).
- (5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “in relation to benefits other than money purchase benefits”.
- 68 Omit section 97Q.
- 69 In section 125 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA”.
- 70 In section 126 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA”.

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

- 71 In section 149 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA”.
- 72 In section 174 (linked qualifying service), in subsection (1)(a)—
- (a) in the opening words, for “Chapter 4 or 5 of Part IV” substitute “Chapter 1 or 2 of Part 4ZA”;
 - (b) in sub-paragraph (iii)—
 - (i) for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (ii) for “Chapter 5” substitute “Chapter 2”.
- 73 In section 176 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.

Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

- 74 The Pensions (Northern Ireland) Order 1995 is amended as follows.
- 75 In Article 67A (the subsisting rights provisions: interpretation), in paragraph (9)(a), for head (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
 - (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 76 In Article 73 (preferential liabilities on winding up), in paragraph (9), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 77 In Article 73B (Article 73 and 73A: supplementary), in paragraph (7), for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”.
- 78 In Article 121 (interpretation of Part 2), in paragraph (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV of the Pension Schemes Act (early leavers)” substitute “Chapter 2 of Part 4ZA of the Pension Schemes Act (transfers and contribution refunds)”.

Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

- 79 The Pensions (Northern Ireland) Order 2005 is amended as follows.
- 80 (1) Article 2 (interpretation) is amended as follows.
- (2) In paragraph (3), for “an occupational pension scheme” substitute “a pension scheme”.
 - (3) In paragraph (4)(a), for head (ii) substitute—
 - “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
 - (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 81 (1) Article 14 (pension liberation: interpretation) is amended as follows.

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

- (2) In paragraph (2)(a)—
 - (a) after “accrued rights” insert “or an entitlement”;
 - (b) in head (ii), for “the applicable rules” substitute “the scheme rules”.
 - (3) In paragraph (3)—
 - (a) for sub-paragraph (a) substitute—
 - “(a) section 90 of the Pension Schemes Act (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;
 - (b) in sub-paragraph (b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
 - (4) In paragraph (4)(d), for “the applicable rules” substitute “the scheme rules”.
 - (5) Omit paragraph (5).
- 82 In Article 19 (freezing orders), in paragraph (4)(g), for “salary related schemes” substitute “benefits other than money purchase”.
- 83 In Article 20 (consequences of freezing order), in paragraph (7), for sub-paragraphs (a) and (b) substitute—
 - “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 84 In Article 68 (inspection of premises), in paragraph (2)(d)—
 - (a) for “Chapter 4 of Part IV” substitute “Chapter 1 of Part 4ZA”;
 - (b) for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 85 In Article 119 (restrictions on winding up, discharge of liabilities etc.), in paragraph (6)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 86 In Article 122 (payment of scheme benefits), in paragraph (3)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
- 87 (1) Schedule 6 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.
 - (3) In paragraph 32(1)(b), for “Chapter 5 of Part IV” substitute “Chapter 2 of Part 4ZA”.

SCHEDULE 5

Section 78

PENSION SCHEME FOR FEE-PAID JUDGES: CONSEQUENTIAL AMENDMENTS

Pensions (Increase) Act 1971 (c. 56)

- 1 The Pensions (Increase) Act 1971 is amended as follows.
- 2 In section 19(2)(a) (extent to Northern Ireland)—
 - (a) after “or section” insert “18A or”;

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

- (b) after “section 10 of that Act” insert “or provision made under section 18A of that Act that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act”.
- 3 In Schedule 2 (official pensions), after paragraph 4A insert—
- “4AA A pension payable under a scheme made under section 18A of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act.”

Judicial Pensions and Retirement Act 1993 (c. 8)

- 4 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 5 In section 22 (application of the Pensions (Increase) Act 1971 to Northern Ireland), in subsection (2)—
- (a) after “shall include” insert “—
(a)”;
 - (b) at the end insert “; and
(b) pensions payable under a scheme made under section 18A above, other than pensions payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 6 (1) Section 28 (funding arrangements) is amended as follows.
- (2) In subsection (2) (benefits payable out of money provided by Parliament), after paragraph (a) (but before the “and” at the end) insert—
“(aa) any pension or other benefits payable under a scheme made under section 18A above,”.
 - (3) In subsection (7), for “section 10 above” substitute “—
(a) section 10 above, or
(b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 7 In section 28A (contributions in respect of Northern Ireland judges), at the end insert “or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A)”.
- 8 (1) Section 29 (regulations and orders) is amended as follows.
- (2) In subsection (2), after “other than” insert “regulations under section 18A above or”.
 - (3) After subsection (2) insert—
“(2A) A statutory instrument which contains regulations under section 18A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”