

*Status: Point in time view as at 09/03/2018. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act (Northern Ireland) 2016. (See end of Document for details)*



# Pension Schemes Act (Northern Ireland) 2016

## 2016 CHAPTER 1

An Act to make provision about pension schemes, including provision designed to encourage arrangements that offer people different levels of certainty in retirement or that involve different ways of sharing or pooling risk. [15th January 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

VALID FROM 01/08/2022

### PART 1

#### CATEGORIES OF PENSION SCHEME

PROSPECTIVE

#### Introduction

<sup>F1</sup> 1 .....

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**Textual Amendments**

**F1** Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3) (c), Sch. 11 para. 16(a); S.R. 2022/197, art. 3(f)

PROSPECTIVE

**Defined benefits scheme**

**2** .....

PROSPECTIVE

**Shared risk scheme (sometimes known as “defined ambition”)**

**3** .....

PROSPECTIVE

**Defined contributions scheme**

**4** .....

PROSPECTIVE

**Meaning of “pensions promise” etc**

**5** .....

PROSPECTIVE

**Treatment of a scheme as two or more separate schemes**

**6** .....

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PROSPECTIVE

### Interpretation of Part 1

<sup>F1</sup>7 .....

#### Textual Amendments

**F1** Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3) (c), Sch. 11 para. 16(a); S.R. 2022/197, art. 3(f)

VALID FROM 01/08/2022

## PART 2

### COLLECTIVE BENEFITS

*Introduction and nature of collective benefits*

PROSPECTIVE

### Introduction and definition

<sup>F2</sup>8 .....

#### Textual Amendments

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3) (c), Sch. 11 para. 16(b); S.R. 2022/197, art. 3(f)

PROSPECTIVE

### Duty to set targets for collective benefits

9 .....

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PROSPECTIVE

**Policy about factors used to determine each benefit**

**10** .....

PROSPECTIVE

**Power to impose requirements about factors used to determine each benefit**

**11** .....

PROSPECTIVE

*Contributions*

**Payment schedule**

**12** .....

**Overdue contributions and other payments**

**13** .....

PROSPECTIVE

*Investment*

**Statement of investment strategy**

**14** .....

**Investment performance reports**

**15** .....

**Investment powers**

**16** .....

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**Restriction on borrowing by trustees or managers**

17 .....

**Investment powers: duty of care**

18 .....

PROSPECTIVE

*Valuation*

**Valuation reports**

19 .....

**Valuation process**

20 .....

PROSPECTIVE

*Dealing with deficits and surpluses*

**Policy for dealing with a deficit or surplus**

21 .....

**Power to impose requirements about dealing with a deficit or surplus**

22 .....

**Deficits attributable to an offence or the imposition of a levy**

23 .....

**Payment of amounts out of collective benefit funds**

24 .....

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PROSPECTIVE

*Cash equivalents*

**Policy for calculating cash equivalent of benefits**

25 .....

PROSPECTIVE

*Winding up*

**Winding up**

26 .....

**Requirement to wind up scheme in specified circumstances**

27 .....

**Policies about winding up**

28 .....

PROSPECTIVE

*Identifying assets*

**Working out which assets are available for the provision of which benefits**

29 .....

PROSPECTIVE

*Regulations under Part 2: general*

**Requirement to obtain actuarial advice**

30 .....

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**Sub-delegation**

**31** .....

**Publication of documents etc**

**32** .....

**Enforcement**

**33** .....

**Overriding requirements**

**34** .....

*Interpretation of Part 2*

PROSPECTIVE

**Interpretation of Part 2**

<sup>F2</sup>**35** .....

**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3) (c), **Sch. 11 para. 16(b)**; S.R. 2022/197, art. 3(f)

**PART 3**

**GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES**

*Administration and governance*

PROSPECTIVE

**Pensions promise obtained from third party**

<sup>F3</sup>**36** .....

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#### Textual Amendments

- F3** S. 36 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(c); S.R. 2022/197, art. 3(f)

PROSPECTIVE

#### Duty to act in the best interests of members

<sup>F4</sup>37 .....

#### Textual Amendments

- F4** S. 37 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(c); S.R. 2022/197, art. 3(f)

#### Disclosure of information about schemes

**38.**—(1) Section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc) is amended as follows.

(2) In subsection (1)—

- (a) in the opening words, for “the persons mentioned in subsection (2)” substitute “ persons of prescribed descriptions ”;
- (b) in paragraph (ca), omit “to the member” and “by him”.

(3) Omit subsection (2).

(4) Before subsection (3) insert—

“(2A) In complying with requirements specified in the regulations, a person must have regard to any guidance prepared from time to time by the Department.”.

(5) For subsection (4) substitute—

“(4) Where the regulations specify requirements to be complied with in the case of an occupational pension scheme with respect to keeping recognised trade unions informed, the regulations must make provision for referring to an industrial tribunal any question whether an organisation is a recognised trade union.

(4A) For the purposes of subsection (4) a trade union is a recognised trade union in relation to an occupational pension scheme if it is an independent trade union recognised to any extent for the purposes of collective bargaining in relation to members and to prospective members of the scheme.”.



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(6) In subsection (5), for “some or all of the persons mentioned in subsection (2)” substitute “ persons of a prescribed description ”.

(7) Omit paragraph 13 of Schedule 10 to the 2005 Order, which is no longer needed given subsection (3).

**Commencement Information**

- I1** S. 38(1) in operation at 9.3.2018 for specified purposes by S.R. 2018/43, **art. 2**
- I2** S. 38(4) in operation at 9.3.2018 by S.R. 2018/43, **art. 2**

VALID FROM 01/08/2022

*Early leavers*

PROSPECTIVE

**Extension of preservation of benefit under occupational pension schemes**

**F539** .....

**Textual Amendments**

- F5** Ss. 39-45 omitted (1.8.2022 for specified purposes) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), **Sch. 11 para. 16(c)**; S.R. 2022/197, art. 3(f)

PROSPECTIVE

**Revaluation of accrued benefits**

**40** .....

PROSPECTIVE

*Indexation*

**Collective benefits exempt from indexation**

**41** .....

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### Regulatory own fund schemes exempt from indexation

42 .....

### Power to create other exemptions from indexation

43 .....

PROSPECTIVE

### *Independent trustees*

### Removal of requirement to maintain register of independent trustees

44 .....

VALID FROM 01/08/2022

### *Rules about modification of schemes*

PROSPECTIVE

### Rules about modification of schemes

<sup>F5</sup>45 .....

#### Textual Amendments

**F5** Ss. 39-45 omitted (1.8.2022 for specified purposes) by virtue of [Pension Schemes Act 2021 \(c. 1\)](#), s. 131(2)(d)(3)(c), [Sch. 11 para. 16\(c\)](#); S.R. 2022/197, art. 3(f)

### *Pension sharing*

#### **Pension sharing and normal benefit age**

**46.—**(1) The Pension Schemes Act is amended as follows.

(2) In section 97B (interpretation) for the definition of “normal benefit age” substitute—

““normal benefit age”, in relation to a pension credit benefit for a member of a scheme, is the earliest age at which the member is entitled to receive the benefit

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without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);

“normal pension age”, in relation to a benefit for a member of a scheme, means the earliest age at which the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise);”.

(3) In section 97C (basic principle as to pension credit benefit), for subsection (1) substitute—

“(1) The normal benefit age in relation to a pension credit benefit for a member of a scheme—

- (a) must not be lower than 60, and
- (b) must not be higher than the permitted maximum.

(1A) The “permitted maximum” is 65 or, if higher, the highest normal pension age for any benefit that is payable under the scheme to or in respect of any of the members by virtue of rights which are not attributable (directly or indirectly) to a pension credit.”.

#### *Other amendments*

#### **Other amendments to do with Parts 1 and 2**

**47** Schedule 2—

- (a) contains amendments to do with Parts 1 and 2, and
- (b) replaces references to “money purchase scheme” so as to limit the number of different ways of categorising pension schemes.

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#### **Commencement Information**

**I3** S. 47 partly in operation; s. 47 in operation for certain purposes at 16.1.2016 see s. 52(1)(c)

## **PART 4**

### GENERAL

#### **Power to make consequential amendments**

**48.—(1)** The Department may by regulations make provision that is consequential on any provision made by this Act.

(2) Regulations under this section may amend, repeal, revoke or otherwise modify any statutory provision (whenever passed or made).

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## **Regulations**

**49.—**(1) A power to make regulations under this Act is exercisable by the Department.

(2) Subject to the following provisions of this section, any regulations made under this Act are subject to negative resolution.

(3) The first regulations under section 8(3)(b), 9, 10, 11 or 21, or regulations under section 48 that amend, repeal or otherwise modify any relevant statutory provision (whether alone or with other provisions),—

- (a) must be laid before the Assembly after being made; and
- (b) take effect on such date as may be specified in the regulations, but (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations are approved by a resolution of the Assembly.

(4) In this section “relevant statutory provision” means a statutory provision contained in—

- (a) an Act of the Parliament of Northern Ireland;
- (b) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 or the Schedule to the Northern Ireland Act 2000;
- (c) an Act of the Assembly; or
- (d) an Act of the Parliament of the United Kingdom.

(5) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

## **Crown application**

**50.—**(1) In this section “the relevant provisions” means—

- (a) Part 2,
- (b) section 36, and
- (c) section 37.

(2) The relevant provisions apply to a pension scheme managed by or on behalf of the Crown as they apply to other pension schemes.

(3) Accordingly, references in those provisions to a person in the person's capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.

(4) References in the relevant provisions to a person in the person's capacity as an employer include the Crown, or a person acting on behalf of the Crown, in that capacity.

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(5) Nothing in the relevant provisions applies to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

### **Interpretation**

**51** In this Act—

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005;

“the Department” means the Department for Social Development;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

### **Commencement**

**52.**—(1) The following provisions come into operation on the day after this Act receives Royal Assent—

(a) section 46;

(b) this Part;

(c) paragraphs 22, 28, 31 and 33 of Schedule 2 (and section 47 so far as relating to those provisions).

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

(3) The Department may by order make incidental, supplementary, consequential, transitional, transitory or saving provision in connection with the coming into operation of any provision of this Act.

### **Short title**

**53** This Act may be cited as the Pension Schemes Act (Northern Ireland) 2016.

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## SCHEDULES

PROSPECTIVE

### F<sup>6</sup>SCHEDULE 1

Section 40.

#### EARLY LEAVERS: REVALUATION OF ACCRUED BENEFITS

##### Textual Amendments

F6 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(d); S.R. 2022/197, art. 3(f)

- 1 . . . . .
- 2 . . . . .
- 3 . . . . .
- 4 . . . . .
- 5 . . . . .
- 6 . . . . .
- 7 . . . . .
- 8 . . . . .
- 9 . . . . .
- 10 . . . . .
- 11 . . . . .

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SCHEDULE 2

Section 47.

OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

VALID FROM 01/08/2022

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

PROSPECTIVE

**F7** 1 .....

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**Textual Amendments**

**F7** Sch. 2 paras. 1-19 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(e)(i); S.R. 2022/197, art. 3(f)

PROSPECTIVE

**2** In section 79 (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) .....”

(3) .....

PROSPECTIVE

**4** In section 120 (duty of the Department for Employment and Learning to pay unpaid contributions to schemes), for subsection (3A) substitute—

“(3A) .....”

PROSPECTIVE

**5.—**(1) .....

(2) .....

(3) .....

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PROSPECTIVE

*Pensions (Northern Ireland) Order 1995 (NI 22)*

**6** The 1995 Order is amended as follows.

**7** In Article 37 (payment of surplus to employer) in paragraph (1A)—

(a) .....

(b) .....

**8** In Article 38 (power to defer winding up), in paragraph (3), for sub-paragraph (a) (but not the “or” at the end) substitute—

“(a) .....”.

**9** In Article 51 (annual increase in rate of pension), in paragraph (1)(a)(iii), for “is not a money purchase scheme” substitute “ is not a defined contributions scheme ”.

**10** In Article 51A (restrictions on increase where annuity tied to investments), in paragraph (1), for “money purchase scheme” substitute “ defined contributions scheme ”.

**11** In Article 73 (preferential liabilities on winding up), for paragraph (2) substitute—

“(2) .....

(2A) .....”.

**12** In Article 75 (employer debt where deficiency in assets on winding up etc), for paragraph (1) substitute—

“(1) .....

(1A) .....

(1B) .....”.

**13.—(1)** .....

(2) .....

(3) .....

(4) .....

**14** For the italic cross-heading above Article 85 substitute “ Schemes providing money purchase benefits ”.

**15** In the heading to Article 86 (schedules of payments to money purchase schemes: supplementary), for “to money purchase schemes” substitute “ in respect of money purchase benefits under certain schemes ”.



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16.—(1) .....

(2) .....

(3) .....

17 In Article 121 (interpretation), in paragraph (1), at the appropriate places insert—

““collective benefit” has the meaning given by section 8 of the Pension Schemes Act (Northern Ireland) 2016;”,

““defined benefits scheme” has the meaning given by section 2 of the Pension Schemes Act (Northern Ireland) 2016;”,

““defined contributions scheme” has the meaning given by section 4 of the Pension Schemes Act (Northern Ireland) 2016;”,

““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 (Northern Ireland) 2016;”.

18.—(1) .....

(2) .....

(3) .....

VALID FROM 01/08/2022

*Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11)*

PROSPECTIVE

<sup>F7</sup>19 .....

**Textual Amendments**

**F7** Sch. 2 paras. 1-19 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(e)(i); S.R. 2022/197, art. 3(f)

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*Pensions (Northern Ireland) Order 2005 (NI 1)*

PROSPECTIVE

**20** The 2005 Order is amended as follows.

PROSPECTIVE

- 21.**—(1) .....
- (2) .....
- (3) .....

**22** In Article 9 (improvement notices), in paragraph (7)—

- (a) omit the “, or” at the end of sub-paragraph (e);
- (b) after sub-paragraph (f) insert “, or
- (g) the Pension Schemes Act (Northern Ireland) 2016.”.

PROSPECTIVE

<sup>F8</sup>**23** .....

**Textual Amendments**

**F8** Sch. 2 paras. 23-27 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2) (d)(3)(c), **Sch. 11 para. 16(e)(iii)**; S.R. 2022/197, art. 3(f)

PROSPECTIVE

- 24.**—(1) .....
- (2) .....
- (3) .....
- (4) .....
- (5) .....

PROSPECTIVE

**25** In Article 34 (contribution notices where avoidance of employer debt), for paragraph (1) substitute—

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“(1) .....  
(1A) .....  
(1B) .....”.

PROSPECTIVE

**26.**—(1) .....  
(2) .....  
(3) .....

PROSPECTIVE

<sup>F8</sup>**27** .....

**Textual Amendments**

**F8** Sch. 2 paras. 23-27 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2) (d)(3)(c), **Sch. 11 para. 16(e)(iii)**; S.R. 2022/197, art. 3(f)

**28.**—(1) Article 85 (codes of practice) is amended as follows.  
(2) In paragraph (2)(i), for “money purchase schemes” substitute “ certain schemes ”.  
(3) In paragraph (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 (Northern Ireland) 2015, or  
    (f) the Pension Schemes Act (Northern Ireland) 2016.”.

PROSPECTIVE

**29** In Article 110 (schemes eligible for pension protection), for paragraph (1) substitute—  
    “(1) .....  
    (1A) .....  
    (1B) .....”.

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## PROSPECTIVE

**30** For Article 200 (application of scheme funding rules in Part 4), substitute—

*“Pension schemes to which this Part applies*

- 200.**—(1) .....
- (2) .....
- (3) .....
- (4) .....”.

**31** In Article 231 (representative of non-European scheme to be treated as trustee), in paragraph (3)—

- (a) omit the “or” at the end of sub-paragraph (c);
- (b) after sub-paragraph (d) insert “, or
- (e) the Pension Schemes Act (Northern Ireland) 2016.”.

## PROSPECTIVE

**32** In Article 235 (pension protection on transfer of employment: form of protection), in paragraph (2)—

- (a) .....
- (b) .....

**33** In Article 267 (duty of trustees or managers to act consistently with law of host EEA state), in paragraph (4)—

- (a) omit the “or” at the end of sub-paragraph (c);
- (b) after sub-paragraph (d) insert “, or
- (e) the Pension Schemes Act (Northern Ireland) 2016.”.

## PROSPECTIVE

<sup>F9</sup>**34** .....

#### Textual Amendments

- F9** Sch. 2 paras. 34-47 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2) (d)(3)(c), Sch. 11 para. 16(e)(vi); S.R. 2022/197, art. 3(f)

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PROSPECTIVE

*Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)*

**35** The Pensions (No2) Act (Northern Ireland) 2008 is amended as follows.

**36.—(1)** .....

(2) .....

(3) .....

**37** In section 21 (quality requirement: UK defined benefits schemes) for “A defined benefits scheme” substitute “ An occupational defined benefits scheme ”.

**38** 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 ”.

**39.—(1)** .....

(2) .....

(3) .....

(4) .....

**40.—(1)** .....

(2) .....

(3) .....

(4) .....

(5) .....

(6) .....

**41.—(1)** .....

(2) .....

(3) .....

(4) .....

**42** For the heading to section 29 substitute “ Transitional periods for certain schemes ”.

**43.—(1)** .....

(2) .....

(3) .....

(4) .....

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- (5) .....
- (6) .....
- (7) .....
- (8) .....
- (9) .....
- (10) .....

**44** 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”.

**45** 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”.

- 46.—**(1) .....
- (2) .....
- (3) .....
- (4) .....

VALID FROM 01/08/2022

*Pensions Act (Northern Ireland) 2015 (c. 5)*

PROSPECTIVE

<sup>F9</sup>**47** .....

**Textual Amendments**

**F9** Sch. 2 paras. 34-47 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), s. 131(2)(d)(3)(c), Sch. 11 para. 16(e)(vi); S.R. 2022/197, art. 3(f)

**Status:**

Point in time view as at 09/03/2018. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Pension Schemes Act (Northern Ireland) 2016.