

These notes refer to the Pensions (No. 2) Act (Northern Ireland) 2008 (c.13) which received Royal Assent on 15 December 2008

Pensions (No. 2) Act (Northern Ireland) 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 6 – General

Section 112: Orders and regulations

Most statutory instruments containing an order or regulations under this Act will be subject to the negative resolution procedure.

The exceptions are:

- the power to prescribe features of an average salary scheme that may prevent it from being treated as a qualifying scheme (*section 16(3)(c)*);
- the power to establish further conditions for automatic enrolment schemes (*section 17(1)(c)*);
- the power to extend the definition of worker (*section 77*);
- powers relating to the disclosure of information relating to State Pension Credit recipients (*section 111*);
- the powers relating to the role of the employer with regards to the employer duties when first exercised:
 - arrangements to auto-enrol (*section 3(2) or (6)*);
 - arrangements to auto re-enrol (*section 5(2) or (7)*);
 - arrangements to allow opt-in (*section 7(4)(b) or (6)*);
 - arrangements for workers without qualifying earnings (*section 9(3)(b)*);
- an order under *section 114* amending or repealing any relevant statutory provision;
- an order under *paragraph 9(7) of Schedule 4* regarding commutation of shared pension compensation;
- an order under *section 118* enabling the Department to appoint commencement dates.

The last of these is not subject to Assembly control. The others are subject to the confirmatory procedure – that is, they must be confirmed by resolution of the Assembly within a period of six months from the date on which they come into operation.

Section 113: Orders and regulations: supplementary

Section 113 permits an order or regulations under powers conferred by the Act to include consequential or transitional provision, etc. It also makes other provision about how those powers may be exercised.

Section 114: Further provision etc.

Section 114 makes further provision in connection with giving the Act full effect and, in particular, allows the Department to amend primary or secondary legislation in connection with the abolition of protected rights for contracting out under *section 85*.

Section 115: Pre-consolidation amendments

This section, in association with the repeal of Article 294 of the Pensions (Northern Ireland) Order 2005 contained in Part 5 of *Schedule 10*, re-enacts a pre-consolidation order making power so that legislation made subsequent to the passing of the Pensions (Northern Ireland) Order 2005 can also be included within the scope of such an order.

Subsection (1) provides a power to modify statutory provisions listed in *subsection (2)* where in the opinion of the Department such modifications facilitate, or are desirable in connection with, the consolidation of any of those statutory provisions.

Section 116: Repeals

This section introduces *Schedule 10* which lists the statutory provisions repealed by this Act.

Section 117: Interpretation

This section defines words and phrases used in the Act.

Section 118: Commencement

The provisions of this Act will be brought into operation by an order or orders to be made by the Department with the following exceptions:

In Part 1, *sections 65 to 68* (provisions relating to the Personal Accounts Delivery Authority), come into operation on Royal Assent.

Section 84 (extension of assessed income period for those aged 75 or over) comes into operation on 6 April 2009.

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Section 102 (and *Schedule 7* and Part 6 of *Schedule 10* and *section 116* so far as relevant) come into operation on Royal Assent.

Section 108 (delegation of powers by the Pensions Regulator) comes into operation on Royal Assent.

Section 109 (exclusion of transfers out in certain cases) comes into operation on Royal Assent.

Section 111 (disclosure of information relating to state pension credit recipients) comes into operation on Royal Assent.

Part 6 (except Parts 1 to 5 of *Schedule 10* and *section 116*, so far as relating thereto) comes into operation on Royal Assent.

Paragraph 6(3) of *Schedule 7* and Part 6 of *Schedule 10* so far as relating to the repeals mentioned in that sub-paragraph come into operation on the day appointed by an order under section 21(1) of the Pensions Act (Northern Ireland) 2008 for the coming into operation of paragraph 44(2) of Schedule 4 to that Act.

Section 119: Short title

This section provides that the Act may be cited as the Pensions (No. 2) Act (Northern Ireland) 2008.