



2015 CHAPTER 5

PART 6

PRIVATE PENSIONS

Transfer of pension benefits

Automatic transfer of pension benefits etc.

32. Schedule 17—

- (a) requires the Department to make regulations under which, in certain circumstances, the cash equivalent of a person's accrued rights to benefits under a pension scheme must be transferred to another scheme of which the person is an active member;
- (b) permits the Department to make regulations requiring accounts relating to a person's accrued rights to benefits under a pension scheme to be merged in certain circumstances.

Power to prohibit offer of incentives to transfer pension rights

33.—(1) The Department may by regulations make provision prohibiting a person from offering an incentive to another person with the intention of inducing a member of a salary related occupational pension scheme to—

- (a) exercise a right to require a pensions transfer, or
- (b) agree to a pensions transfer.

(2) “Pensions transfer” means a transfer of sums or assets representing any of the member's pension rights to be used for one or more of the following—

- (a) acquiring rights (whether to present or future benefit) for the member under the rules of another occupational pension scheme or a personal pension scheme;
- (b) purchasing one or more annuities for the member;
- (c) subscribing to other pension arrangements for the member.

(3) “Pension right” means, at any time—

- (a) any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules, or
- (b) any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules;

and for this purpose “right” includes a pension credit right.

(4) Regulations under this section may in particular—

- (a) provide for the prohibition to apply whether the incentive offered is to be provided by the person making the offer or another person;
- (b) create exceptions to the prohibition;
- (c) provide for Article 10 of the 1995 Order (civil penalties) to apply to a person who contravenes the regulations.

(5) Regulations made by virtue of subsection (4)(c) may in particular provide that for the purposes of Article 10 of the 1995 Order the offer of an incentive is to be regarded as a separate act in relation to each member of a scheme to whom the incentive relates.

(6) Nothing in any regulations made under this section affects the validity of a pensions transfer (or of the exercise of a right to require a transfer or of an agreement to a transfer).

(7) In this section—

“incentive” means a financial or other advantage;

“member” has the meaning given by Article 121(1) of the 1995 Order;

“occupational pension scheme” and “personal pension scheme” have the meanings given by section 1 of the Pension Schemes Act;

“pension credit right” has the meaning given by Article 121(1) of the 1995 Order;

“salary related occupational pension scheme” has the meaning given by section 96D of the Pension Schemes Act;

“scheme rules” has the meaning given by Article 67A(8) of the 1995 Order.

(8) This section binds the Crown.

Expiry of power in section 33

34. If no regulations have been made under section 33 by the end of the period of 7 years beginning with the day on which it comes into operation, that section is repealed at the end of that period.

Short service benefit for scheme member with money purchase benefits

35.—(1) Section 67 of the Pension Schemes Act (basic principle as to short service benefit) is amended as follows.

(2) In subsection (1)(a), after “service,” insert—

“(aa) he has at least 30 days’ qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be money purchase benefit,”.

(3) After subsection (9) insert—

“(10) Subsections (7) to (9) apply, with the substitution for references to 2 years of references to 30 days, for determining whether a person has at least 30 days’ qualifying service for the purposes of subsection (1).

(11) Subsection (1)(aa) does not apply in relation to a person’s membership of a scheme if any period of relevant service began before the day on which section 35 of the Pensions Act (Northern Ireland) 2015 came into operation (whether or not it also ended before that date).

“Relevant service” means service that counts towards the 30 days’ qualifying service for the purposes of subsection (1).”.

(4) In section 97AA of the Pension Schemes Act (early leavers: cash transfer sums and contribution refunds), in subsection (4)(b), after “(a)” insert “, (aa)”.

*Automatic enrolment***Automatic re-enrolment: exceptions where automatic enrolment deferred**

36.—(1) The Pensions (No. 2) Act is amended as follows.

(2) In section 5 (automatic re-enrolment), after subsection (3) insert—

“(3A) Subsection (2) does not apply if the jobholder’s automatic enrolment date is deferred under section 4 from a date before the automatic re-enrolment date to a date after the automatic re-enrolment date.”.

(3) In section 30(7) (transitional period for defined benefits and hybrid schemes), at the end insert—

“(c) section 5(2) does not apply in relation to an automatic re-enrolment date that falls before the day with effect from which arrangements would by virtue of this section fall to be made in respect of the jobholder.”.

Automatic enrolment: powers to create general exceptions

37.—(1) In section 10 of the Pensions (No. 2) Act (information to be given to workers)—

- (a) in subsection (1)—
 - (i) for “must” substitute “may”;
 - (ii) in paragraphs (a) and (b), omit “all”;
- (b) in subsection (2) for “must state” substitute “may in particular make provision about”.

(2) In Chapter 7 of Part 1 of the Pensions (No. 2) Act, before section 70 (and the heading “Workers” above it) insert—

“Exceptions

69A Power to create exceptions from the employer duties etc.

(1) The Department may by regulations provide for exceptions to the employer duties; and an exception may in particular—

- (a) turn an employer duty into a power;
- (b) be framed by reference to a description of worker, particular circumstances or in some other way.

(2) But the regulations may not provide for an exception for employers of a particular size.

(3) Regulations which make provision under subsection (1)(a) may make provision modifying this Part or regulations made under it in connection with that provision.

(4) The regulations may make provision in connection with the coming to an end of the state of affairs that caused an exception to apply, including provision—

- (a) modifying this Part or regulations made under it in relation to a person;
- (b) for the purpose of putting a person, wholly or partly, in the position he or she would have been in if the exception had never applied.

(5) In this section “employer duties” means any duty of an employer under any provision of sections 2 to 11 and 54 or of regulations made under those sections.”.

(3) In consequence of subsection (2), the following are repealed—

- (a) Article 268A of the Pensions (Northern Ireland) Order 2005 (in this Act referred to as “the 2005 Order”);
- (b) section 5(4) of the Pensions (No. 2) Act;

(c) section 19 of the Pensions Act (Northern Ireland) 2012.

Alternative quality requirements for UK defined benefits scheme

38.—(1) The Pensions (No. 2) Act is amended as follows.

(2) After section 23 insert—

“23A Alternative quality requirements for UK defined benefits schemes

(1) The Department may by regulations provide that a defined benefits scheme that has its main administration in the United Kingdom satisfies the quality requirement in relation to a jobholder if any one or more of the following is satisfied—

- (a) the scheme is of a prescribed description and satisfies the quality requirement under section 20 in relation to that jobholder;
- (b) the cost of providing the benefits accruing for or in respect of the relevant members over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the members’ total relevant earnings over that period;
- (c) in the case of each of at least 90% of the relevant members, the cost of providing the benefits accruing for or in respect of the member over a relevant period would require contributions to be made of a total amount equal to at least a prescribed percentage of the member’s total relevant earnings over that period.

(2) For this purpose—

“contributions” means contributions to the scheme by, or on behalf or in respect of, a relevant member;

“relevant earnings” means earnings of a prescribed description;

“relevant members” means members of the scheme of a prescribed description;

“relevant period” means a period specified in or determined in accordance with the regulations.

(3) A percentage prescribed under subsection (1)(b) or (c) must be at least 8%.

(4) Regulations under subsection (1)(b) or (c) may make provision—

- (a) about how to calculate whether the requirement is satisfied, including provision requiring the calculation to be made in accordance with prescribed methods or assumptions;
- (b) requiring benefits of a prescribed description to be disregarded in determining whether the requirement is satisfied;

- (c) that a scheme only satisfies the requirement if the scheme actuary certifies that it does; and for this purpose “scheme actuary” has the prescribed meaning.
- (5) Section 13(3) (meaning of “earnings”) applies for the purposes of this section as it applies for the purposes of that section.”.
- (3) In section 24 (quality requirement: UK hybrid schemes), in subsection (1) (b), for “23” substitute “23A”.
- (4) In section 28 (certification that quality requirement or alternative requirement is satisfied)—
 - (a) after subsection (3A) insert—

“(3B) This section also applies to a defined benefits scheme that has its main administration in the United Kingdom and is of a description prescribed under section 23A(1)(a).”;
 - (b) in subsection (4), after paragraph (d) insert—

“(e) for a scheme within subsection (3B), means the quality requirement under section 23A(1)(a).”.
- (5) In section 29 (transitional periods for money purchase and personal pension schemes), in subsections (1) and (3) omit “for money purchase and personal pension schemes”.
- (6) Section 30 (transitional period for defined benefits and hybrid schemes) is amended as follows.
- (7) In subsection (3), at the end of the substituted subsection (2) insert—

“A reference in this subsection to a scheme does not include a scheme to which section 30(11)(a) or (b) applies.”.
- (8) In subsection (5), in the substituted subsection (2)—
 - (a) in paragraph (a), after “defined benefits scheme” insert “other than a scheme to which section 30(11)(a) applies”;
 - (b) in paragraph (aa) (inserted by section 39), after “a hybrid scheme” insert “other than a scheme to which section 30(11)(b) applies”;
 - (c) after paragraph (c) (inserted by section 39), insert—
 - “(d) becomes an active member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a defined benefits scheme to which section 30(11)(b) applies, or
 - (e) becomes a defined benefits member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme to which section 30(11)(b) applies.”.
- (9) After subsection (10) (added by section 39) add—

“(11) In subsection (2) references to a scheme do not include—

- (a) a defined benefits scheme that satisfies the quality requirement in relation to the jobholder by reason only of section 23A(1)(a), or
- (b) a hybrid scheme if—
 - (i) the appropriate paragraph of section 24(1) for any provisions of the scheme is paragraph (b) (those provisions are referred to below as “the defined benefits section”),
 - (ii) the defined benefits section satisfies section 23A(1)(a) as applied by section 24(1)(b), and
 - (iii) the defined benefits section does not satisfy any of the other requirements mentioned in section 24(1)(b).”.

Automatic enrolment: transitional period for hybrid schemes

39.—(1) Section 30 of the Pensions (No. 2) Act (transitional period for defined benefits and hybrid schemes) is amended as follows.

(2) In subsection (2)(b) and (c), for “a hybrid scheme” substitute “a defined benefits member of a hybrid scheme”.

(3) In subsection (3), in the substituted subsection (2)—

- (a) after “becomes” insert “(a)”;
- (b) for “or a hybrid scheme” substitute “, or
 - (b) a defined benefits member, with effect from the end of that period, of an automatic enrolment scheme which is a hybrid scheme.”.

(4) In subsection (5), in the substituted subsection (2)—

- (a) in paragraph (a), for “a hybrid scheme, or” substitute—
 - “(aa) becomes a defined benefits member, with effect from the closure date of an automatic enrolment scheme which is a hybrid scheme;”;
- (b) after paragraph (b) insert—
 - “(c) becomes a money purchase member, with effect from the automatic enrolment date, of an automatic enrolment scheme which is a hybrid scheme.”.

(5) After subsection (9) add—

“(10) For the purposes of this section—

- (a) a person is a “money purchase member” of a hybrid scheme if—
 - (i) the person is an active member of the scheme, and
 - (ii) all the benefits accruing in respect of his or her membership are money purchase benefits, and

(b) a person is a “defined benefits member” of a hybrid scheme if the person is an active member of the scheme other than a money purchase member.”.

(6) Subsection (7) applies if—

- (a) an employer whose first enrolment date is before the date on which the amendments made by this section come into operation (“the commencement date”) has given a jobholder notice under section 30(3) of the Pensions (No. 2) Act,
- (b) the conditions in section 30(2) of that Act have continued to be satisfied during the period beginning with the employer’s first enrolment date and ending with the day before the commencement date, and
- (c) had the amendments made by this section come into operation on 19 December 2012, the condition in section 30(2)(c) of that Act would not have been satisfied at a time during that period.

(7) Section 30(5) to (7) of the Pensions (No. 2) Act (as amended by this section) applies in relation to the jobholder with the following modifications—

- (a) references in section 30(5) and (6) of that Act to the closure date are to be read as references to the commencement date, and
- (b) references in section 30(5) and (6) of that Act to the automatic enrolment date are to be read as references to—
 - (i) 19 December 2012, or
 - (ii) if later, the employer’s first enrolment date;and section 30(3) and (4) of that Act does not apply.

(8) Expressions used in this section and in section 30 of the Pensions (No. 2) Act have the same meaning in this section as in that section.

Penalty notices under sections 40 and 41 of the Pensions (No. 2) Act etc.

40.—(1) In sections 40(1)(d) and 41(1)(d) of the Pensions (No. 2) Act (fixed and escalating penalty notices), at the end insert “, so far as relevant to the exercise of any of its functions under or by virtue of this Part”.

(2) In Article 67 of the 2005 Order (powers to require information), in paragraph (1A), for “Chapter 2 of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 or section 51 of that Act” substitute “or by virtue of Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008”.

Unpaid scheme contributions

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

(2) In section 119 (payment by Department for Employment and Learning of unpaid scheme contributions on employer insolvency: interpretation)—

- (a) in subsection (2), for the definition of “contract of employment” and related expressions substitute—
 - “employer”, employment”, worker” and worker’s contract” and other expressions which are defined in the Employment Rights (Northern Ireland) Order 1996 have the same meaning as in that Order (see further subsections (2A) and (2B));”;
- (b) in subsection (2), in paragraph (b) of the definition of “holiday pay”, for “the employee’s contract of employment” substitute “the worker’s contract”;
- (c) after subsection (2) insert—
 - “(2A) Section 71 of the Pensions (No. 2) Act (Northern Ireland) 2008 (agency workers) applies for the purposes of this Chapter as it applies for the purposes of Part 1 of that Act.
 - (2B) References in this Chapter to a worker include references to an individual to whom Part 1 of the Pensions (No. 2) Act (Northern Ireland) 2008 applies as if the individual were a worker because of regulations made under section 77 of that Act; and related expressions are to be read accordingly.”.
- (3) In section 120 (Department for Employment and Learning’s duty to pay unpaid contributions)—
 - (a) for “an employee”, in each place, substitute “a worker”;
 - (b) for “the employee”, in each place, substitute “the worker”;
 - (c) for “the employee’s” substitute “the worker’s”;
 - (d) for “employees”, in each place, substitute “workers”.
- (4) In section 157, for “contract of employment” substitute “worker’s contract”.
- (5) In section 161(6)—
 - (a) in paragraph (a), for “contract of employment the employee” substitute “worker’s contract the worker”;
 - (b) in paragraph (b), for “employee” substitute “worker”.

Other

Power to restrict charges or impose requirements in relation to schemes

42. Schedule 18 permits the Department to make regulations—

- (a) restricting the charges that may be imposed on members of certain pension schemes;

- (b) imposing requirements relating to administration or governance that must be satisfied in relation to certain pension schemes.

Disclosure of information about transaction costs to members etc.

43. In section 109 of the Pension Schemes Act (disclosure of information about schemes to members etc.), after subsection (4) insert—

“(5) The Department must make regulations under subsection (1) requiring information about some or all of the transaction costs of a relevant scheme to be given to some or all of the persons mentioned in subsection (2).

(6) The Department must by regulations make provision requiring the publication of information about—

- (a) some or all of the transaction costs of a relevant scheme, and
- (b) some or all of the administration charges imposed on members of a relevant scheme.

(7) Regulations under subsection (6) may require other relevant information to be published along with information about transaction costs or administration charges in relation to a scheme.

(8) “Other relevant information” means other information which would or may assist in making comparisons between those costs or charges and costs or charges in relation to other schemes.

(9) In this section—

“administration charge” has the meaning given by paragraph 1(5) of Schedule 18 to the Pensions Act (Northern Ireland) 2015;

“relevant scheme” means a money purchase scheme that is an occupational pension scheme.”.

Power to require pension levies to be paid in respect of past periods

44.—(1) The Department may by regulations provide for the 2005 Order, and regulations made under it, to have effect, so far as relating to the requirement to pay pension levy, as if the amendments made by the 2010 regulations had always had effect.

(2) Regulations under this section may in particular—

- (a) modify the application of the 2005 Order, or regulations made under it, in relation to amounts of pension levy required to be paid because of regulations under this section;
- (b) provide for interest to be charged at a specified rate on such amounts (including in respect of periods before the coming into operation of regulations under this section).

(3) In this section—

“the 2010 regulations” means—

- (a) regulations 2, 3 and 8 of the Pension Protection Fund and Occupational Pension Schemes (Miscellaneous Amendments) Regulations (Northern Ireland) 2010, and
- (b) regulation 2 of the Occupational Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2010;

“pension levy” means—

- (a) a levy under regulations made under Article 103 of the 2005 Order (administration levy),
- (b) a levy under regulations made under Article 157 of that Order (initial levy), or
- (c) a levy under Article 158 of that Order (pension protection levies).

Prohibition and suspension orders: directors of corporate trustees

45.—(1) The 1995 Order is amended as follows.

(2) After Article 3 insert—

“3A Prohibition orders: directors of corporate trustees etc.

(1) A company is prohibited from being a trustee of a trust scheme at any time when an individual who is a director of the company is prohibited from being a trustee of the scheme by an order under Article 3.

(2) Where a company which is a trustee of a trust scheme becomes prohibited under paragraph (1) in relation to the scheme, that paragraph has the effect of removing the company as a trustee.

(3) The Authority may, on the application of a company, give notice in writing to the applicant waiving the prohibition under paragraph (1)—

- (a) in relation to an individual against whom an order under Article 3 has been made, and
- (b) either generally or in relation to a particular scheme or particular description of schemes.

(4) A notice may be given under paragraph (3) only if the Authority is satisfied that the applicant would be a fit and proper person to be a trustee of the scheme or schemes to which the notice relates despite the individual being, or even if the individual were to become, a director of the applicant.

(5) A notice given at any time under paragraph (3) cannot affect anything done before that time.

(6) An application under paragraph (3) may not be made—

- (a) during the period within which the determination to exercise the power to make the order against the individual may be referred to the Tribunal under Article 91(3) or 94(7) of the Pensions (Northern Ireland) Order 2005 (whether by a company which became prohibited under paragraph (1) on the making of the order or by another person), and
- (b) if the determination is so referred, until the reference, and any appeal against the Tribunal's determination, has been finally disposed of.
- (7) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this Article.
- (8) The Authority may revise any statement published under paragraph (7) and must publish any revised statement.
- (9) References in this Article to an order under Article 3 are to an order under that Article made on or after the date on which section 45(2) of the Pensions Act (Northern Ireland) 2015 comes fully into operation.”.
- (3) Article 4 (Pensions Regulator's power to suspend trustee of occupational pension scheme) is amended as follows.
- (4) In paragraph (1)(f), after “sub-paragraph” insert “(aa),”.
- (5) In paragraph (2)(a), after “or (aa)” insert “or, in a case where the Authority would have power to suspend a director under sub-paragraph (aa), by virtue of sub-paragraph (f)”.
- (6) Schedule 19 contains consequential amendments.

Pensions Regulator's objectives

46. In Article 4(1) of the 2005 Order, after sub-paragraph (c) insert—

- “(cza) in relation to the exercise of its functions under Part 4 only, to minimise any adverse impact on the sustainable growth of an employer,”.

Maximum period between scheme returns to be 5 years for micro schemes

47.—(1) Article 58 of the 2005 Order (duty of the Regulator to issue scheme return notices) is amended as follows.

(2) After paragraph (3) insert—

“(3A) But paragraph (3)(a) has effect as if the reference to three years were a reference to five years if—

- (a) the trustees or managers have complied with sub-paragraph (b) of Article 57(2),
- (b) the information they provided under that sub-paragraph included the number of members of the scheme, and

(c) that number was no more than 4.”.

(3) After paragraph (4) insert—

“(4A) But paragraph (4)(a) has effect as if the reference to three years were a reference to five years if—

(a) on the date on which the previous scheme return notice was issued, the number of members of the scheme was recorded in the register, and

(b) that number was no more than 4.”.

Pension Protection Fund: increased compensation cap for long service

48. See Schedule 20 for amendments increasing the Pension Protection Fund compensation cap for persons with long pensionable service.

Pension Protection Fund: compensation cap to apply separately to certain benefits

49.—(1) Paragraph 26 of Schedule 6 to the 2005 Order (Pension Protection Fund: compensation cap) is amended as follows.

(2) In sub-paragraph (1)(b), for “sub-paragraph (2)(a) or (b)” substitute “sub-paragraph (2)(a), (b) or (c)”.

(3) In sub-paragraph (2)(a)(ii), for “paragraph (b)(i) does not apply” substitute “neither of paragraphs (b) and (c) applies”.

(4) In sub-paragraph (2)(b)—

(a) before paragraph (i) insert—

“(zi) benefit A is attributable to the person’s pensionable service,”;

(b) in paragraph (i), after “one or more other benefits” insert “that are attributable to his pensionable service”.

(5) In sub-paragraph (2), after paragraph (b) insert “, and

(c) this paragraph applies if—

(i) benefit A is attributable to a pension credit from a transferor,

(ii) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits that are—

(iia) under the scheme or a connected occupational pension scheme, and

(iib) attributable to a pension credit from the same transferor, (“benefit or benefits B”), and

(iii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.”.

(6) In sub-paragraph (5), after “sub-paragraph (2)(b)” insert “or (c)”.

(7) The amendments made by this section are to be treated as always having had effect.

(8) Regulations under paragraph 26(9) of Schedule 6 to the 2005 Order (modifications for cases where compensation becomes payable on different occasions) made in consequence of this section may be made with retrospective effect.