

## SCHEDULES

### SCHEDULE 2

#### OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

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

- 20.** The 2005 Order is amended as follows.
- 21.**—(1) Article 2 (interpretation) is amended as follows.
- (2) In paragraph (2)—
- (a) 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;”;
- (b) omit the definition of “money purchase scheme”.
- (3) In paragraph (4)—
- (a) in sub-paragraph (a), after paragraph (ix) insert—
- “(x) regulations made under Schedule 17 to the Pensions Act (Northern Ireland) 2015;
- (xi) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015;
- (xii) regulations made under Part 2 of the Pension Schemes Act (Northern Ireland) 2016.”;
- (b) in sub-paragraph (b), after paragraph (vii) insert—
- “(viii) regulations made under paragraph 16 of Schedule 17 to the Pensions Act (Northern Ireland) 2015;

- (ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015;
  - (x) regulations made under section 34 of the Pension Schemes Act (Northern Ireland) 2016.”.
- 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.”.
- 23.** In Article 13 (power of the Regulator to recover unpaid contributions), in paragraph (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”.
- 24.—**(1) Article 19 (freezing orders) is amended as follows.
- (2) In paragraph (1), for “which is not a money purchase scheme” substitute “unless it is excluded by paragraph (1A)”.
  - (3) After that paragraph 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 paragraph (10A)).”.
  - (4) In paragraph (2), for “such a scheme” substitute “a scheme to which this Article applies”.
  - (5) After paragraph (10) insert—
    - “(10A) For the purposes of paragraph (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).”.
- 25.** In Article 34 (contribution notices where avoidance of employer debt), for paragraph (1) substitute—

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*Status: This is the original version (as it was originally enacted).*

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“(1) This Article 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 paragraph (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this Article 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 sub-paragraph (c) or (d) of paragraph (1A),

the scheme is to be treated for the purposes of this Article and Articles 34A to 38 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”.

**26.—**(1) Article 39 (financial support directions) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This Article 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 paragraph (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this Article 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 sub-paragraph (c) or (d) of paragraph (1A),

the scheme is to be treated for the purposes of this Article and Articles 39A to 47 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”.

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

**27.** In Article 48 (restoration orders where transactions at an undervalue), for paragraph (1) substitute—

“(1) This Article 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 paragraph (1A) provides for the scheme to be exempt.

(1A) A scheme is exempt from this Article 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 sub-paragraph (c) or (d) of paragraph (1A),

the scheme is to be treated for the purposes of this Article and Articles 49 to 52 as two separate schemes, one relating to the collective benefits and the other relating to the other benefits.”.

**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.”.

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

“(1) Subject to the following provisions of this Article, 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 sub-paragraph (c) or (d) of paragraph (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.”.

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

**“Pension schemes to which this Part applies**

**200.**—(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 paragraph (2) provides for the scheme to be exempt.

(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 sub-paragraph (c) or (d) of paragraph (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 paragraph (2)(d) may provide for exemptions from all or any of the provisions of this Part, but for the purposes of paragraph (3) (b) a scheme falls within paragraph (2)(d) only if it is exempt from all of the provisions of this Part.”.

**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.”.

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

- (a) in sub-paragraph (b), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”;
- (b) in sub-paragraph (c), for “money purchase scheme” substitute “scheme under which all the benefits that may be provided are money purchase benefits”.

**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.”.

**34.** In Article 280 (modification of Pensions (Northern Ireland) Order 2005 in relation to certain categories of schemes), in paragraph (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,”.