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## SCHEDULES

### SCHEDULE 12

Section 319

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Public Records Act 1958 (c. 51)*

- 1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table in paragraph 3 insert at the appropriate place—
- “The Pensions Regulator.”
  - “The Board of the Pension Protection Fund.”
  - “The Ombudsman for the Board of the Pension Protection Fund.”

#### **Commencement Information**

- II** Sch. 12 para. 1 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

##### *Superannuation Act 1972 (c. 11)*

- 2 (1) Schedule 1 to the Superannuation Act 1972 (kinds of employment in relation to which pension schemes may be made) is amended as follows.
- (2) At the appropriate place in the list of “Other Bodies” insert— “ The Board of the Pension Protection Fund. ”, “ Employment by the Ombudsman for the Board of the Pension Protection Fund. ”, and “ The Pensions Regulator. ”
- (3) At the appropriate place in the list of “Offices” insert— “ Chairman of the Board of the Pension Protection Fund. ”, “ Chairman of the Pensions Regulator. ”, “ A deputy to the Ombudsman for the Board of the Pension Protection Fund. ”, “ A deputy to the Pensions Ombudsman. ”, and “ The Ombudsman for the Board of the Pension Protection Fund. ”

#### **Commencement Information**

- I2** Sch. 12 para. 2 in force at 10.2.2005 by S.I. 2005/275, art. 2(4), Sch. Pt. 4

VALID FROM 01/01/2006

##### *Matrimonial Causes Act 1973 (c. 18)*

- 3 After section 25D of the Matrimonial Causes Act 1973 (pensions: supplementary) insert—

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### **“25E The Pension Protection Fund**

- (1) The matters to which the court is to have regard under section 25(2) include—
  - (a) in the case of paragraph (a), any PPF compensation to which a party to the marriage is or is likely to be entitled, and
  - (b) in the case of paragraph (h), any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to, and, accordingly, in relation to PPF compensation, section 25(2)(a) shall have effect as if “in the foreseeable future” were omitted.
- (2) Subsection (3) applies in relation to an order under section 23 so far as it includes provision made by virtue of section 25B(4) which—
  - (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility in accordance with Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter, and
  - (b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.
- (3) The order is to have effect from the time when the trustees or managers of the scheme receive the transfer notice—
  - (a) as if, except in prescribed descriptions of case—
    - (i) references in the order to the trustees or managers of the scheme were references to the Board, and
    - (ii) references in the order to any pension or lump sum to which the party with pension rights is or may become entitled under the scheme were references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum, and
  - (b) subject to such other modifications as may be prescribed.
- (4) Subsection (5) applies to an order under section 23 if—
  - (a) it includes provision made by virtue of section 25B(7) which requires the party with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
  - (b) before the requirement is complied with the Board has assumed responsibility for the scheme as mentioned in subsection (2)(a).
- (5) From the time the trustees or managers of the scheme receive the transfer notice, the order is to have effect with such modifications as may be prescribed.
- (6) Regulations may modify section 25C as it applies in relation to an occupational pension scheme at any time when there is an assessment period in relation to the scheme.
- (7) Where the court makes a pension sharing order in respect of a person’s shareable rights under an occupational pension scheme, or an order which

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includes provision made by virtue of section 25B(4) or (7) in relation to such a scheme, the Board subsequently assuming responsibility for the scheme as mentioned in subsection (2)(a) does not affect—

- (a) the powers of the court under section 31 to vary or discharge the order or to suspend or revive any provision of it, or
  - (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.
- (8) Regulations may make such consequential modifications of any provision of, or made by virtue of, this Part as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this section.
- (9) In this section—
- “assessment period” means an assessment period within the meaning of Part 2 of the Pensions Act 2004 (pension protection) (see sections 132 and 159 of that Act) or an equivalent period under any provision in force in Northern Ireland corresponding to that Part;
- “the Board” means the Board of the Pension Protection Fund;
- “occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;
- “prescribed” means prescribed by regulations;
- “PPF compensation” means compensation payable under Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter;
- “regulations” means regulations made by the Lord Chancellor;
- “shareable rights” are rights in relation to which pension sharing is available under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 or any provision in force in Northern Ireland corresponding to that Chapter;
- “transfer notice” has the same meaning as in section 160 of the Pensions Act 2004 or any corresponding provision in force in Northern Ireland.
- (10) Any power to make regulations under this section is exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

VALID FROM 01/01/2006

*Matrimonial and Family Proceedings Act 1984 (c. 42)*

- 4 (1) The Matrimonial and Family Proceedings Act 1984 is amended as follows.
- (2) In section 18 (matters to which the court is to have regard in exercising its powers under section 17)—
- (a) in subsection (3A)—
    - (i) in paragraph (a) after “have” insert “ and any PPF compensation to which a party to the marriage is or is likely to be entitled, ”,

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(ii) in paragraph (b) after “include” insert “—

(i)”,  
and

(iii) at the end of that paragraph insert “, and

(ii) any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to”,  
and

(b) in subsection (7), after paragraph (b) insert “, and

(c) “PPF compensation” means compensation payable under Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection) or any provision in force in Northern Ireland corresponding to that Chapter.”

(3) In section 21 (application to orders under sections 14 and 17 of certain provisions of Part 2 of the Matrimonial Causes Act 1973), after subsection (1)(be) insert—

“(bf) section 25E(2) to (10) (the Pension Protection Fund);”.

*Companies Act 1985 (c. 6)*

- 5 (1) The Companies Act 1985 is amended as follows.
- (2) In section 449 (provision for security of information obtained by the Secretary of State under section 447), for subsection (1)(dg) substitute—
- “(dg) for the purpose of enabling or assisting the Pensions Regulator to exercise the functions conferred on it by or by virtue of the Pension Schemes Act 1993, the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments;
- (dh) for the purpose of enabling or assisting the Board of the Pension Protection Fund to exercise the functions conferred on it by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part;”.
- (3) In Schedule 15D (permitted disclosures of information) (as inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004)—
- (a) for paragraph 13 substitute—
- “13 A disclosure for the purpose of enabling or assisting the Pensions Regulator to exercise the functions conferred on it by or by virtue of any of the following—
- (a) the Pension Schemes Act 1993;
- (b) the Pensions Act 1995;
- (c) the Welfare Reform and Pensions Act 1999;
- (d) the Pensions Act 2004;
- (e) any enactment in force in Northern Ireland corresponding to any of those enactments.”, and
- (b) after that paragraph insert—
- “13A A disclosure for the purpose of enabling or assisting the Board of the Pension Protection Fund to exercise the functions conferred on it

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by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

**Commencement Information**

**I3** Sch. 12 para. 5(1)(3) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

*Companies Act 1989 (c. 40)*

- 6 In section 87 of the Companies Act 1989 (exception from restriction on disclosure of information obtained from overseas regulatory authorities etc), in the table in subsection (4) for the entry relating to the Occupational Pensions Regulatory Authority substitute—

“The Pensions Regulator	Functions conferred by or by virtue of— (a) the Pension Schemes Act 1993, (b) the Pensions Act 1995, (c) the Welfare Reform and Pensions Act 1999, (d) the Pensions Act 2004, or any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.
The Board of the Pension Protection Fund	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

**Commencement Information**

**I4** Sch. 12 para. 6 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

*Social Security Administration Act 1992 (c. 5)*

- 7 In section 122AA of the Social Security Administration Act 1992 (disclosure of contributions etc information by Inland Revenue), in subsection (2)(d), for “Occupational Pensions Regulatory Authority” substitute “Pensions Regulator”.

**Commencement Information**

**I5** Sch. 12 para. 7 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

*Tribunals and Inquiries Act 1992 (c. 53)*

- 8 (1) The Tribunals and Inquiries Act 1992 is amended as follows.

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- (2) In section 7 (concurrence required for removal of members of certain tribunals), in subsection (2) for “(g) or (h)” substitute “ (i), (j), (k) or (l) ”.
- (3) In section 14 (restricted application of Act in relation to certain tribunals), for subsection (1A) substitute—
- “(1A) In this Act—
- (a) references to the working of the Pensions Regulator referred to in paragraph 35(i) of Schedule 1 are references to its working so far as relating to the exercise of its regulatory functions (within the meaning of section 93(2) of the Pensions Act 2004) or any corresponding function conferred by a provision in force in Northern Ireland, and
- (b) references to procedural rules for the Pensions Regulator are references to regulations under paragraph 19 of Schedule 1 to that Act (Secretary of State’s powers to make regulations in respect of Regulator’s procedure) so far as they relate to the procedure to be followed when exercising those functions.”
- (4) In Schedule 1, in Part 1, in paragraph 35, after paragraph (h) insert—

“

- (i) the Pensions Regulator established by section 1 of the Pensions Act 2004;
- (j) the Pensions Regulator Tribunal established by section 102 of that Act;
- (k) the Board of the Pension Protection Fund established by section 107 of the Pensions Act 2004 in respect of its functions under or by virtue of section 207 of that Act or any enactment in force in Northern Ireland corresponding to that section;
- (l) the Ombudsman for the Board of the Pension Protection Fund in respect of his functions under or by virtue of section 213 of that Act or any enactment in force in Northern Ireland corresponding to that section.”

**Commencement Information**

**I6** Sch. 12 para. 8 in force at 10.2.2005 by S.I. 2005/275, art. 2(4), Sch. Pt. 4

*Pension Schemes Act 1993 (c. 48)*

9 The Pension Schemes Act 1993 is amended as follows.

**Commencement Information**

**I7** Sch. 12 para. 9 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

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VALID FROM 06/04/2006

10 In section 53 (supervision: former contracted-out schemes), after subsection (1B) insert—

“(1C) But where a direction under subsection (1) conflicts with a freezing order made by the Regulatory Authority under section 23 of the Pensions Act 2004 in relation to the scheme then, during the period for which the freezing order has effect, the direction to the extent that it conflicts with the freezing order—

- (a) is not binding as described in subsection (1), and
- (b) is not enforceable as described in subsection (1B).”

VALID FROM 06/04/2006

11 (1) Section 56 (provision supplementary to provision relating to payment of state scheme premiums) is amended as follows.

(2) In subsection (4) for the words from the beginning to “another scheme” substitute—

“(4) Where under the rules of the scheme, transfer credits have been allowed—

- (a) in respect of the earner’s rights under another scheme, or
- (b) in respect of the earner by reference to the payment of a cash transfer sum (within the meaning of Chapter 5 of Part 4) to the trustees or managers of the scheme by the trustees or managers of another occupational pension scheme.”.

(3) After subsection (6) insert—

“(7) Where a premium under section 55 is payable by the Board of the Pension Protection Fund by virtue of a transfer under section 161 of the Pensions Act 2004 (effect of the Board assuming responsibility for an occupational pension scheme), then, subject to subsection (8), sections 55 to 68 apply with such modifications as may be prescribed in relation to that premium.

(8) A premium under section 55 in respect of an earner ceases to be payable if—

- (a) the liability to pay the premium is transferred to the Board of the Pension Protection Fund by virtue of section 161 of the Pensions Act 2004, and
- (b) prescribed requirements are met.”

VALID FROM 06/04/2006

12 In section 61 (deduction of contributions equivalent premium from refund of scheme contributions), after subsection (9) insert—

“(9A) Where under section 101AH the trustees or managers of an occupational pension scheme may pay a contribution refund to a member of the scheme, the member is to be treated for the purposes of this section as being entitled to the contribution refund.”

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VALID FROM 06/04/2006

- 13 (1) Section 94 (right to cash equivalent) is amended as follows.
- (2) In subsection (2), for the definition of “the applicable rules” substitute—
- ““the applicable rules” means—
- (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 Chapter 1 of Part 4 of this Act;”.
- (3) After that subsection insert—
- “(2A) For the purposes of subsection (2)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
    - (i) Schedule 5 to the Social Security Act 1989 (equal treatment for men and women);
    - (ii) this Chapter or Chapters 2, 3 or 5 of this Part of this Act or regulations made under this Chapter or any of those Chapters;
    - (iii) Part 4A of this Act or regulations made under that Part;
    - (iv) section 110(1) of this Act;
    - (v) Part 1 of the Pensions Act 1995 (occupational pensions) or subordinate legislation made or having effect as if made under that Part;
    - (vi) section 31 of the Welfare Reform and Pensions Act 1999 (pension debits: reduction of benefit);
    - (vii) any provision mentioned in section 306(2) of the Pensions Act 2004;
  - (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.”

VALID FROM 06/04/2006

- 14 In section 99 (trustees' duties after exercise of option)—
- (a) in subsection (4) after “circumstances,” insert “ by direction ”, and



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- (b) in subsection (4A) for “in relation to applications for extensions under subsection (4)” substitute “ requiring applications for extensions under subsection (4) to meet prescribed requirements ”.

VALID FROM 06/04/2006

- 15 In section 101J (time for compliance with transfer notice)—
- (a) in subsection (2) after “circumstances,” insert “ by direction ”, and
- (b) in subsection (6)(a) for “in relation to applications under subsection (2)” substitute “ requiring applications for extensions under subsection (2) to meet prescribed requirements ”.

VALID FROM 06/04/2006

- 16 In section 111A (monitoring of employers' payments to personal pension schemes) omit subsection (10).

VALID FROM 06/04/2006

- 17 In section 113 (disclosure of information about schemes to members etc), after subsection (2)(d) insert—
- “(e) persons of prescribed descriptions.”

VALID FROM 01/01/2006

- 18 After that section insert—
- “113A Disclosure of information about transfers etc**
- Regulations may provide that, where—
- (a) a payment is made out of an occupational pension scheme to the trustees or managers of another occupational pension scheme, and
- (b) transfer credits are allowed to a member of that other scheme in respect of the payment,
- the trustees or managers of the first scheme must, in prescribed circumstances and in the prescribed manner, provide to the trustees or managers of the other scheme prescribed information relating to the payment.”

VALID FROM 22/09/2005

- 19 In section 123 (interpretation of Chapter 2 of Part 7) omit—
- (a) the definition of “occupational pension scheme” in subsection (3), and
- (b) subsection (4).

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VALID FROM 22/09/2005

- 20 In section 124 (duty of Secretary of State to pay unpaid contributions), after subsection (5) insert—
- “(6) In this section “on his own account”, in relation to an employer, means on his own account but to fund benefits for, or in respect of, one or more employees.”

VALID FROM 06/04/2006

- 21 In section 129(1) (overriding requirements),—
- (a) for “and IV” substitute “ , IV and V ”, and
- (b) after “under” insert “ any of those Chapters or ”.

VALID FROM 06/04/2006

- 22 In section 130(b) (extra-statutory benefits), for “or IV” substitute “ , IV or V ”.

PROSPECTIVE

- 23 In section 145 (the Pensions Ombudsman), after subsection (1) insert—
- “(1A) Provisions conferring power on the Pensions Ombudsman to conduct investigations as mentioned in subsection (1) are to be read as conferring power that—
- (a) in a case of a prescribed description, or
- (b) in a case involving a scheme that is prescribed or is of a prescribed description,
- may be exercised whatever the extent of any connections with places outside the United Kingdom.
- (1B) In subsection (1A) “scheme” means occupational pension scheme or personal pension scheme.
- (1C) Subsection (1A) shall not be taken to prejudice any power of the Pensions Ombudsman apart from that subsection to conduct investigations in a case having connections with places outside the United Kingdom.”
- 24 In section 146 (functions of the Pensions Ombudsman)—
- (a) for subsection (1)(f) substitute—
- “(f) any dispute, in relation to a time while section 22 of the Pensions Act 1995 (circumstances in which Regulatory Authority may appoint an independent trustee) applies in relation to an occupational pension scheme, between an independent trustee of the scheme appointed under section 23(1) of that Act and either—
- (i) other trustees of the scheme, or

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- (ii) former trustees of the scheme who were not independent trustees appointed under section 23(1) of that Act, and”,
- (b) after subsection (6) insert—
  - “(6A) For the purposes of subsection (6)(c)—
    - (a) a description of complaint may be framed (in particular) by reference to the person making the complaint or to the scheme concerned (or to both), and
    - (b) a description of dispute may be framed (in particular) by reference to the person referring the dispute or to the scheme concerned (or to both).”, and
  - (c) in subsection (8), in paragraph (a) of the definition of “independent trustee” for the words from “section 23(1)(b)” to the end substitute “section 23(1) of the Pensions Act 1995 (appointment of independent trustee by the Regulatory Authority)”.

#### Commencement Information

**18** Sch. 12 para. 24(a)(c) in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#)

- 25 In section 149 (procedure on investigation by Pensions Ombudsman), in subsection (6)—
- (a) for paragraph (b) substitute—
    - “(b) the Board of the Pension Protection Fund,
    - (ba) the Ombudsman for the Board of the Pension Protection Fund.”, and
  - (b) at the end insert—
    - “(n) a person who, in a member State other than the United Kingdom, has functions corresponding to functions of the Pensions Ombudsman.”

#### Commencement Information

**19** Sch. 12 para. 25 in force at 6.4.2005 by [S.I. 2005/275](#), [art. 2\(7\)](#), [Sch. Pt. 7](#) (with [art. 3\(1\)](#))

- 26 (1) Section 158A (other disclosures by the Secretary of State) is amended as follows.
- (2) In subsection (1), for the words from “any information” to “Pensions Act 1995” substitute “ any regulated information ”.
- (3) In the Table in that subsection—
- (a) in the entry for the Regulatory Authority in the second column of the Table for the words from “or the” to the end substitute “ , the Pensions Act 1995, the Welfare Reform and Pensions Act 1999 or the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to any of those enactments. ”, and
  - (b) for the entry for the Pensions Compensation Board substitute—

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“The Pensions Ombudsman.	Functions conferred by or by virtue of this Act or any enactment in force in Northern Ireland corresponding to it.
The Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.
The Ombudsman for the Board of the Pension Protection Fund.	Functions conferred by or by virtue of Part 2 of the Pensions Act 2004 or any enactment in force in Northern Ireland corresponding to that Part.”

(4) After that subsection insert—

“(1AA) In subsection (1), “regulated information” means information received by the Secretary of State in connection with his functions under—

- (a) this Act,
- (b) the Pensions Act 1995, or
- (c) the Pensions Act 2004,

other than information supplied to him under section 235(2) of, or paragraph 2 of Schedule 10 to, the Pensions Act 2004 (supply of information for retirement planning purposes etc).”

#### Commencement Information

**I10** Sch. 12 para. 26 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7 (with art. 3(2))

VALID FROM 06/04/2006

27 In section 168(4) (penalties for contravention of regulations) after “the provision” insert “ to be required by notice in writing ”.

28 In section 175 (levies)—

- (a) for subsection (8) substitute—
 

“(8) An amount payable by a person on account of a levy imposed under this section shall be a debt due from him to the Secretary of State, and an amount so payable shall be recoverable by the Secretary of State accordingly or, if the Secretary of State so determines, by the Regulatory Authority on his behalf.”, and
- (b) in subsection (9) for “subsections (1) and (4)” substitute “ subsection (1) ”.

#### Commencement Information

**I11** Sch. 12 para. 28 in force at 10.2.2005 for specified purposes and at 1.4.2005 in so far as not already in force by S.I. 2005/275, art. 2(2), Sch. Pt. 2 (with art. 4) (with further transitional provisions and savings in S.I. 2006/695, arts. 5(8), 6, Schs. 2, 3 (as amended by S.I. 2005/1108, art. 3(b))

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VALID FROM 06/04/2006

- 29 In section 178 (power to make regulations as to the persons to be regarded as trustees or managers of schemes for certain purposes), in paragraph (b) for “to 26C” substitute “to 26”.

VALID FROM 06/04/2006

- 30 (1) Section 179 (linked qualifying service) is amended as follows.
- (2) In subsection (1)(a)—
- (a) for “the rules of a scheme” substitute “ Chapter 4 or 5 of Part 4 or under the rules of a scheme ”,
  - (b) for sub-paragraph (i) substitute—
    - “(i) there was made a transfer of his rights (including any transfer credits allowed) under that scheme, or a transfer payment in respect of those rights, to, or to the trustees or managers of, another scheme applying to him in the later period of service;”
  - (c) for “and” at the end of sub-paragraph (ii), substitute “ or ”, and
  - (d) after that sub-paragraph insert—
    - “(iii) a cash equivalent (within the meaning of Chapter 4 of Part 4) or cash transfer sum (within the meaning of Chapter 5 of that Part) was paid in respect of him to the trustees or managers of another scheme applying to him in the later period of service; and”.
- (3) In subsection (1)(b), after “second scheme,” insert “ or the payment to the trustees or managers of that scheme, ”.

VALID FROM 06/04/2006

- 31 In section 181(1) (general interpretation), in the definition of “transfer credits”, for the words following “by reference to” substitute “—
- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than rights attributable (directly or indirectly) to a pension credit, or
  - (b) a cash transfer sum paid under Chapter 5 of Part 4 in respect of him, to the trustees or managers of the scheme;”.

VALID FROM 06/04/2006

- 32 In section 183(3) (sub-delegation), after “97(1)” insert “ , 101AF(1) ”.

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VALID FROM 06/04/2006

- 33 In section 192(2) (provisions extending to Northern Ireland)—
- (a) for “section 145 (except subsections (4))” substitute “section 145 (except subsections (4A) to (4C))”, and
  - (b) at the appropriate place insert— “section 145A (except subsection (6)(b))”, ”.

*Pensions Act 1995 (c. 26)*

- 34 The Pensions Act 1995 is amended as follows.

**Commencement Information**

**I12** Sch. 12 para. 34 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 35 In section 4 (suspension orders), in subsections (3) and (5) for “class” substitute “description”.

**Commencement Information**

**I13** Sch. 12 para. 35 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 36 In section 7 (appointment of trustees)—
- (a) in subsection (1) omit “a trustee of such a scheme ceases to be a trustee”, and
  - (b) in subsection (2) for “section 23(1)(b)” in both places substitute “section 23(1)”.

**Commencement Information**

**I14** Sch. 12 para. 36 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 37 In section 9 (removal and appointment of trustees: property), after “exercise” insert “by order”.

**Commencement Information**

**I15** Sch. 12 para. 37 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 38 In section 10 (civil penalties), in subsection (5)(a) omit “as a trustee of a trust scheme”.

**Commencement Information**

**I16** Sch. 12 para. 38 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 39 In section 15(4) (failure to comply with Authority’s direction) for “sections 3 and 10 apply” substitute “section 10 applies”.

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**Commencement Information**

**I17** Sch. 12 para. 39 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

40 In section 22 (circumstances in which independent trustee provisions apply), in subsections (1) and (3) for “to 26A”, in each place, substitute “ to 26 ”.

**Commencement Information**

**I18** Sch. 12 para. 40 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

41 In section 25 (appointment and powers of independent trustees: further provisions)

- (a) in subsection (1) for “section 23(1)(b)” substitute “ section 23(1) ”,
- (b) in subsection (2)—
  - (i) after “a scheme” insert “ and there is an independent trustee of the scheme appointed under section 23(1) ”, and
  - (ii) omit from “but if” to the end,
- (c) in subsection (3) for “, no independent trustee of the scheme may” substitute “ and there is an independent trustee of the scheme appointed under section 23(1), the independent trustee may not ”, and
- (d) in subsection (4)—
  - (i) for “section 23(1)(b)” substitute “ section 23(1) ”, and
  - (ii) after “person” insert “ (within the meaning of section 23(3)) ”.

**Commencement Information**

**I19** Sch. 12 para. 41 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

42 In section 26 (insolvency practitioner or official receiver to give information to trustees), in subsection (1) after “a scheme” insert “ by virtue of subsection (1) of that section ”.

**Commencement Information**

**I20** Sch. 12 para. 42 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

43 Sections 26A to 26C are hereby repealed.

**Commencement Information**

**I21** Sch. 12 para. 43 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

44 In section 28 (consequences of prohibition on trustee being auditor of scheme etc) omit subsection (4).

**Commencement Information**

**I22** Sch. 12 para. 44 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

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VALID FROM 09/12/2005

- 45 In section 29 (persons disqualified for being trustees), in subsection (5) for “class” substitute “description”.
- 46 In section 30 (persons disqualified: consequences)—
- (a) in subsection (2), after “exercise” insert “by order”, and
  - (b) omit subsections (7) and (8).

**Commencement Information**

**I23** Sch. 12 para. 46(b) in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 47 Omit section 30A (accessibility of register of disqualified trustees).

**Commencement Information**

**I24** Sch. 12 para. 47 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

VALID FROM 06/04/2006

- 48 In section 32 (decisions of trustees by a majority)—
- (a) in subsection (4) for “, 16(3)(b) and 25(2)” substitute “ and 25(2) of this Act and section 241(6) of the Pensions Act 2004 ”, and
  - (b) in subsection (5) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 04/12/2005

- 49 In section 34 (powers of investment and delegation) in subsection (1) after “subject to” insert “ section 36(1) and to ”.

VALID FROM 09/12/2005

- 50 (1) Section 38 (power to defer winding up) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) after “scheme” insert “ (other than those due to be paid before the determination is made) ”, and
  - (b) in paragraph (b) omit “new”.
- (3) After subsection (3) insert—
- “(4) This section also does not apply in relation to a trust scheme where the trustees are required to wind up, or continue the winding up, of the scheme under section 154(1) of the Pensions Act 2004 (requirement to wind up certain schemes with sufficient assets to meet protected liabilities).”



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VALID FROM 04/12/2005

51 In section 40 (restriction on employer-related investments), in subsection (4) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 04/12/2005

52 In section 41 (provision of documents for members)—  
(a) for subsection (3) substitute—  
“(3) The documents referred to in subsection (1)(b) are—  
(a) any statement of funding principles prepared or revised under section 223 of the Pensions Act 2004,  
(b) any valuation or report prepared by the actuary under section 224 of that Act,  
(c) any certificate given by the actuary under section 225 or 227 of that Act.”, and  
(b) in subsection (5B) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

VALID FROM 06/04/2006

53 In section 47 (professional advisers), in subsections (3), (8) and (11) for “sections 3 and 10 apply to any trustee, and section 10 applies” substitute “ section 10 applies to any trustee, and ”.

VALID FROM 09/12/2005

54 In section 49 (other responsibilities of trustees, employers, etc)—  
(a) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”, and  
(b) in subsection (10)—  
(i) omit paragraph (a) and the word “and” immediately after it, and  
(ii) in paragraph (b) for “such steps” substitute “ reasonable steps to secure compliance ”.

VALID FROM 09/12/2005

55 In section 49A (record of winding up decisions) omit subsection (4).

VALID FROM 01/09/2005

56 In section 68 (power of trustees to modify schemes by resolution), in subsection (2)—

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- (a) in paragraph (b), for “section 16(1) or 17(2)” substitute “ section 241 of the Pensions Act 2004 ”, and
- (b) for paragraph (c) substitute—
  - “(c) to enable the scheme to comply with such terms and conditions as may be imposed by the Board of the Pension Protection Fund in relation to any payment made by it under section 185 or 186 of the Pensions Act 2004,”.

VALID FROM 06/04/2006

- 57 In section 69 (grounds for applying for modifications)—
- (a) in subsection (2) for “about the manner of dealing with applications under this section” substitute “ requiring applications under this section to meet prescribed requirements ”,
  - (b) in subsection (3) omit paragraph (a),
  - (c) in subsection (4)(a) omit “(a) or”, and
  - (d) in subsection (5)(a) omit “either of” and for “subsection (3)(a) or (b)” substitute “ subsection (3)(b) ”.

VALID FROM 06/04/2006

- 58 In section 71A(4)(d) (power to make provision in relation to applications for the purposes of that section)—
- (a) for “before such time as may be prescribed” substitute “ before an application is made for the purposes of this section ”, and
  - (b) for “an application for the purposes of this section” substitute “ the application ”.

- 59 In section 72A (reports to Authority about winding up) omit subsection (9)(a) and “and” immediately after it.

**Commencement Information**

**I25** Sch. 12 para. 59 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 60 In section 72C (duty to comply with directions for facilitating winding up) omit subsection (2).

**Commencement Information**

**I26** Sch. 12 para. 60 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

PROSPECTIVE

- 61 In section 73 (preferential liabilities on winding up) in subsection (6), omit paragraph (a) and “and” immediately after it.

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VALID FROM 06/04/2006

- 62 In section 76 (excess assets on winding up)—
- (a) in subsection (3), omit paragraph (c) (but not the word “and” immediately following it),
  - (b) omit subsection (5), and
  - (c) in subsection (6) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 06/04/2006

- 63 In section 77 (excess assets remaining after winding up: power to distribute)—
- (a) omit subsections (2) and (3),
  - (b) in subsection (4)—
    - (i) for the opening words substitute “Where this section applies—”, and
    - (ii) in paragraph (a) for “those assets” substitute “ the undistributed assets ”, and
  - (c) in subsection (5) for “sections 3 and 10 apply” substitute “ section 10 applies ”.

VALID FROM 06/04/2006

- 64 In section 87 (schedules of payment to money purchase schemes) omit subsection (5)(a) and “and” immediately after it.

VALID FROM 06/04/2006

- 65 In section 88 (provision supplementary to section 87) omit subsection (4)(a) and “and” immediately after it.

- 66 In section 89 (application of further provisions to money purchase schemes)—
- (a) in subsection (1)(a)—
    - (i) for “sections 56 to 60” substitute “ Part 3 of the Pensions Act 2004 ”, and
    - (ii) for “those sections” substitute “ that Part ”, and
  - (b) in subsection (2) omit “insolvency”.

#### Commencement Information

**I27** Sch. 12 para. 66 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

- 67 In section 118 (powers to modify Part 1 of the Pensions Act 1995)—
- (a) in subsection (2) for “to 26C” substitute “ to 26 ”, and
  - (b) omit subsection (3).

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#### Commencement Information

**I28** Sch. 12 para. 67 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

- 68 In section 119 (calculations etc under regulations: sub-delegation), for “73(3)” substitute “ 73B(4)(a) ”.

#### Commencement Information

**I29** Sch. 12 para. 68 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

VALID FROM 06/04/2006

- 69 (1) Section 124 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1), in the definition of “transfer credits”, for the words following “by reference to” substitute “—
- (a) a transfer to the scheme of, or transfer payment to the trustees or managers of the scheme in respect of, any of his rights (including transfer credits allowed) under another occupational pension scheme or a personal pension scheme, other than pension credit rights, or
  - (b) a cash transfer sum paid under Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers) in respect of him, to the trustees or managers of the scheme.”.
- (3) In subsection (3A), after “(3E)” insert “ and to sections 28, 154 and 219 of the Pensions Act 2004 ”.
- (4) In subsection (3B), after “(3E)” insert “ and to sections 154 and 219 of the Pensions Act 2004 ”.

#### *Bank of England Act 1998 (c. 11)*

- 70 In Schedule 7 to the Bank of England Act 1998 (restriction on disclosure of information), in the table in paragraph 3(1), for the entry relating to the Occupational Pensions Regulatory Authority substitute—

“The Pensions Regulator	Functions conferred by or by virtue of—
	(a) the Pension Schemes Act 1993,
	(b) the Pensions Act 1995,
	(c) the Welfare Reform and Pensions Act 1999,
	(d) the Pensions Act 2004, or
	(e) any enactment in force in Northern Ireland corresponding to an enactment mentioned in paragraphs (a) to (d) above.”

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#### Commencement Information

**I30** Sch. 12 para. 70 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

#### *Welfare Reform and Pensions Act 1999 (c. 30)*

71 The Welfare Reform and Pensions Act 1999 is amended as follows.

#### Commencement Information

**I31** Sch. 12 para. 71 in force at 6.4.2005 by S.I. 2005/1108, art. 2(2), Sch.

#### PROSPECTIVE

72 In section 1 (stakeholder pension schemes), in subsection (6), after “members etc)” insert “ and of regulations under section 237 of the Pensions Act 2004 (combined pension forecasts) ”.

73 In section 2 (registration of stakeholder pension schemes)—

- (a) in subsection (1) for “Occupational Pensions Regulatory Authority (“the Authority”)” substitute “ Authority ”,
- (b) in subsection (3) after “may” insert “ by direction ”, and
- (c) in subsection (4) for the words from “Section 3” to “Act applies” substitute “ Section 10 of the Pensions Act 1995 (“the 1995 Act”) (civil penalties) applies to any trustee of a pension scheme which is or has been registered under this section, and ”.

#### Commencement Information

**I32** Sch. 12 para. 73 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

#### VALID FROM 22/09/2005

74 In section 8(2)(a) (providing for stakeholder pension schemes to be treated as personal pension schemes), after “is” insert “ prescribed or is ”.

#### VALID FROM 04/12/2005

75 In section 38 (treatment in winding up)—

- (a) in subsection (2), for “section 56 of the Pensions Act 1995” substitute “ this section ”, and
- (b) after that subsection insert—
  - “(2A) This section applies to an occupational pension scheme other than—
    - (a) a money purchase scheme, or

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(b) a prescribed scheme or a scheme of a prescribed description.”

76 (1) Paragraph 1 of Schedule 1 (application of enactments relating to occupational schemes to certain stakeholder schemes) is amended as follows.

(2) In sub-paragraph (2), in paragraph (b)—

- (a) in sub-paragraph (i) for the words from “except” to the end substitute “except sections 7(5A)(b), 8(1)(a) and (c) and (2), 11(3A) and (3B) and 15(1),
- (b) in sub-paragraph (ii) for “31” substitute “30”,
- (c) in sub-paragraph (iii) omit the words from “except” to the end,
- (d) for sub-paragraph (v) substitute—  
“(v) section 47 (professional advisers);”, and
- (e) in sub-paragraph (vii) for “section 50” substitute “sections 50 to 50B”.

(3) After that paragraph insert “; and

(c) the following provisions of the Pensions Act 2004—

- (i) section 67 (accessibility of register of prohibited trustees);
- (ii) Chapters 4 and 5 of Part 2 (fraud compensation and information gathering);
- (iii) sections 247 to 249 (requirements for knowledge and understanding); and
- (iv) section 318 (interpretation).”

(4) In sub-paragraph (5), after “1995 Act” insert “, and section 318(1) of the Pensions Act 2004, ”.

(5) After sub-paragraph (5) insert—

“(6) Chapters 4 and 5 of Part 2 of the Pensions Act 2004 (as applied by sub-paragraph (1)) shall have effect with such modifications as the Secretary of State may prescribe by regulations.”

#### Commencement Information

**I33** Sch. 12 para. 76(2)(a)(4) in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

77 (1) Schedule 5 (pension credits: mode of discharge) is amended as follows.

(2) In paragraph 8(1)(b), for the words from “section 56” to “related schemes)” substitute “Part 3 of the Pensions Act 2004 (scheme funding) ”.

(3) After paragraph 13 insert—

“13A The provisions of this Schedule are subject to—

- (a) section 73A(3) and (6) of the Pensions Act 1995 (prohibition on new members during winding up of scheme: exception for discharge of pension credit derived from the scheme), and
- (b) section 133(2) and (8) of the Pensions Act 2004 (prohibition on new members during an assessment period in relation to a scheme: exception for discharge of pension credit derived from the scheme).”

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**Commencement Information**

**I34** Sch. 12 para. 77(1)(3) in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

*Terrorism Act 2000 (c. 11)*

- 78 In Schedule 3A to the Terrorism Act 2000 (regulated sector and supervisory authorities), for paragraph 4(1)(f) substitute—  
“(f) the Pensions Regulator;”.

**Commencement Information**

**I35** Sch. 12 para. 78 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

*Freedom of Information Act 2000 (c. 36)*

- 79 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 6 insert at the appropriate place—  
“The Pensions Regulator.”  
“The Board of the Pension Protection Fund.”  
“The Ombudsman for the Board of the Pension Protection Fund.”

**Commencement Information**

**I36** Sch. 12 para. 79 in force at 6.4.2005 by S.I. 2005/275, art. 2(7), Sch. Pt. 7

*Proceeds of Crime Act 2002 (c. 29)*

- 80 In Schedule 9 to the Proceeds of Crime Act 2002 (regulated sector and supervisory authorities), for paragraph 4(1)(f) substitute—  
“(f) the Pensions Regulator;”.

**Commencement Information**

**I37** Sch. 12 para. 80 in force at 6.4.2005 by S.I. 2005/695, art. 2(7), Sch. 1 (with arts. 4-6, Sch. 2, Sch. 3)

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