



# Pension Schemes Act 2015

## 2015 CHAPTER 8

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 and provision designed to give people greater flexibility in accessing benefits and to help them make informed decisions about what to do with benefits. [3rd March 2015]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PROSPECTIVE

### PART 1

#### CATEGORIES OF PENSION SCHEME

#### <sup>F1</sup> 1 Introduction

.....

#### Textual Amendments

- F1** Ss. 1-7 omitted (1.8.2022) by virtue of [Pension Schemes Act 2021 \(c. 1\)](#), ss. **128(a)**, 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### <sup>F2</sup> 2 Defined benefits scheme

.....

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

**Textual Amendments**

F1 Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F13 Shared risk scheme (sometimes known as “defined ambition”)**

.....

**Textual Amendments**

F1 Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F14 Defined contributions scheme**

.....

**Textual Amendments**

F1 Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F15 Meaning of “pensions promise” etc**

.....

**Textual Amendments**

F1 Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F16 Treatment of a scheme as two or more separate schemes**

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**Textual Amendments**

F1 Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F17 Interpretation of Part 1**

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**Textual Amendments**

- F1** Ss. 1-7 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(a), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

PROSPECTIVE

**PART 2**

COLLECTIVE BENEFITS

*Introduction and nature of collective benefits*

**F<sup>2</sup>8 Introduction and definition**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F<sup>2</sup>9 Duty to set targets for collective benefits**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F<sup>2</sup>10 Policy about factors used to determine each benefit**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F<sup>2</sup>11 Power to impose requirements about factors used to determine each benefit**

.....

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**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

*Contributions*

**F212 Payment schedule**

.....

**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F213 Overdue contributions and other payments**

.....

**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

*Investment*

**F214 Statement of investment strategy**

.....

**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F215 Investment performance reports**

.....

**Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

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## F2<sup>16</sup> Investment powers

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### Textual Amendments

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

## F2<sup>17</sup> Restriction on borrowing by trustees or managers

.....

### Textual Amendments

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

## F2<sup>18</sup> Investment powers: duty of care

.....

### Textual Amendments

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

## *Valuation*

## F2<sup>19</sup> Valuation reports

.....

### Textual Amendments

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

## F2<sup>20</sup> Valuation process

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### Textual Amendments

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

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### *Dealing with deficits and surpluses*

#### **F<sup>2</sup>21 Policy for dealing with a deficit or surplus**

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##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F<sup>2</sup>22 Power to impose requirements about dealing with a deficit or surplus**

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##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F<sup>2</sup>23 Deficits attributable to an offence or the imposition of a levy**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F<sup>2</sup>24 Payment of amounts out of collective benefit funds**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

### *Cash equivalents*

#### **F<sup>2</sup>25 Policy for calculating cash equivalent of benefits**

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**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

*Winding up*

**F226 Winding up**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F227 Requirement to wind up scheme in specified circumstances**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F228 Policies about winding up**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

*Identifying assets*

**F229 Working out which assets are available for the provision of which benefits**

.....

**Textual Amendments**

- F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

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### *Regulations under Part 2: general*

#### **F230 Requirement to obtain actuarial advice**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F231 Sub-delegation**

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##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F232 Publication of documents etc**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F233 Enforcement**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **F234 Overriding requirements**

.....

##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)



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### *Interpretation of Part 2*

#### **F<sup>2</sup>35 Interpretation of Part 2**

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##### **Textual Amendments**

**F2** Ss. 8-35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(b), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

## **PART 3**

### GENERAL CHANGES TO LEGISLATION ABOUT PENSION SCHEMES

#### *Administration and governance*

PROSPECTIVE

#### **F<sup>3</sup>36 Pensions promise obtained from third party**

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##### **Textual Amendments**

**F3** S. 36 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(c), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

PROSPECTIVE

#### **F<sup>4</sup>37 Duty to act in the best interests of members**

.....

##### **Textual Amendments**

**F4** S. 37 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(c), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

#### **38 Disclosure of information about schemes**

(1) Section 113 of the Pension Schemes Act 1993 (disclosure of information about schemes to members etc) is amended as follows.

(2) In subsection (1)—

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- (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 Secretary of State.”
- (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 employment 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.”
- (6) In subsection (5), for “some or all of the persons mentioned in subsection (2)” substitute “persons of a prescribed description”.
- (7) Omit paragraph 17 of Schedule 12 to the Pensions Act 2004, which is no longer needed given subsection (3).

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**Commencement Information**

**II** [S. 38\(1\)\(4\)](#) in force at 18.9.2017 by [S.I. 2017/916](#), [reg. 3](#)

PROSPECTIVE

*Early leavers*

**No**      **Extension of preservation of benefit under occupational pension schemes**  
**commentary**  
**item**      .....

**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d39**

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**No**      **Revaluation of accrued benefits**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d40**

PROSPECTIVE

*Indexation*

**No**      **Collective benefits exempt from indexation**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d41**

**No**      **Regulatory own fund schemes exempt from indexation**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d42**

**No**      **Power to create other exemptions from indexation**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d43**

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PROSPECTIVE

*Independent trustees*

**No**      **Removal of requirement to maintain register of independent trustees**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d44**

PROSPECTIVE

*Rules about modification of schemes*

**No**      **Rules about modification of schemes**  
**commentary**  
**item**      .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-78319e7f739b67fc9d1dd3667d5a007d45**

*Other amendments*

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

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.

**Commencement Information**

**I2**      **S. 46** partly in force; **s. 46** in force for specified purposes at 6.4.2015, see **s. 89(3)(a)**

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## PART 4

### PENSIONS FLEXIBILITIES

#### CHAPTER 1

##### PENSIONS GUIDANCE

#### 47 Pensions guidance

Schedule 3 contains amendments of the Financial Services and Markets Act 2000, and of other legislation, that are about the giving of pensions guidance to pension scheme members, and survivors of pension scheme members, with a right or entitlement to flexible benefits.

#### CHAPTER 2

##### INDEPENDENT ADVICE

##### *Great Britain*

#### 48 Independent advice in respect of conversions and transfers: Great Britain

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—
  - (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
  - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
  - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Secretary of State may by regulations make provision about—
  - (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
  - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Secretary of State may by regulations—
  - (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
  - (a) the valuation of the subsisting rights;

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- (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Great Britain.
- (6) Where the trustees or managers fail to carry out a check required by this section, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
- “appropriate independent advice” means advice that—
- (a) is given by an authorised independent adviser, and
- (b) meets any other requirements specified in regulations made by the Secretary of State;
- “authorised independent adviser” means a person who—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Secretary of State, <sup>[F5]</sup>or is acting as an appointed representative (within the meaning given by section 39(2) of that Act) in relation to a regulated activity so specified,] and
- (b) meets such other requirements as may be specified in regulations made by the Secretary of State for the purpose of ensuring that the person is independent;
- “safeguarded benefits” means benefits other than—
- (a) money purchase benefits, and
- (b) cash balance benefits.

#### **Textual Amendments**

- F5** Words in s. 48(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\), ss. 34\(2\), 41\(3\); S.I. 2016/627, reg. 2\(1\)\(y\)](#)

#### **Modifications etc. (not altering text)**

- C1** S. 48 excluded (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations 2015 \(S.I. 2015/742\), regs. 1\(2\), 2](#)
- C2** S. 48(1) restricted (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations 2015 \(S.I. 2015/742\), regs. 1\(2\), 5\(1\)](#)

#### **Commencement Information**

- I3** S. 48 wholly in force; s. 48 in force at Royal Assent for specified purposes; s. 48 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## **49 Power to require employer to arrange advice for purposes of section 48**

- (1) The Secretary of State may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member

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of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 48.

- (2) Regulations under subsection (1) may, in particular—
- (a) impose limitations on the amount that an employer may be required to pay;
  - (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;
  - (c) provide for section 10 of the Pensions Act 1995 (civil penalties) to apply to a failure by an employer to comply with the regulations.
- (3) In this section “employer” has the meaning given by regulations made by the Secretary of State.

#### **Commencement Information**

- I4** S. 49 wholly in force; s. 49 in force at Royal Assent for specified purposes; s. 49 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## **50 Independent advice: consequential amendments: Great Britain**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 99 (trustees' duties after exercise of option), after subsection (2) insert—
- “(2A) Subsection (2) does not apply if—
- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
  - (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”
- (3) In section 101J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 18(3) of Schedule 4 to this Act) insert—
- “(2B) Subsection (1) does not apply if—
- (a) the trustees or managers have been unable to carry out the check required by section 48 of the Pension Schemes Act 2015 by reason of factors outside their control, or
  - (b) the trustees or managers have carried out the check required by section 48 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

### *Northern Ireland*

## **51 Independent advice in respect of conversions and transfers: Northern Ireland**

- (1) Where a member of a pension scheme has subsisting rights in respect of any safeguarded benefits, or a survivor of a member has subsisting rights in respect of any

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safeguarded benefits, the trustees or managers must check that the member or survivor has received appropriate independent advice before—

- (a) converting any of the benefits into different benefits that are flexible benefits under the scheme;
  - (b) making a transfer payment in respect of any of the benefits with a view to acquiring a right or entitlement to flexible benefits for the member or survivor under another pension scheme;
  - (c) paying a lump sum that would be an uncrystallised funds pension lump sum in respect of any of the benefits.
- (2) The Department for Social Development in Northern Ireland may by regulations make provision about—
- (a) what the trustees or managers must do to check that a member or survivor has received appropriate independent advice for the purposes of subsection (1), and
  - (b) when the check must be carried out for the purposes of that subsection.
- (3) The Department for Social Development in Northern Ireland may by regulations—
- (a) create an exception to subsection (1) in the case of a member or survivor whose subsisting rights in respect of safeguarded benefits under the scheme, or safeguarded benefits under the scheme and any other schemes, are worth less than a specified amount;
  - (b) create other exceptions to subsection (1).
- (4) Regulations under subsection (3)(a) may, in particular, make provision about—
- (a) the valuation of the subsisting rights;
  - (b) the process for determining whether the exception applies.
- (5) In subsection (1)(b) the reference to another pension scheme includes a scheme established in a country or territory outside Northern Ireland.
- (6) Where the trustees or managers fail to carry out a check required by this section, Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) applies to any trustee or manager who failed to take reasonable steps to ensure that the check was carried out.
- (7) Failure to carry out a check required by this section does not affect the validity of any transaction.
- (8) In this section—
- “appropriate independent advice” means advice that—
- (a) is given by an authorised independent adviser, and
  - (b) meets any other requirements specified in regulations made by the Department for Social Development in Northern Ireland;
- “authorised independent adviser” means a person who—
- (a) has permission under Part 4A of the Financial Services and Markets Act 2000, or resulting from any other provision of that Act, to carry on a regulated activity specified in regulations made by the Department for Social Development in Northern Ireland, [<sup>F6</sup>or is acting as an appointed representative (within the meaning given by section 39(2) of that Act) in relation to a regulated activity so specified,] and



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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

- (b) meets such other requirements as may be specified in regulations made by the Department for Social Development in Northern Ireland for the purpose of ensuring that the person is independent;  
“safeguarded benefits” means benefits other than—
  - (a) money purchase benefits, and
  - (b) cash balance benefits.

#### Textual Amendments

- F6** Words in s. 51(8) inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), ss. [34\(3\)](#), [41\(3\)](#); S.I. 2016/627, reg. 2(1)(y)

#### Modifications etc. (not altering text)

- C3** S. 51 excluded (6.4.2015) by [The Pension Schemes Act 2015 \(Transitional Provisions and Appropriate Independent Advice\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/165\)](#), regs. 1(1), 2 (with reg. 2)

#### Commencement Information

- I5** S. 51 wholly in force; s. 51 in force at Royal Assent for specified purposes; s. 51 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 52 Power to require employer to arrange advice for purposes of section 51

- (1) The Department for Social Development in Northern Ireland may by regulations specify circumstances in which an employer must arrange or pay for a member of a pension scheme, or a survivor of a member of a pension scheme, to receive appropriate independent advice for the purpose of satisfying a requirement imposed by section 51.
- (2) Regulations under subsection (1) may, in particular—
  - (a) impose limitations on the amount that an employer may be required to pay;
  - (b) prohibit an employer from seeking in any way to recover, from a member or survivor, costs incurred by the employer in complying with the regulations;
  - (c) provide for Article 10 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (civil penalties) to apply to a failure by an employer to comply with the regulations.
- (3) In this section “employer” has the meaning given by regulations made by the Department for Social Development in Northern Ireland.

#### Commencement Information

- I6** S. 52 wholly in force; s. 52 in force at Royal Assent for specified purposes; s. 52 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 53 Independent advice: consequential amendments: Northern Ireland

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—  
“(2A) Subsection (2) does not apply if—

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- (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
  - (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”
- (3) In section 97J (time for compliance with transfer notice in respect of pension credit benefits), after subsection (2A) (inserted by paragraph 64(3) of Schedule 4 to this Act) insert—
- “(2B) Subsection (1) does not apply if—
- (a) the trustees or managers have been unable to carry out the check required by section 51 of the Pension Schemes Act 2015 by reason of factors outside their control, or
  - (b) the trustees or managers have carried out the check required by section 51 of the Pension Schemes Act 2015 but the check did not confirm that the member had received appropriate independent advice.”

#### *Income tax exemption*

### **54 Independent advice: income tax exemption**

- (1) In Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (employment income: exemptions), in Chapter 9 (exemptions: pension provision), after section 308A insert—

#### **“308B Independent advice in respect of conversions and transfers of pension scheme benefits**

- (1) No liability to income tax arises in respect of—
- (a) the provision to an employee or former employee of appropriate independent advice, or
  - (b) the payment or reimbursement, to or in respect of an employee or former employee, of the cost of such advice,
- if conditions A to C are met.
- (2) Condition A is that the provision, payment or reimbursement is required by regulations under section 49 or 52 of the Pension Schemes Act 2015 (power to require employer to arrange independent advice in respect of conversions and transfers).
- (3) If condition A is met only as respects part of the payment or reimbursement because the amount of the payment or reimbursement exceeds the amount required to be paid or reimbursed, subsection (1) applies in respect of that part.
- (4) Condition B is that the provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements.

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- (5) Condition C is that such other requirements as may be specified in regulations made by the Treasury are satisfied in relation to the provision, payment or reimbursement.
- (6) In this section—
- “appropriate independent advice”—
- (a) in relation to England and Wales and Scotland, has the meaning given by regulations under section 48 of the Pension Schemes Act 2015;
- (b) in relation to Northern Ireland, has the meaning given by regulations under section 51 of that Act;
- “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which an employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of appropriate independent advice or the payment or reimbursement of the cost of such advice.”
- (2) In that Part of that Act, in section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2), after paragraph (d) insert—
- “(da) section 308B (independent advice in respect of conversions and transfers of pension scheme benefits),”.
- (3) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

### CHAPTER 3

#### DRAWDOWN, CONVERSION OF BENEFITS AND LUMP SUMS

##### *Great Britain*

#### **55 Sums or assets that may be designated as available for drawdown: Great Britain**

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.
- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.
- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

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## 56 Provision about conversion of certain benefits for drawdown: Great Britain

- (1) The Secretary of State may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
  - (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;
  - (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

### Commencement Information

- I7** S. 56 wholly in force; s. 56 in force at Royal Assent for specified purposes; s. 56 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 57 Provision about calculation of lump sums: Great Britain

- (1) The Secretary of State may by regulations make provision about the calculation of lump sums in circumstances where—
  - (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.
- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
  - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

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#### **Commencement Information**

- 18** S. 57 wholly in force; s. 57 in force at Royal Assent for specified purposes; s. 57 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

#### **58 Restrictions on conversion of benefits during winding up etc: Great Britain**

- (1) In section 73A of the Pensions Act 1995 (operation of scheme during winding up period), after subsection (6) insert—

“(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

- (2) In section 73B of that Act (sections 73 and 73A: supplementary), in subsections (1) and (3), after “section 73A(3)” insert “ or (6A) ”.

- (3) In section 135 of the Pensions Act 2004 (restrictions on winding up, discharge of liabilities etc during assessment period), in subsection (4), before paragraph (a) insert—

“(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

#### **59 Restriction on payment of lump sums during PPF assessment period: Great Britain**

- (1) Section 138 of the Pensions Act 2004 (payment of scheme benefits during assessment period) is amended as follows.

- (2) In subsection (1), after “Subsections (2)” insert “, (2A) ”.

- (3) After subsection (2) insert—

“(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—

- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and
- (b) the assessment date referred to in Schedule 7 were the date on which the assessment period began.”

- (4) In subsection (3), omit “But”.

- (5) In subsection (5), for “subsection (2)” substitute “ subsections (2) and (2A) ”.

- (6) In subsection (6), for “subsection (3)” substitute “ subsections (2A) and (3) ”.

- (7) In subsection (7), after “Subsections (2),” insert “ (2A), ”.

- (8) In subsection (8), after “subsections (2)” insert “, (2A) ”.

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- (9) In subsection (9), for “subsections (2) and (3)” substitute “ subsections (2) to (3) ”.
- (10) After subsection (9) insert—
- “(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of subsection (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.
- (9B) Regulations may create exceptions to subsection (2A).”
- (11) In subsection (12), for “subsection (2)” substitute “ subsections (2) and (2A) ”.
- (12) In subsection (13), after “subsection (2)” insert “ , (2A) ”.

#### **Commencement Information**

- 19** S. 59 wholly in force; s. 59 in force at Royal Assent for specified purposes; s. 59 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## **60 Sections 55 to 57: consequential amendments**

- (1) In section 101AI of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (8)—
- (a) in paragraph (a), after sub-paragraph (ix) insert—
- “(x) section 55 of the Pension Schemes Act 2015;  
 (xi) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
- (b) in paragraph (b), after sub-paragraph (vii) insert—
- “(viii) section 55(3) of the Pension Schemes Act 2015;  
 (ix) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”
- (2) In section 67A of the Pensions Act 1995 (the subsisting rights provisions: interpretation), in subsection (9)—
- (a) in paragraph (a), after sub-paragraph (x) (inserted by section 45 of this Act) insert—
- “(xi) section 55 of the Pension Schemes Act 2015;  
 (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
- (b) in paragraph (b), after sub-paragraph (viii) (inserted by section 45 of this Act) insert—
- “(ix) section 55(3) of the Pension Schemes Act 2015;  
 (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”
- (3) In section 318 of the Pensions Act 2004 (interpretation), in subsection (3)—
- (a) in paragraph (a), after sub-paragraph (x) (inserted by Schedule 2 to this Act) insert—
- “(xi) section 55 of the Pension Schemes Act 2015;

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- (xii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;”;
- (b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 2 to this Act) insert—
- “(ix) section 55(3) of the Pension Schemes Act 2015;  
(x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.”

### *Northern Ireland*

## **61 Sums or assets that may be designated as available for drawdown: Northern Ireland**

- (1) In the case of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of drawdown pension for the member under the scheme are sums or assets held for the purposes of providing money purchase benefits to or in respect of the member.
- (2) In the case of a survivor of a member of an occupational pension scheme the only sums or assets that may be designated as available for the payment of dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension for the survivor under the scheme are sums or assets held for the purposes of providing money purchase benefits to the survivor.
- (3) This section overrides any provision of an occupational pension scheme to the extent that there is a conflict.
- (4) This section does not apply in relation to sums or assets designated before 6 April 2015.

## **62 Provision about conversion of certain benefits for drawdown: Northern Ireland**

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the conversion of benefits under an occupational pension scheme in circumstances where—
  - (a) a member of the scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to convert any of the benefits into money purchase benefits for the purposes of enabling sums or assets to be designated as available for the payment of drawdown pension, dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any benefits not converted are to be calculated in future.
- (3) In relation to a conversion that takes place before the member or survivor reaches normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of converting them into money purchase benefits;

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- (b) the use of any power to reduce benefits.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

#### **Commencement Information**

**I10** S. 62 wholly in force; s. 62 in force at Royal Assent for specified purposes; s. 62 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### **63 Provision about calculation of lump sums: Northern Ireland**

- (1) The Department for Social Development in Northern Ireland may by regulations make provision about the calculation of lump sums in circumstances where—
  - (a) a member of an occupational pension scheme, or a survivor of a member of the scheme, has subsisting rights in respect of any flexible benefits other than money purchase benefits under the scheme, and
  - (b) the member or survivor exercises an option to be paid a lump sum in respect of any of those benefits.
- (2) Regulations under subsection (1) may, in particular, make provision about how the rate or amount of any remaining benefits are to be calculated in future.
- (3) In a case where a member or survivor exercises an option to be paid a lump sum before reaching normal pension age, regulations under subsection (1) may in particular make provision about—
  - (a) the manner in which benefits are to be calculated for the purpose of determining the amount available for the payment of the lump sum;
  - (b) the use of any power to reduce the amount of the lump sum.
- (4) Regulations made under this section may include provision for them to override the provisions of a pension scheme to the extent that there is a conflict.

#### **Commencement Information**

**I11** S. 63 wholly in force; s. 63 in force at Royal Assent for specified purposes; s. 63 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### **64 Restrictions on conversion of benefits during winding up etc: Northern Ireland**

- (1) In Article 73A of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (operation of scheme during winding up period), after paragraph (6) insert—
 

“(6A) During the winding up period no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”
- (2) In Article 73B of that Order (Articles 73 and 73A: supplementary), in paragraphs (1) and (3), after “Article 73A(3)” insert “ or (6A) ”.



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(3) In Article 119 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (restrictions on winding up, discharge of liabilities etc during assessment period), in paragraph (4), before sub-paragraph (a) insert—

“(za) no right or entitlement of any member, or of any other person in respect of a member, to a benefit that is not a money purchase benefit is to be converted into, or replaced with, a right or entitlement to a money purchase benefit under the scheme rules.”

## **65 Restriction on payment of lump sums during PPF assessment period: Northern Ireland**

(1) Article 122 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (payment of scheme benefits during assessment period) is amended as follows.

(2) In paragraph (1), after “Paragraphs (2)” insert “, (2A) ”.

(3) After paragraph (2) insert—

“(2A) Benefits in the form of a lump sum may be paid to or in respect of a member under the scheme rules during the assessment period only in the circumstances in which, and to the extent to which, lump sum compensation would be payable to or in respect of the member in accordance with this Chapter if—

- (a) the Board assumed responsibility for the scheme in accordance with this Chapter, and
- (b) the assessment date referred to in Schedule 6 were the date on which the assessment period began.”

(4) In paragraph (3), omit “But”.

(5) In paragraph (5), for “paragraph (2)” substitute “ paragraphs (2) and (2A) ”.

(6) In paragraph (6), for “paragraph (3)” substitute “ paragraphs (2A) and (3) ”.

(7) In paragraph (7), after “Paragraphs (2),” insert “ (2A), ”.

(8) In paragraph (8), after “paragraphs (2)” insert “, (2A) ”.

(9) In paragraph (9), for “paragraphs (2) and (3)” substitute “ paragraphs (2) to (3) ”.

(10) After paragraph (9) insert—

“(9A) Regulations may make provision as to circumstances in which benefits in the form of a lump sum are to be treated for the purposes of paragraph (2A) as being paid in the circumstances in which lump sum compensation would be payable in accordance with this Chapter.

(9B) Regulations may create exceptions to paragraph (2A).”

(11) In paragraph (12), for “paragraph (2)” substitute “ paragraphs (2) and (2A) ”.

(12) In paragraph (13), after “paragraph (2)” insert “, (2A) ”.

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### **Commencement Information**

**I12** S. 65 wholly in force; s. 65 in force at Royal Assent for specified purposes; s. 65 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## **66 Sections 61 to 63: consequential amendments**

- (1) In section 97AI of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: cash transfer sums and contribution refunds - further provisions), in subsection (7)—
  - (a) in paragraph (a), after sub-paragraph (vii) insert—
    - “(viii) section 61 of the Pension Schemes Act 2015;
    - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
  - (b) in paragraph (b), after sub-paragraph (v) insert—
    - “(vi) section 61(3) of the Pension Schemes Act 2015;
    - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”
- (2) In Article 67A of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (the subsisting rights provisions: interpretation), in paragraph (9)—
  - (a) in sub-paragraph (a), after head (vii) insert—
    - “(viii) section 61 of the Pension Schemes Act 2015;
    - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
  - (b) in sub-paragraph (b), after head (v) insert—
    - “(vi) section 61(3) of the Pension Schemes Act 2015;
    - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”
- (3) In Article 2 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (interpretation), in paragraph (4)—
  - (a) in sub-paragraph (a), after head (vii) insert—
    - “(viii) section 61 of the Pension Schemes Act 2015;
    - (ix) regulations made under section 62 or 63 of the Pension Schemes Act 2015;”;
  - (b) in sub-paragraph (b), after head (v) insert—
    - “(vi) section 61(3) of the Pension Schemes Act 2015;
    - (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.”

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## CHAPTER 4

### TRANSFERS

#### *Rights to transfer benefits*

#### **67 Rights to transfer benefits**

Schedule 4 contains amendments that confer new statutory rights to transfer benefits.

#### *Great Britain*

#### **68 Restriction on transfers out of unfunded public service defined benefits schemes: Great Britain**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 95 (ways of taking right to cash equivalent), in subsection (2), after “occupational pension scheme” insert “ that is not an unfunded public service defined benefits scheme ”.
- (3) In section 95, after subsection (2) insert—
  - “(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—
    - (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—
      - (i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,
      - (ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and
      - (iii) the other scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
    - (b) for acquiring rights allowed under the rules of a personal pension scheme if—
      - (i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,
      - (ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and
      - (iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Secretary of State or the Treasury;
    - (c) for purchasing from one or more insurers such as are mentioned in section 19(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury;

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- (d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Secretary of State or the Treasury.
- (2B) The Treasury may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in prescribed circumstances or in relation to prescribed schemes or schemes of a prescribed description.
- (2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—
- (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
  - (b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”
- (4) After section 95(5) insert—
- “(5A) Except in such circumstances as may be prescribed in regulations made by the Secretary of State or the Treasury, subsection (2A) is to be construed as if paragraph (d) were omitted.”
- (5) In section 95(6)—
- (a) after “subsections (2)” insert “, (2A) ”;
  - (b) after “subsection (2)” insert “ or (2A) ”.
- (6) In section 96 (further provisions concerning exercise of option under section 95), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A) ”.
- (7) In section 100 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A) ”.
- (8) The amendments made by this section have no effect in relation to an application made under section 95(1) of the Pension Schemes Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 95(2A)(a)(iii)	Section 95(2)(a)(ii)
Section 95(2A)(b)(iii)	Section 95(2)(b)(ii)
Section 95(2A)(c)	Section 95(2)(c)
Section 95(2A)(d)	Section 95(2)(d)
Section 95(5A)	Section 95(5)(a).

#### **Commencement Information**

**I13** S. 68 wholly in force; s. 68 in force at Royal Assent for specified purposes; s. 68 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

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*Status:* Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.

*Changes to legislation:* There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)

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## **69 Reduction of cash equivalents: funded public service defined benefits schemes: Great Britain**

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 97 (calculation of cash equivalents), in subsection (1)—
  - (a) after “verified” insert “—  
(a)”;
  - (b) at the end insert “, and  
(b) where a designation has been made under section 97A or 97B, in accordance with regulations under section 97C.”
- (3) After section 97 insert—

### **“97A Designation of funded public service defined benefits schemes**

- (1) This section applies to funded public service defined benefits schemes other than schemes to which section 97B applies (equivalent provision for certain Scottish schemes).

A scheme to which this section applies is referred to below as an “eligible scheme”.
- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
  - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify—

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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- (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (9) If the trustees or managers of a scheme, or part of a scheme, which is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are no longer met in relation to the scheme or part they must notify—
- (a) the Treasury, and
  - (b) (where relevant) each Minister of the Crown by whom, or with whose approval, the scheme was established.
- (10) In this section—
- “eligible scheme” has the meaning given by subsection (1);
  - “funded public service defined benefits scheme” means a public service pension scheme that—
    - (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
    - (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;
  - “local authority” means—
    - (a) a county or district council in England,
    - (b) a county or county borough council in Wales,
    - (c) a London borough council,
    - (d) the Greater London Authority,
    - (e) the Common Council of the City of London in its capacity as a local authority, or
    - (f) the Council of the Isles of Scilly;
  - “payment out of public funds” means a payment provided directly or indirectly—
    - (a) out of—
      - (i) the Consolidated Fund or any other account or source of money which cannot be drawn or spent other than by, or with the authority of, the Treasury, or
      - (ii) the Welsh Consolidated Fund, or
    - (b) by a local authority;
  - “the relevant person” means—
    - (a) in relation to a scheme established by virtue of paragraph 12 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the Independent Parliamentary Standards Authority and the trustees of the Parliamentary Contributory Pension Fund;
    - (b) in relation to a scheme established by virtue of paragraph 16 of Schedule 6 to the Constitutional Reform and Governance Act 2010 (or treated as so established), the trustees of the Parliamentary Contributory Pension Fund;
    - (c) in any other case, either of the following—
      - (i) the Treasury, or

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**Status:** Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)

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- (ii) any Minister of the Crown by whom, or with whose approval, the scheme was established.
- (11) The Treasury may by regulations modify the definitions of “local authority” and “the relevant person” in subsection (10).

**97B Designation of funded public service defined benefits schemes:  
Scotland**

- (1) This section applies to a funded public service defined benefits scheme that is—
- (a) a scheme established by, or with the approval of, the Scottish Ministers;
  - (b) a scheme established by virtue of section 81(4)(b) of the Scotland Act 1998.

A scheme to which this section applies is referred to below as an “eligible scheme”.

- (2) The relevant person may designate an eligible scheme as a scheme to which regulations under section 97C are to apply for a specified period of no more than 2 years.
- (3) The power under subsection (2) may be exercised only if the relevant person considers that—
- (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
  - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 94.
- (4) The power under subsection (2) may be exercised in relation to the whole or any part of a scheme.
- (5) In the application of subsection (3) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (6) A designation under subsection (2)—
- (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (7) The relevant person must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant person is the trustees or managers).
- (8) If the trustees or managers of an eligible scheme, or part of such a scheme, which is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (3) are met in relation to the scheme or part they must notify the Scottish Ministers.
- (9) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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subsection (3) are no longer met in relation to the scheme or part they must notify the Scottish Ministers.

(10) In this section—

“eligible scheme” has the meaning given by subsection (1);

“funded public service defined benefits scheme” means a public service pension scheme that—

- (a) is a defined benefits scheme within the meaning given by section 37 of the Public Service Pensions Act 2013, and
- (b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;

“payment out of public funds” means a payment provided directly or indirectly—

- (a) out of the Scottish Consolidated Fund, or
- (b) by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“the relevant person” means—

- (a) in relation to a scheme falling within subsection (1)(a), the Scottish Ministers;
- (b) in relation to a scheme falling with subsection (1)(b), the trustees of the Scottish Parliamentary Contributory Pension Fund.

(11) The Scottish Ministers may by regulations modify the definition of “the relevant person” in subsection (10).”

(4) After section 97B (inserted by subsection (3)) insert—

**“97C Reduction of cash equivalents in case of designated schemes**

- (1) The Treasury may by regulations provide that where, under section 95(1), a member of a designated scheme requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.
- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 97) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 95(1)) is designated under section 97A or 97B.”

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**Commencement Information**

**I14** S. 69 wholly in force; s. 69 in force at Royal Assent for specified purposes; s. 69 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)



*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

## 70 Sections 68 and 69: consequential amendments

- (1) In the Pension Schemes Act 1993, in section 182 (orders and regulations: general provisions), after subsection (1) insert—

“(1A) Subsection (1) does not apply to the power of the Scottish Ministers to make regulations under section 97B(11).”

- (2) In that Act, in section 185 (consultations about other regulations), after subsection (5) insert—

“(5A) Subject to subsection (5C), before the Treasury (acting alone) make any regulations under section 95, 97A or 97C they shall consult such persons as they may consider appropriate.

(5B) Subject to subsection (5C), before the Scottish Ministers make any regulations under section 97B(11) they shall consult such persons as they may consider appropriate.

(5C) Subsections (5A) and (5B) do not apply to regulations in the case of which the Treasury or (as the case may be) the Scottish Ministers consider consultation inexpedient because of urgency or to regulations of the type described in subsection (2)(b) or (e).”

- (3) In that Act, in section 186 (Parliamentary control of orders and regulations)—

(a) in subsection (1) (negative procedure), after “Secretary of State” insert “ or the Treasury ”;

(b) in subsection (3) (affirmative procedure), after paragraph (e) insert “, or  
(f) regulations made under section 97A(11)”;

(c) after subsection (5) insert—

“(6) Regulations made by the Scottish Ministers under section 97B(11) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

- (4) In the Pensions Act 2004, in section 18 (pension liberation: interpretation), in subsection (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

- (5) The consultation requirement in section 185(5A) of the Pension Schemes Act 1993 (inserted by subsection (2)) may be satisfied by things done before the day on which this Act is passed.

### Commencement Information

**115** S. 70 wholly in force; s. 70 in force at Royal Assent for specified purposes; s. 70 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

### Northern Ireland

## 71 Restriction on transfers out of unfunded public service defined benefits schemes: Northern Ireland

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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(2) In section 91(2), after “occupational pension scheme” insert “ that is not an unfunded public service defined benefits scheme ”.

(3) In section 91, after subsection (2) insert—

“(2A) In the case of a member of an occupational pension scheme that is an unfunded public service defined benefits scheme, the ways referred to in subsection (1) are—

(a) for acquiring transfer credits allowed under the rules of another occupational pension scheme if—

(i) the benefits that may be provided under the other scheme by virtue of the transfer credits are not flexible benefits,

(ii) the trustees or managers of the other scheme are able and willing to accept payment in respect of the member's transferrable rights, and

(iii) the other scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;

(b) for acquiring rights allowed under the rules of a personal pension scheme if—

(i) the benefits that may be provided under the personal pension scheme by virtue of the acquired rights are not flexible benefits,

(ii) the trustees or managers of the personal pension scheme are able and willing to accept payment in respect of the member's transferrable rights, and

(iii) the personal pension scheme satisfies requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;

(c) for purchasing from one or more insurers such as are mentioned in section 15(4)(a), chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel;

(d) for subscribing to other pension arrangements which satisfy requirements prescribed in regulations made by the Department or the Department of Finance and Personnel.

(2B) The Department of Finance and Personnel may by regulations provide for sub-paragraph (i) of subsection (2A)(a) or (b) not to apply in specified circumstances or in relation to specified schemes or schemes of a specified description.

(2C) In subsections (2) and (2A) “unfunded public service defined benefits scheme” means a public service pension scheme that—

(a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and

(b) meets some or all of its liabilities otherwise than out of a fund accumulated for the purpose during the life of the scheme.”

(4) After section 91(5) insert—

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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

“(5A) Except in such circumstances as may be prescribed in regulations made by the Department or the Department of Finance and Personnel, subsection (2A) is to be construed as if paragraph (d) were omitted.”

- (5) In section 91(6)—
- (a) after “subsections (2)” insert “, (2A) ”;
  - (b) after “subsection (2)” insert “ or (2A) ”.
- (6) In section 92 (further provisions concerning exercise of option under section 91), in subsection (2)(b), after “subsection (2)” insert “, subsection (2A) ”.
- (7) In section 96 (withdrawal of applications), in subsection (2), after “subsection (2)” insert “, subsection (2A) ”.
- (8) The amendments made by this section have no effect in relation to an application made under section 91 of the Pension Schemes (Northern Ireland) Act 1993 before 6 April 2015.
- (9) Until the coming into force of the first regulations made under a provision of the Pension Schemes (Northern Ireland) Act 1993 specified in the first column of the table, regulations made under the provision of that Act specified in the corresponding entry in the second column apply (with any necessary modifications) for the purposes of the provision specified in the first column—

<i>New provision of Act</i>	<i>Existing provision of Act</i>
Section 91(2A)(a)(iii)	Section 91(2)(a)(ii)
Section 91(2A)(b)(iii)	Section 91(2)(b)(ii)
Section 91(2A)(c)	Section 91(2)(c)
Section 91(2A)(d)	Section 91(2)(d)
Section 91(5A)	Section 91(5)(a).

#### Commencement Information

**I16** S. 71 wholly in force; s. 71(1)-(7) in force at Royal Assent for specified purposes; s. 71 in force so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

## 72 Reduction of cash equivalents: funded public service defined benefits schemes: Northern Ireland

- (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 93 (calculation of cash equivalents), in subsection (1)—
- (a) after “verified” insert “—  
(a)”;  
(b) at the end insert “, and  
(b) where a designation has been made under section 93A, in accordance with regulations under section 93B.”
- (3) After section 93 insert—

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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### **“93A Designation of funded public service defined benefits schemes**

- (1) The relevant Department may designate a funded public service defined benefits scheme as a scheme to which regulations under section 93B are to apply for a specified period of no more than 2 years.
- (2) The power under subsection (1) may be exercised only if the relevant Department considers that—
  - (a) there is an increased likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and
  - (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90.
- (3) The power under subsection (1) may be exercised in relation to the whole or any part of a scheme.
- (4) In the application of subsection (2) to part of a scheme, paragraph (a) is to be read as if it referred to the scheme's liabilities relating to that part.
- (5) A designation under subsection (1)—
  - (a) may be extended (on more than one occasion) for a period of no more than 2 years;
  - (b) may be revoked.
- (6) The relevant Department must give notice in writing of a designation or its extension or revocation to the trustees or managers of the scheme (except in a case where the relevant Department is the trustees or managers).
- (7) If the trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, that is not designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are met in relation to the scheme or part they must notify—
  - (a) the Department of Finance and Personnel, and
  - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (8) If the trustees or managers of a scheme, or part of a scheme, that is designated under this section consider that the conditions in paragraphs (a) and (b) of subsection (2) are no longer met in relation to the scheme or part they must notify—
  - (a) the Department of Finance and Personnel, and
  - (b) (where relevant) each Northern Ireland department by whom, or with whose approval, the scheme was established.
- (9) In this section—
 

“funded public service defined benefits scheme” means a public service pension scheme that—

  - (a) is a defined benefits scheme within the meaning given by section 34 of the Public Service Pensions Act (Northern Ireland) 2014, and

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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

(b) meets its liabilities out of a fund accumulated for the purpose during the life of the scheme;

“local authority” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;

“payment out of public funds” means a payment provided directly or indirectly—

- (a) out of the Northern Ireland Consolidated Fund, or
- (b) by a local authority;

“the relevant Department”, in relation to a funded public service defined benefits scheme, means either of the following—

- (a) the Department of Finance and Personnel, or
- (b) any Northern Ireland department by whom, or with whose approval, the scheme was established.

(10) The Department of Finance and Personnel may by regulations make modifications of the definition of “the relevant Department” in subsection (9).”

(4) After section 93A (inserted by subsection (3)) insert—

**“93B Reduction of cash equivalents in case of section 93A designated schemes**

- (1) The Department of Finance and Personnel may by regulations provide that where, under section 91(1), a member of a designated scheme requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme the cash equivalent must be reduced by an amount determined in accordance with the regulations.
- (2) Regulations under subsection (1) may not require a reduction in cases where a scheme ceases to be a designated scheme before the date on which the trustees or managers do what is needed to carry out what the member requires.
- (3) Regulations under subsection (1) may produce the result (alone or in conjunction with regulations under section 93) that the amount by which a cash equivalent is to be reduced is such an amount that a member has no right to receive anything.
- (4) In subsection (1), “designated scheme” means a funded public service defined benefits scheme, or part of such a scheme, that (on the date of the application under section 91(1)) is designated under section 93A.”

**Commencement Information**

**I17** S. 72 wholly in force; s. 72 in force at Royal Assent for specified purposes; s. 72 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects  
 for the Pension Schemes Act 2015. (See end of Document for details)*

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### 73 Sections 71 and 72: consequential amendments

- (1) In the Pension Schemes (Northern Ireland) Act 1993, in section 176 (general interpretation), in subsection (1), in the definition of “regulations”, after “means” insert “, unless the context otherwise requires, ”.
- (2) In that Act, in section 181 (Assembly etc control of regulations and orders)—
  - (a) in subsection (2) (regulations and orders subject to confirmatory procedure), at the end insert “ and to regulations made by the Department of Finance and Personnel under section 93A(10) ”;
  - (b) in subsection (4) (regulations and orders subject to negative resolution), for “shall” substitute “ and regulations made by the Department of Finance and Personnel under section 91 or 93B shall ”.
- (3) In the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), in Article 14 (pension liberation: interpretation), in paragraph (4)(a) (meaning of “authorised way”), omit “subsection (2) or, as the case may be, subsection (3) of”.

## CHAPTER 5

### INTERPRETATION OF PART 4

#### 74 Meaning of “flexible benefit”

In this Part “flexible benefit”, in relation to a member of a pension scheme or a survivor of a member, means—

- (a) a money purchase benefit,
- (b) a cash balance benefit, or
- (c) a benefit, other than a money purchase benefit or cash balance benefit, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor).

#### 75 Meaning of “cash balance benefit”

- (1) In this Part “cash balance benefit”, in relation to a member of a pension scheme or a survivor of a member, means a benefit calculated by reference to an amount available for the provision of benefits to or in respect of the member (“the available amount”) where there is a promise about that amount.
- (2) But a benefit is not a “cash balance benefit” if, under the scheme—
  - (a) a pension may be provided from the available amount to or in respect of the member, and
  - (b) there is a promise about the rate of that pension.
- (3) The promise mentioned in subsection (1) includes, in particular, a promise about the change in the value of, or the return from, payments made by the member or any other person in respect of the member.
- (4) The promise mentioned in subsection (2)(b) includes a promise that—
  - (a) the available amount will be sufficient to provide a pension of a particular rate;

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- (b) the rate of a pension will represent a particular proportion of the available amount.
- (5) A benefit is not excluded from the definition of “cash balance benefit” by subsection (2) merely because under the scheme there is a promise that—
- (a) the rate or amount of the benefit payable in respect of a deceased member will be a particular proportion of the rate or amount of the benefit which was (or would have been) payable to the member, or
  - (b) the amount of a lump sum payable to a member, or in respect of a deceased member, will represent a particular proportion of the available amount.

## 76 Interpretation of Part 4

### *UK definitions*

(1) In this Part—

“cash balance benefit” has the meaning given by section 75;

“dependants' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 18 of Schedule 28 to the Finance Act 2004;

“drawdown pension”, in relation to a member, has the meaning given by paragraph 4 of Schedule 28 to the Finance Act 2004;

“flexible benefit” has the meaning given by section 74;

“nominees' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27B of Schedule 28 to the Finance Act 2004;

“normal pension age”, in relation to a benefit for a member of a pension scheme or a survivor of a member, means—

- (a) the earliest age at which, or earliest occasion on which, the member or survivor 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), or
- (b) if there is no such age or occasion, normal minimum pension age as defined by section 279(1) of the Finance Act 2004;

“subsisting right”—

- (a) in relation to a member of a pension scheme means—

- (i) any right which has accrued to or in respect of the member to future benefits under the scheme, or
- (ii) any entitlement to benefits under the scheme,

- (b) in relation to a survivor of a member of a pension scheme, means any right to future benefits, or entitlement to benefits, which the survivor has under the scheme in respect of the member;

“successors' drawdown pension”, in relation to a survivor, has the meaning given by paragraph 27G of Schedule 28 to the Finance Act 2004;

“survivor”, in relation to a member of a pension scheme, means a person who has survived the member and has a right to future benefits, or is entitled to benefits, under the scheme in respect of the member;

“trustees or managers” means—

- (a) in relation to a scheme established under a trust, the trustees, and
- (b) in relation to any other scheme, the managers;

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“uncrystallised funds pension lump sum” has the meaning given by paragraph 4A of Schedule 29 to the Finance Act 2004.

*Great Britain only definitions*

- (2) In any provision of this Part as it extends to England and Wales and Scotland—
- “money purchase benefits” has the meaning given by section 181 of the Pension Schemes Act 1993;
  - “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;
  - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993.

*Northern Ireland only definitions*

- (3) In any provision of this Part as it extends to Northern Ireland—
- “money purchase benefits” has the meaning given by section 176 of the Pension Schemes (Northern Ireland) Act 1993;
  - “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993;
  - “pension scheme” has the meaning given by section 1(5) of the Pension Schemes (Northern Ireland) Act 1993.

## PART 5

### MISCELLANEOUS

#### *Reemploy*

#### **77 Payments into Reemploy Limited Pension and Assurance Scheme**

The Secretary of State may make payments into the Reemploy Limited Pension and Assurance Scheme.

**Commencement Information**

**I18** [S. 77](#) in force at 16.11.2015 by [S.I. 2015/1851](#), [reg. 2\(a\)](#)

#### *Judicial and public service pensions*

#### **78 Pension scheme for fee-paid judges**

- (1) In the Judicial Pensions and Retirement Act 1993, after Part 1 insert—



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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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## “PART 1A

### FEE-PAID JUDGES

#### 18A Pension scheme for fee-paid judges

- (1) The appropriate Minister may by regulations establish a scheme for the payment of pensions and other benefits to or in respect of fee-paid judges.
- (2) The scheme may make provision for payments to or in respect of a person in relation to the person's service before the scheme is established.
- (3) No benefits are to be provided under a new public service pension scheme in relation to service in relation to which benefits are to be provided under a scheme under this section.

“New public service pension scheme” means a scheme under—

- (a) section 1 of the Public Service Pensions Act 2013, or
- (b) section 1 of the Public Service Pensions Act (Northern Ireland) 2014 (c. 2).

- (4) The power under section 18(5) of the Public Service Pensions Act 2013 is to include power to provide for exceptions in the case of a person who—
  - (a) served as a fee-paid judge before 1 April 2012, and
  - (b) has been notified by the appropriate Minister that he or she will potentially be eligible for benefits under a scheme under this section in relation to that service,(and section 18(6) to (8) of the 2013 Act apply accordingly).

- (5) The power under section 18(5) of the Public Service Pensions Act (Northern Ireland) 2014 is to include power to provide for exceptions in the case of a person who—
  - (a) served as a fee-paid judge before 1 April 2012, and
  - (b) has been notified by the appropriate Minister that he or she will potentially be eligible for benefits under a scheme under this section in relation to that service,(and section 18(7) to (9) of the 2014 Act apply accordingly).

- (6) Regulations under this section may, in particular, include provision corresponding or similar to—
  - (a) any provision made by Part 1, section 20 or Schedule 2 or 2A;
  - (b) any provision that may be made by regulations under Part 1, section 20 or Schedule 2 or 2A.

- (7) In this section—

“judge” means a person who holds an office specified in the regulations;

“fee-paid judge” means a judge whose service is remunerated by the payment of fees (as opposed to the payment of a salary).”

- (2) Schedule 5 contains related amendments.

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## 79 **Judicial pensions: pension sharing on divorce etc**

In paragraph 1(5) of Schedule 2A to the Judicial Pensions and Retirement Act 1993 (pension credits), for the words from “in respect of the office” to the end substitute “in respect of the rights from which the pension credit is derived”.

## 80 **Public service pension schemes**

In Schedule 5 to the Public Service Pensions Act 2013 (meaning of “existing scheme”), in paragraph 1, after “1972” insert “ other than a scheme which relates to staff of the Secret Intelligence Service or Security Service ”.

### *Marriage of same sex couples*

## 81 **Extension to Scotland of certain provisions about marriage of same sex couples**

Sections 17(11), 24D(5), 37(7) and 38A of the Pension Schemes Act 1993 (regulations about relevant gender change cases) extend to Scotland.

### **Commencement Information**

**I19** [S. 81](#) in force at 16.11.2015 by [S.I. 2015/1851](#), [reg. 2\(b\)](#)

### *Pension sharing*

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

- (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 101B (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 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 101C (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

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members by virtue of rights which are not attributable (directly or indirectly) to a pension credit.”

## PART 6

### GENERAL

#### 83 Power to make consequential amendments

- (1) The appropriate national authority 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 primary or subordinate legislation (whenever passed or made).
- (3) In this section—
  - “appropriate national authority” means—
    - (a) in relation to provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998), the Department for Social Development in Northern Ireland, and
    - (b) in relation to any other provision, the Secretary of State or the Treasury;
  - “primary legislation” means—
    - (a) an Act;
    - (b) Northern Ireland legislation;
  - “subordinate legislation” means—
    - (a) subordinate legislation as defined by section 21(1) of the Interpretation Act 1978;
    - (b) an instrument made under Northern Ireland legislation.

#### 84 Regulations

- (1) Regulations made by the Secretary of State or the Treasury under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing—
  - (a) the first regulations under section 8(3)(b), 9, 10, 11 or 21,
  - (b) regulations under section 48(3)(b), or
  - (c) regulations under section 83 that amend, repeal or otherwise modify a provision of primary legislation,(whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing regulations under section 89(4) or (6) only.

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## **85 Regulations: Northern Ireland**

- (1) A power of the Department for Social Development in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (2) Subsection (3) applies where regulations made by the Department for Social Development in Northern Ireland contain—
  - (a) provision made under section 51(3)(b), or
  - (b) provision made under section 83 that amends, repeals, revokes or otherwise modifies a provision of primary legislation,
(whether alone or with other provision).
- (3) Where this subsection applies, the regulations—
  - (a) must be laid before the Northern Ireland Assembly after being made;
  - (b) take effect on such date as may be specified in the regulations but (without prejudice to the validity of anything done under them or to the making of new regulations) cease to have effect on the expiry of a period of 6 months from that date unless at some time before the expiry of that period the regulations are approved by a resolution of the Northern Ireland Assembly.
- (4) Any other regulations made by the Department for Social Development in Northern Ireland under this Act are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).
- (5) Subsection (4) does not apply to regulations containing provision under section 89(6) only.

## **86 Regulations: supplementary**

- (1) A power to make regulations under this Act may be used—
  - (a) to make different provision for different purposes;
  - (b) in relation to all or only some of the purposes for which it may be used.
- (2) Regulations under this Act may include incidental, supplementary, consequential, transitional, transitory or saving provision.

## **87 Crown application**

- (1) In this section “the relevant provisions” means—
  - (a) Part 2,
  - (b) section 36,
  - (c) section 37,
  - (d) in Chapter 2 of Part 4, sections 48, 49, 51 and 52, and
  - (e) in Chapter 3 of Part 4, sections 55 to 57 and 61 to 63.
- (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.

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

## **88 Extent**

- (1) This Act extends to England and Wales and Scotland only, subject to the following provisions of this section.
- (2) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.
- (3) Section 81 extends to Scotland only.
- (4) The following extend also to Northern Ireland—
  - (a) section 54(3);
  - (b) Chapter 5 of Part 4;
  - (c) this Part.
- (5) The following extend to Northern Ireland only—
  - (a) in Chapter 2 of Part 4, sections 51 and 52;
  - (b) in Chapter 3 of Part 4, sections 61 to 63;
  - (c) section 71(8) and (9).

## **89 Commencement**

- (1) The following come into force on the day on which this Act is passed—
  - (a) section 47 and Schedule 3;
  - (b) any other provision of Part 4 so far as is necessary for enabling the exercise on or after the day on which this Act is passed of any power to make provision by regulations;
  - (c) sections 78 and 79 and Schedule 5;
  - (d) section 80;
  - (e) this Part.
- (2) Section 82 comes into force on 1 April 2015.
- (3) The following come into force on 6 April 2015—
  - (a) paragraphs 24, 30, 33 and 36 of Schedule 2 (and section 46 so far as relating to those provisions);
  - (b) Part 4, so far as not already in force.
- (4) The following come into force on such day or days as may be appointed by regulations made by the Secretary of State—
  - (a) Parts 1 to 3 other than paragraphs 24, 30, 33 and 36 of Schedule 2 (and section 46 so far as relating to those provisions);
  - (b) sections 77 and 81.
- (5) Regulations under subsection (4) may appoint different days for different purposes.

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- (6) The Secretary of State or the Department for Social Development in Northern Ireland may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

**90 Short title**

This Act may be cited as the Pension Schemes Act 2015.

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

## SCHEDULES

PROSPECTIVE

### SCHEDULE 1

Section 40

#### EARLY LEAVERS: REVALUATION OF ACCRUED BENEFITS

F7<sub>1</sub> .....

##### Textual Amendments

F7 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

F7<sub>2</sub> .....

##### Textual Amendments

F7 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

F7<sub>3</sub> .....

##### Textual Amendments

F7 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

F7<sub>4</sub> .....

##### Textual Amendments

F7 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

F7<sub>5</sub> .....

##### Textual Amendments

F7 Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

F7<sub>6</sub> .....

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

**Changes to legislation:** There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)

**Textual Amendments**

**F7** Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**F77** .....

**Textual Amendments**

**F7** Sch. 1 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(d), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

**8** In Schedule 3 to that Act (revaluation methods), before paragraph 1 insert—

*“The default method*

**A1** The default method is to revalue the benefits in any way in which they would have been revalued if—

- (a) in the case of an occupational pension scheme, the member's pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

**9** Omit paragraphs 3A and 4 of that Schedule.

**10** In paragraph 5(1) of that Schedule, for “if his pensionable service had not terminated” substitute “if—

- (a) in the case of an occupational pension scheme, the member's pensionable service had not terminated, or
- (b) in the case of a personal pension scheme, contributions in respect of the member had not ceased to be paid.”

**11** Omit the following, which are no longer needed given the earlier provisions of this Schedule—

- (a) paragraph 31(3) of Schedule 12 to the Welfare Reform and Pensions Act 1999;
- (b) section 19(1) to (3) of the Pensions Act 2011.

SCHEDULE 2

Section 46

OTHER AMENDMENTS TO DO WITH PARTS 1 AND 2

PROSPECTIVE

*Pension Schemes Act 1993 (c. 48)*

**No  
 commentary  
 item** .....



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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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PROSPECTIVE

*Pensions Act 1995 (c. 26)*

No .....  
commentary

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**No .....  
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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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No .....  
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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

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fbc29c7ed86cc365dd656d70125e09b718

PROSPECTIVE

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

No .....  
commentary  
item  
could be  
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for this  
reference  
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fbc29c7ed86cc365dd656d70125e09b719

PROSPECTIVE

*Financial Services and Markets Act 2000 (c. 8)*

No .....  
commentary  
item  
could be  
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No .....  
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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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*Pensions Act 2004 (c. 35)*

PROSPECTIVE

- 23 The Pensions Act 2004 is amended as follows.
- 24 In section 13 (improvement notices), in subsection (7)—
- (a) omit the “or” at the end of paragraph (e);
  - (b) after paragraph (f) insert “, or
  - (g) the Pension Schemes Act 2015.”

PROSPECTIVE

No .....  
commentary  
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PROSPECTIVE

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*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

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PROSPECTIVE

No .....  
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PROSPECTIVE

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PROSPECTIVE

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- 30 (1) Section 90 (codes of practice) is amended as follows.
- (2) In subsection (2)(i), for “money purchase schemes” substitute “ certain schemes ”.
- (3) In subsection (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 2014, or
    - (f) the Pension Schemes Act 2015.”

PROSPECTIVE

F831 .....

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

**Textual Amendments**

**F8** Sch. 2 para. 31 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(e)(iii), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

PROSPECTIVE

**F9**32 .....

**Textual Amendments**

**F9** Sch. 2 para. 32 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(e)(iii), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

33 In section 254 (representative of non-European scheme to be treated as trustee), in subsection (3)—  
(a) omit the “or” at the end of paragraph (c);  
(b) after paragraph (d) insert “, or  
(e) the Pension Schemes Act 2015.”

PROSPECTIVE

**F10**34 .....

**Textual Amendments**

**F10** Sch. 2 para. 34 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(e)(iv), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

PROSPECTIVE

**F11**35 .....

**Textual Amendments**

**F11** Sch. 2 para. 35 omitted (1.8.2022) by virtue of Pension Schemes Act 2021 (c. 1), ss. 128(e)(iv), 131(1); S.I. 2022/721, regs. 1(2), 3(e)

36 In section 291 (duty of trustees or managers to act consistently with law of host member state), in subsection (4)—  
(a) omit the “or” at the end of paragraph (c);  
(b) after paragraph (d) insert “, or  
(e) the Pension Schemes Act 2015.”

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PROSPECTIVE

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PROSPECTIVE

*Pensions Act 2008 (c. 30)*

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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

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bd0d61665ef0dd9f125163707a10888850

PROSPECTIVE

*Pensions Act 2014 (c. 19)*

No .....  
commentary  
item  
could be  
found  
for this

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

reference  
key-  
bd0d61665ef0dd9f125163707a1088851

## SCHEDULE 3

Section 47

### PENSIONS GUIDANCE

1 The Financial Services and Markets Act 2000 is amended as follows.

F12<sub>2</sub> .....

#### Textual Amendments

F12 Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

F12<sub>3</sub> .....

#### Textual Amendments

F12 Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

F12<sub>4</sub> .....

#### Textual Amendments

F12 Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

F12<sub>5</sub> .....

#### Textual Amendments

F12 Sch. 3 paras. 2-5 omitted (1.1.2019) by virtue of Financial Guidance and Claims Act 2018 (c. 10), s. 37(5), Sch. 3 para. 31; S.I. 2018/1330, reg. 2(g)(vii)

6 After section 137FA insert—

#### “137FB FCA general rules: disclosure of information about the availability of pensions guidance

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits.

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- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
- (a) the Secretary of State, and
  - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes, and survivors of members of pension schemes, with subsisting rights in respect of any flexible benefits.
- (4) In this section—
- “flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;
- “pensions guidance” means pensions guidance given by virtue of Part 20A;
- “relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—
- (a) a personal pension scheme within the meaning of an order under section 22, or
  - (b) a stakeholder pension scheme within the meaning of such an order;
- “subsisting right” has the meaning given by section 76 of the Pension Schemes Act 2015;
- “survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.”

7 (1) Section 138F (notification of rules) is amended as follows.

(2) The existing text becomes subsection (1).

(3) After that subsection insert—

“(2) Subsection (1)(b) does not apply to rules made under or by virtue of section 137FB, 333Q or 333R.”

8 In section 138I (rules: consultation by the FCA)—

(a) in subsection (6) (exemption from requirement to carry out a cost benefit analysis), after paragraph (a) insert—

“(aa) section 137FB;”;

<sup>F13</sup>(b) .....

(c) in subsection (10) (rules to which requirement to consult the PRA does not apply), after “apply to” insert “—

(a) rules made by the FCA under section 137FB, 333Q or 333R, or

(b)”.

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

**Textual Amendments**

**F13** Sch. 3 para. 8(b) omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F14**<sub>9</sub> .....

**Textual Amendments**

**F14** Sch. 3 paras. 9-11 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F14**<sub>10</sub> .....

**Textual Amendments**

**F14** Sch. 3 paras. 9-11 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F14**<sub>11</sub> .....

**Textual Amendments**

**F14** Sch. 3 paras. 9-11 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

12 In section 429 (Parliamentary control of statutory instruments), in subsection (2) (regulations subject to the affirmative resolution procedure), for “or 262” substitute “, 262, 333C or 333R”.

**F15**<sub>13</sub> .....

**Textual Amendments**

**F15** Sch. 3 paras. 13-15 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F15**<sub>14</sub> .....

**Textual Amendments**

**F15** Sch. 3 paras. 13-15 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\)](#), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

**F15**<sub>15</sub> .....

*Status: Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.*

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### Textual Amendments

**F15** Sch. 3 paras. 13-15 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

- 16 In that Schedule, in paragraph 23 (fees)—
- (a) in sub-paragraph (1), in the opening words, after “of this Act” insert “ other than sections 333Q and 333R ”;
  - (b) in sub-paragraph (1)(a), after “functions” insert “ , other than its excepted functions, ”;
  - (c) in sub-paragraph (2)(a), after “(ca)” insert “ but not its excepted functions ”;
  - (d) after sub-paragraph (2) insert—
    - “(2ZA) The “excepted functions” of the FCA are—
    - (a) its functions under sections 333E to 333Q, and
    - (b) its functions under section 333R so far as relating to the collection of payments.”

F16<sup>17</sup> .....

### Textual Amendments

**F16** Sch. 3 para. 17 omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\)](#), s. 37(5), [Sch. 3 para. 31](#); S.I. 2018/1330, reg. 2(g)(vii)

- 18 (1) For the purpose of the exercise of a function conferred by a provision listed in the first column of the table, a consultation requirement listed in the corresponding entry in the second column may be satisfied by things done before the day on which this Act is passed.

<i>Provision conferring function</i>	<i>Consultation requirement</i>
Section 137FB of FSMA	Sections 137FB(2) and 138I(1) of FSMA
Section 333E(1)(e) of FSMA	Section 333E(2) of FSMA
Section 333H(1) of FSMA	Section 138I(1) of FSMA as applied with modifications by section 333H(6) of FSMA
Section 333K(1) of FSMA	Section 333L(1) of FSMA
Section 333P(1) of FSMA	Section 138(1)(b) of FSMA as applied by section 333P(3) of FSMA
Section 333Q(1) of FSMA	Sections 138I(1) and 333Q(2) of FSMA.
Section 333R(2) of FSMA	Sections 138I(1) and 333R(4) of FSMA

- (2) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed standards for the giving of pensions guidance by designated guidance providers—
- (a) the consultation requirement in section 138I of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the draft is not accompanied by—

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- (i) a cost benefit analysis, or
      - (ii) an explanation of the Financial Conduct Authority's reasons for believing that setting the proposed standards would secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers, and
    - (b) if it is, any resulting standards published under section 138G(4) of FSMA must be accompanied by—
      - (i) a cost benefit analysis within the meaning of section 138I of that Act even if the conditions in subsection (5) of section 138I are not satisfied, and
      - (ii) an explanation of the Financial Conduct Authority's reasons for believing that setting the standards will secure an appropriate degree of protection for recipients of pensions guidance from designated guidance providers.
  - (3) References in sub-paragraph (2) to provisions of sections 138G and 138I of FSMA are to those provisions as applied with modifications by section 333H(6) of that Act.
  - (4) Where before the day on which this Act is passed the Financial Conduct Authority publishes a draft of proposed rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits, the consultation requirement in section 137FB(2) of FSMA may be treated as satisfied by virtue of sub-paragraph (1) even if the only consultation before publication was with the Treasury.
  - (5) In this paragraph—
    - “consultation requirement” includes—
      - (a) a requirement to publish a draft;
      - (b) a requirement under section 333E(2)(b) or (c) of FSMA;
    - “FSMA” means the Financial Services and Markets Act 2000.
- 19 Expenses incurred by the Financial Conduct Authority before the day on which this Act is passed in anticipation of the conferral of functions on it by virtue of the amendments made by this Schedule are to be treated as if they had been incurred on or after that day.

## SCHEDULE 4

Section 67

### RIGHTS TO TRANSFER BENEFITS

#### PART 1

#### GREAT BRITAIN AMENDMENTS

##### *Judicial Pensions Act 1981 (c. 20)*

- 1 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “ Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 ”.

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*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 2 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes Act 1993” substitute “ Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 ”.

*Pension Schemes Act 1993 (c. 48)*

- 3 The Pension Schemes Act 1993 is amended as follows.
- 4 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 93 (and before the Chapter heading above it) insert— “ PART 4ZA TRANSFERS AND CONTRIBUTION REFUNDS ”;
  - (b) for the Chapter heading above section 93 substitute— “ CHAPTER 1 TRANSFER RIGHTS: GENERAL ”;
  - (c) for the Chapter heading above section 101AA substitute— “ CHAPTER 2 EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS ”.
- 5 In section 24F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 6 Until the coming into force of its repeal by Schedule 13 to the Pensions Act 2014, section 56 of the Pension Schemes Act 1993 (payment of state scheme premiums on termination of certified status: supplementary) has effect as if, in subsection (4) (b), for “Chapter 5 of Part 4” there were substituted “ Chapter 2 of Part 4ZA ”.
- 7 In section 73 (form of short service benefit and its alternatives), in subsection (3), for “Chapter IV of this Part” substitute “ Chapter 1 of Part 4ZA ”.
- 8 For sections 93 to 94 substitute—

**“93 Scope of Chapter 1**

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member's accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
  - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
  - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
  - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;



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- (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
  - (a) money purchase benefits;
  - (b) flexible benefits other than money purchase benefits;
  - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member's accrued rights to benefits in a category when—
  - (a) payment of a pension in respect of any of the benefits has begun,
  - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
  - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.
- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—
  - (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
  - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
  - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
  - (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
  - (b) a reference to a member's “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

### **93A Right to statement of entitlement: benefits other than money purchase**

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member's transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.

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- (3) For the purposes of this Chapter a member's "statement of entitlement" is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter "the guarantee date" means the date by reference to which the value of the cash equivalent is calculated, and must be—
  - (a) within the prescribed period beginning with the date of the application, and
  - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.
- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

#### **94 Right to cash equivalent**

- (1) A member of a pension scheme who has received a statement of entitlement under section 93A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.
- (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter."

#### **Commencement Information**

**I20** [Sch. 4 para. 8](#) wholly in force; [Sch. 4 para. 8](#) in force at Royal Assent for specified purposes; [Sch. 4 para. 8](#) in force in so far as not already in force at 6.4.2015 see [s. 89\(1\)\(b\)\(3\)\(b\)](#)

- 9 (1) Section 95 (ways of taking right to cash equivalent) is amended as follows.
  - (2) For subsection (1) substitute—

“(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.

(1A) In the case of a right acquired under section 94(1), the application must be made—

    - (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
    - (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”
  - (3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.

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(4) After subsection (6) insert—

“(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”

(5) Omit subsections (7) and (8).

#### Commencement Information

**I21** Sch. 4 para. 9 wholly in force; Sch. 4 para. 9 in force at Royal Assent for specified purposes; Sch. 4 para. 9 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

10 (1) Section 96 (further provisions concerning exercise of option under section 95) is amended as follows.

(2) For subsection (1) substitute—

“(1) A member who has acquired a right to take a cash equivalent under section 94(1) or (2) may exercise the option conferred by section 95(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—

- (a) in relation to the whole of that cash equivalent, or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”

(3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.

(4) For subsection (4) substitute—

“(4) Where a member of a pension scheme—

- (a) is entitled to make an application under section 95(1) in relation to any category of benefits, and
- (b) is also entitled to give a transfer notice under section 101F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 101G(2)),

the member may not, if the scheme so provides, make an application under section 95(1) in relation to that category of benefits without also giving a transfer notice under section 101F(1) in relation to that category of benefits.”

11 (1) Section 97 (calculation of cash equivalents) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where a member applies under section 95 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”

(3) In subsection (2)—

- (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents” substitute “that relate to money purchase benefits”;
- (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.

(4) In subsection (3), omit paragraph (a).

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- (5) For subsection (3A) substitute—
- “(3A) For the purposes of subsection (3), the “appropriate date”—
- (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 93A, and
- (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 95.
- (3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 95, the regulations may provide for the application under section 95 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 12 For section 98 substitute—
- “98 Loss of right to cash equivalent**
- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 94(1) loses that right if no application to take the cash equivalent is made within the period required by section 95(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 95, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 99(2A).
- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”
- 13 (1) Section 99 (trustees' duties after exercise of option) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95 they must do what is needed to carry out what the member requires—
- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”
- (3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.
- (4) Omit subsection (3A).
- (5) After subsection (4A) insert—

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“(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”

#### Commencement Information

**I22** Sch. 4 para. 13 wholly in force; Sch. 4 para. 13 in force at Royal Assent for specified purposes; Sch. 4 para. 13 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

14 After section 100 insert—

#### “100A Prohibition on excluding future accruals etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

#### 100B Meaning of “scheme rules”: occupational pension schemes

(1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—

- (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 the requirements of Chapter 1 of Part 4 of this Act.

(2) For the purposes of subsection (1)—

- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
  - (i) Schedule 5 to the Social Security Act 1989;
  - (ii) Chapter 2 or 3 of Part 4 of this Act or regulations made under either of those Chapters;
  - (iii) this Part of this Act or regulations made under this Part;
  - (iv) Part 4A of this Act or regulations made under that Part;
  - (v) section 110(1) of this Act;
  - (vi) Part 1 of the Pensions Act 1995 or subordinate legislation made or having effect as if made under that Part;
  - (vii) section 31 of the Welfare Reform and Pensions Act 1999;
  - (viii) any provision mentioned in section 306(2) of the Pensions Act 2004;

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- (ix) regulations made under Schedule 17 to the Pensions Act 2014;
- (x) regulations made under Schedule 18 to the Pensions Act 2014;
- (xi) regulations made under Part 2 of the Pension Schemes Act 2015;
- (xii) section 55 of the Pension Schemes Act 2015;
- (xiii) regulations made under section 56 or 57 of the Pension Schemes Act 2015;
- (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;
  - (vi) regulations made under paragraph 17 of Schedule 17 to the Pensions Act 2014;
  - (vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act 2014;
  - (viii) regulations made under section 34 of the Pension Schemes Act 2015;
  - (ix) section 55(3) of the Pension Schemes Act 2015;
  - (x) regulations made under section 56(4) or 57(4) of the Pension Schemes Act 2015.

### **100C Meaning of “normal pension age” in this Chapter**

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—
  - (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
  - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
  - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

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## 100D Interpretation of Chapter

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 93(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 93A;

“member” is to be read in accordance with section 93(11);

“normal pension age” has the meaning given by section 100C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

(a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and

(b) the scheme does not fall within a prescribed class;

“scheme rules”, in relation to a pension scheme, has the meaning given by section 100B;

“statement of entitlement” has the meaning given by section 93A;

“transferrable rights” is to be read in accordance with section 93(11).”

15 (1) Section 101F (power to give transfer notice) is amended as follows.

(2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.

(3) After subsection (3) insert—

“(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”

(4) For subsection (4) substitute—

“(4) The cash equivalent for the purposes of subsection (1) shall—

(a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 101H, and

(b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”

(5) For subsection (6A) substitute—

“(6A) Regulations may—

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*Changes to legislation: There are currently no known outstanding effects for the Pension Schemes Act 2015. (See end of Document for details)*

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
  - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
  - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
- (a) money purchase benefits;
  - (b) flexible benefits other than money purchase benefits;
  - (c) benefits that are not flexible benefits.”

#### Commencement Information

**I23** Sch. 4 para. 15 wholly in force; Sch. 4 para. 15 in force at Royal Assent for specified purposes; Sch. 4 para. 15 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

16 For section 101G (restrictions on power to give transfer notice) substitute—

#### “101G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member's pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
  - (a) the member has been provided with a statement under section 101H in relation to benefits in that category, and
  - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
- (4) Where an eligible member of a qualifying scheme—
  - (a) is entitled to give a transfer notice in relation to any category of benefits, and
  - (b) is also entitled to make an application to the trustees or managers of the scheme under section 95(1) in relation to benefits in the same category (or would be entitled to do so but for section 95(1A)(a)),
 the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 95(1) in relation to that category of benefits.
- (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
- (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.



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- (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member's pension credit rights to benefits in a category when—
- (a) payment of a pension in respect of any of the benefits has begun,
  - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
  - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”

#### Commencement Information

**I24** Sch. 4 para. 16 wholly in force; Sch. 4 para. 16 in force at Royal Assent for specified purposes; Sch. 4 para. 16 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

17 (1) Section 101H (salary related schemes: statements of entitlement) is amended as follows.

(2) For subsection (1) substitute—

“(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member's pension credit rights in relation to categories of benefits other than money purchase benefits.

(1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”

(3) In the heading for “Salary related schemes” substitute “ Benefits other than money purchase ”.

18 (1) Section 101J (time for compliance with transfer notice) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

“(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and

(b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”

(3) After subsection (2) insert—

“(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”

(4) For subsection (7) substitute—

“(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 101H is determined.”

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### Commencement Information

**I25** Sch. 4 para. 18 wholly in force; Sch. 4 para. 18 in force at Royal Assent for specified purposes; Sch. 4 para. 18 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

19 In section 101M (effect of transfer on trustees' duties), for the words from “pension credit benefit” to the end of the section substitute “ benefits to which the transfer notice relates ”.

20 After section 101N insert—

#### “101NA Prohibition on excluding transfers of some rights without others etc

Except as mentioned in sections 96(4) and 101G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”

21 (1) Section 101P (interpretation) is amended as follows.

(2) In subsection (1), at the appropriate places insert—

““category”, in relation to benefits, has the meaning given by section 101F(6B);”

““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.

(3) In that subsection, omit the definition of “pension credit benefit”.

(4) Omit subsection (2).

(5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “ in relation to benefits other than money purchase benefits ”.”

22 Omit section 101Q.

23 In section 129 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “ Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA ”.

24 In section 130 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “ Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA ”.

25 In section 153 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “ Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA ”.

26 In section 179 (linked qualifying service), in subsection (1)(a)—

- (a) in the opening words, for “Chapter 4 or 5 of Part 4” substitute “ Chapter 1 or 2 of Part 4ZA ”;

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(b) in sub-paragraph (iii)—

(i) for “Chapter 4 of Part 4” substitute “ Chapter 1 of Part 4ZA ”;

(ii) for “Chapter 5” substitute “ Chapter 2 ”.

27 In section 181 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.

*Pensions Act 1995 (c. 26)*

28 The Pensions Act 1995 is amended as follows.

29 In section 67A (the subsisting rights provisions: interpretation), in subsection (9) (a), for sub-paragraph (ii) substitute—

“(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;

(ii) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.

30 In section 73 (preferential liabilities on winding up), in subsection (9), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.

31 In section 73B (sections 73 and 73A: supplementary), in subsection (7), for “Chapter 4 of Part 4” substitute “ Chapter 1 of Part 4ZA ”.

32 In section 124 (interpretation of Part 1), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers)” substitute “ Chapter 2 of Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds) ”.

*Learning and Skills Act 2000 (c. 21)*

33 In section 135 (pensions: interpretation), in subsection (4), for “section 93(1A)” substitute “ section 100D ”.

*Pensions Act 2004 (c. 35)*

34 The Pensions Act 2004 is amended as follows.

35 (1) Section 18 (pension liberation: interpretation) is amended as follows.

(2) In subsection (2)(a)—

(a) after “accrued rights” insert “ or an entitlement ”;

(b) in sub-paragraph (ii), for “the applicable rules” substitute “ the scheme rules ”.

(3) In subsection (3)—

(a) for paragraph (a) substitute—

“(a) section 94 of the Pension Schemes Act 1993 (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;

(b) in paragraph (b), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.

(4) In subsection (4)(d), for “the applicable rules” substitute “ the scheme rules ”.

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- (5) Omit subsection (5).
- 36 In section 23 (freezing orders), in subsection (4)(g), for “salary related schemes” substitute “ benefits other than money purchase ”.
- 37 In section 24 (consequences of freezing order), in subsection (7), for paragraphs (a) and (b) substitute—
- “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
- (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 38 In section 73 (inspection of premises), in subsection (2)(d)—
- (a) for “Chapter 4 of Part 4” substitute “ Chapter 1 of Part 4ZA ”;
- (b) for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.
- 39 In section 135 (restrictions on winding up, discharge of liabilities etc), in subsection (6)(b), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.
- 40 In section 138 (payment of scheme benefits), in subsection (3)(b), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.
- 41 (1) Section 318 (interpretation) is amended as follows.
- (2) In subsection (2), for “an occupational pension scheme” substitute “ a pension scheme ”.
- (3) In subsection (3)(a), for sub-paragraph (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act 1993 (certain protection for early leavers) or regulations made under either of those Chapters;
- (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 42 (1) Schedule 7 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.
- (3) In paragraph 32(1)(b), for “Chapter 5 of Part 4” substitute “ Chapter 2 of Part 4ZA ”.

*Scottish Parliamentary Pensions Act 2009 (asp 1)*

- 43 (1) Schedule 1 to the Scottish Parliamentary Pensions Act 2009 (Scottish Parliamentary Pension Scheme) is amended as follows.
- (2) In paragraph 75, in Condition 6, for “section 93A(2)” substitute “ section 93A(4) ”.
- (3) In paragraph 91(2)(g), for “Chapter 4 of Part 4” substitute “ Chapter 1 of Part 4ZA ”.

*Pensions Act 2014 (c. 19)*

- 44 The Pensions Act 2014 is amended as follows.
- 45 In section 34 (power to prohibit offer of incentives to transfer pension rights), in subsection (7), in the definition of “salary related occupational pension scheme”, for “section 93(1A)” substitute “ section 100D ”.

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- 46 In Schedule 17 (automatic transfer of pension benefits etc), in paragraph 1—
- (a) in sub-paragraph (4)(d), for “applicable rules” substitute “ scheme rules ”;
  - (b) for sub-paragraph (6) substitute—
    - “(6) In sub-paragraph (4)—
    - (a) the reference to “scheme rules” is to be read in accordance with section 100B of the Pension Schemes Act 1993;
    - (b) “benefits” means—
      - (i) money purchase benefits other than money purchase benefits of a prescribed description, or
      - (ii) benefits of a prescribed description.”

## PART 2

### NORTHERN IRELAND AMENDMENTS

#### *Judicial Pensions Act 1981 (c. 20)*

- 47 In Schedule 1A to the Judicial Pensions Act 1981 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “ Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 ”.

#### *Judicial Pensions and Retirement Act 1993 (c. 8)*

- 48 In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), in paragraph 3, for “Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993” substitute “ Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 ”.

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

- 49 The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- 50 (1) Chapters 4 and 5 of Part 4 of the Act become Chapters 1 and 2 of a new Part 4ZA.
- (2) Accordingly—
- (a) before section 89 (and before the Chapter heading above it) insert— “ PART 4ZA TRANSFERS AND CONTRIBUTION REFUNDS ”;
  - (b) for the Chapter heading above section 89 substitute— “ CHAPTER 1 TRANSFER RIGHTS: GENERAL ”;
  - (c) for the Chapter heading above section 97AA substitute— “ CHAPTER 2 EARLY LEAVERS: CASH TRANSFER SUMS AND CONTRIBUTION REFUNDS ”.
- 51 In section 20F (transfers out of GMP-converted schemes), in subsection (3), omit “guaranteed”.
- 52 In section 52 (payment of state scheme premiums on termination of certified status: supplementary), in subsection (4)(b), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.

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53 In section 69 (form of short service benefit and its alternatives), in subsection (3),  
for “Chapter IV of this Part” substitute “ Chapter 1 of Part 4ZA ”.

54 For sections 89 to 90 substitute—

**“89 Scope of Chapter 1**

- (1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.
- (2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.
- (3) Condition 2 is that no crystallisation event has occurred in relation to the member's accrued rights to benefits in that category (see subsection (7)).
- (4) Condition 3 is that—
  - (a) the member is no longer accruing rights to benefits in that category (see subsection (8)), and
  - (b) in the case of benefits that are not flexible benefits, the member stopped accruing those rights at least one year before normal pension age.
- (5) But this Chapter does not apply to—
  - (a) a member of a salary related occupational pension scheme whose pensionable service terminated before 1 January 1986 and in respect of whom prescribed requirements are satisfied;
  - (b) a member of a personal pension scheme which is comprised in an annuity contract made before 4 January 1988.
- (6) In this Chapter a reference to a “category” of benefits is to one of the following three categories—
  - (a) money purchase benefits;
  - (b) flexible benefits other than money purchase benefits;
  - (c) benefits that are not flexible benefits.
- (7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member's accrued rights to benefits in a category when—
  - (a) payment of a pension in respect of any of the benefits has begun,
  - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
  - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.
- (8) For the purposes of Condition 3 a member stops accruing rights to a category of benefits when there are no longer arrangements in place for the accrual of rights to benefits in that category for or in respect of the member.
- (9) In this section a reference to accrued rights does not include pension credit rights.
- (10) Regulations may—

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- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
  - (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
  - (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.
- (11) In the following provisions of this Chapter—
- (a) a reference to a “member” of a pension scheme is a reference to a member to whom this Chapter applies, and
  - (b) a reference to a member's “transferrable rights” are to any rights in relation to a category of benefits by virtue of which this Chapter applies to the member.

### **89A Right to statement of entitlement: benefits other than money purchase**

- (1) The trustees or managers of a pension scheme must, on the application of any member, provide the member with a statement of entitlement in respect of the member's transferrable rights in relation to categories of benefits other than money purchase benefits.
- (2) In the case of a member with transferrable rights in relation to two categories of benefits other than money purchase benefits, the application may relate to transferrable rights in relation to either or both of those categories.
- (3) For the purposes of this Chapter a member's “statement of entitlement” is a written statement of the amount of the cash equivalent at the guarantee date of the transferrable rights to which the application under subsection (1) relates.
- (4) In this Chapter “the guarantee date” means the date by reference to which the value of the cash equivalent is calculated, and must be—
  - (a) within the prescribed period beginning with the date of the application, and
  - (b) within the prescribed period ending with the date on which the statement of entitlement is provided to the member.
- (5) Regulations may make provision in relation to applications under this section and may, in particular, restrict the making of successive applications.
- (6) If the trustees or managers of a pension scheme fail to comply with subsection (1), Article 10 of the Pensions (Northern Ireland) Order 1995 (civil penalties) applies to any trustee or manager who has failed to take all reasonable steps to secure compliance.

### **90 Right to cash equivalent**

- (1) A member of a pension scheme who has received a statement of entitlement under section 89A acquires a right to take the cash equivalent shown in that statement in accordance with this Chapter.

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- (2) A member of a pension scheme who has transferrable rights in relation to money purchase benefits acquires a right to take their cash equivalent in accordance with this Chapter.”

#### Commencement Information

**I26** Sch. 4 para. 54 wholly in force; Sch. 4 para. 54 in force at Royal Assent for specified purposes; Sch. 4 para. 54 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

- 55 (1) Section 91 (ways of taking right to cash equivalent) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) A member of a pension scheme who has acquired a right to take a cash equivalent in accordance with this Chapter may only take it by making an application in writing to the trustees or managers of the scheme requiring them to use the cash equivalent in one of the ways specified below.
- (1A) In the case of a right acquired under section 90(1), the application must be made—
- (a) within the period of 3 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) if the cash equivalent relates to benefits that are not flexible benefits, by no later than the date that falls one year before the member attains normal pension age.”
- (3) In subsections (2)(a)(i) and (b)(i) and (3)(a)(i) and (b)(i), for “accrued rights” substitute “transferrable rights”.
- (4) After subsection (6) insert—
- “(6A) Regulations may extend the period specified in subsection (1A)(a) in prescribed circumstances.”
- (5) Omit subsections (7) and (8).

#### Commencement Information

**I27** Sch. 4 para. 55 wholly in force; Sch. 4 para. 55 in force at Royal Assent for specified purposes; Sch. 4 para. 55 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

- 56 (1) Section 92 (further provisions concerning exercise of option under section 91) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) A member who has acquired a right to take a cash equivalent under section 90(1) or (2) may exercise the option conferred by section 91(1) in relation to different portions of that cash equivalent in different ways, but a member who exercises that option must do so—
- (a) in relation to the whole of that cash equivalent, or
- (b) if subsection (2) applies, in relation to the whole of the balance mentioned in subsection (3).”



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- (3) In subsection (2), in paragraphs (a) and (b), for each “accrued rights” substitute “transferrable rights”.
- (4) For subsection (4) substitute—
- “ (4) Where a member of a pension scheme—
- (a) is entitled to make an application under section 91(1) in relation to any category of benefits, and
- (b) is also entitled to give a transfer notice under section 97F(1) to the trustees or managers of the scheme in relation to benefits in the same category (or would be entitled to do so but for section 97G(2)),
- the member may not, if the scheme so provides, make an application under section 91(1) in relation to that category of benefits without also giving a transfer notice under section 97F(1) in relation to that category of benefits.”
- 57 (1) Section 93 (calculation of cash equivalents) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where a member applies under section 91 to take a cash equivalent that relates to money purchase benefits, the cash equivalent is to be calculated by reference to the date of the application.”
- (3) In subsection (2)—
- (a) in paragraph (a), in the opening words, for “except guaranteed cash equivalents (as defined in section 90(1A))” substitute “that relate to money purchase benefits”;
- (b) in paragraph (aa), for “, including a guaranteed cash equivalent,” substitute “that relates to any category of benefits”.
- (4) In subsection (3), omit paragraph (a).
- (5) For subsection (3A) substitute—
- “(3A) For the purposes of subsection (3), the “appropriate date”—
- (a) in relation to a cash equivalent that relates to benefits other than money purchase benefits, means the guarantee date for the purposes of the relevant statement of entitlement under section 89A, and
- (b) in relation to a cash equivalent that relates to money purchase benefits, means the date on which the trustees or managers receive an application from the member under section 91.
- (3B) Where regulations under subsection (2)(b) provide for the cash equivalent shown in a statement of entitlement to be increased or reduced after the member has made an application under section 91, the regulations may provide for the application under section 91 to lapse (but this does not prevent the member making a fresh application in respect of the increased or reduced cash equivalent).”
- 58 For section 94 substitute—

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#### “94 Loss of right to cash equivalent

- (1) A member of a pension scheme who acquires the right to take a cash equivalent under section 90(1) loses that right if no application to take the cash equivalent is made within the period required by section 91(1A) or (6A).
- (2) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if, after the member makes an application under section 91, the duty of the trustees or managers to do what is needed to carry out what the member requires is extinguished by section 95(2A).
- (3) Nothing in subsection (1) or (2) prevents the member from later acquiring a new right to take a cash equivalent in relation to the same benefits.
- (4) A member of a pension scheme loses the right to take a cash equivalent in accordance with this Chapter if the scheme is wound up.”

59 (1) Section 95 (trustees' duties after exercise of option) is amended as follows.

(2) For subsection (2) substitute—

“(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 91 they must do what is needed to carry out what the member requires—

- (a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the guarantee date shown in the relevant statement of entitlement, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months beginning with the date of the application.”

(3) In subsection (3)(a) omit “at any time before the expiry of the period of 12 months beginning with the termination date”.

(4) Omit subsection (3A).

(5) After subsection (4A) insert—

“(4B) Regulations may extend the period for compliance under subsection (2) or (3) in prescribed circumstances.”

#### **Commencement Information**

**I28** Sch. 4 para. 59 wholly in force; Sch. 4 para. 59 in force at Royal Assent for specified purposes; Sch. 4 para. 59 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

60 After section 96 insert—

#### “96A Prohibition on excluding future accruals etc

Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right

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- under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or
- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.

### **96B Meaning of “scheme rules”: occupational pension schemes**

- (1) In this Chapter references to the scheme rules, in relation to a pension scheme, are references to—
- (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 the requirements of Chapter 1 of Part 4.
- (2) For the purposes of subsection (1)—
- (a) “relevant legislative provision” means any provision contained in any of the following provisions—
    - (i) Schedule 5 to the Social Security (Northern Ireland) Order 1989;
    - (ii) Chapter 2 or 3 of Part 4 or regulations made under either of those Chapters;
    - (iii) this Part or regulations made under this Part;
    - (iv) Part 4A or regulations made under that Part;
    - (v) section 106(1);
    - (vi) Part 2 of the Pensions (Northern Ireland) Order 1995 or orders or regulations made or having effect as if made under that Part;
    - (vii) Article 28 of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
    - (viii) any provision mentioned in Article 279(2) of the Pensions (Northern Ireland) Order 2005;
    - (ix) section 61 of the Pension Schemes Act 2015;
    - (x) regulations made under section 62 or 63 of the Pension Schemes Act 2015;
  - (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 (Northern Ireland) Order 1989;
    - (ii) section 125(1);
    - (iii) Article 114(1) of the Pensions (Northern Ireland) Order 1995;
    - (iv) Article 28(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

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- (v) Article 279(1) of the Pensions (Northern Ireland) Order 2005;
- (vi) section 61(3) of the Pension Schemes Act 2015;
- (vii) regulations made under section 62(4) or 63(4) of the Pension Schemes Act 2015.

### **96C Meaning of “normal pension age” in this Chapter**

- (1) In this Chapter “normal pension age”, in relation to a category of benefits under a pension scheme, means—
- (a) in a case where the scheme is an occupational pension scheme and those benefits consist only of a guaranteed minimum pension, the earliest age at which the member is entitled to receive the guaranteed minimum pension on retirement from any employment to which the scheme applies,
  - (b) in any other case where the scheme is an occupational pension scheme and the scheme provides for the member to become entitled to receive any of those benefits at a particular age on retirement from any employment to which the scheme applies, the earliest age at which the member becomes entitled to receive any of the benefits, and
  - (c) in a case not falling within paragraph (a) or (b), normal minimum pension age as defined by section 279(1) of the Finance Act 2004.
- (2) For the purposes of subsection (1) any scheme rule making special provision as to early retirement on grounds of ill-health or otherwise is to be disregarded.

### **96D Interpretation of Chapter**

In this Chapter—

“accrued rights”, in relation to a member of a pension scheme, means rights that have accrued to or in respect of the member to benefits under the scheme;

“category”, in relation to benefits, has the meaning given by section 89(6);

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

“guarantee date”, in relation to a member who has received a statement of entitlement, has the meaning given by section 89A;

“member” is to be read in accordance with section 89(11);

“normal pension age” has the meaning given by section 96C;

“pension credit rights”, in relation to a member of a pension scheme, means rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit;

“salary related occupational pension scheme”: an occupational pension scheme is “salary related” if—

- (a) the scheme is not a scheme under which all the benefits that may be provided are money purchase benefits, and
- (b) the scheme does not fall within a prescribed class;

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“scheme rules”, in relation to a pension scheme, has the meaning given by section 96B;

“statement of entitlement” has the meaning given by section 89A;

“transferrable rights” is to be read in accordance with section 89(11).”

61 (1) Section 97F (power to give transfer notice) is amended as follows.

(2) In subsection (1), for “pension credit benefit” substitute “pension credit rights”.

(3) After subsection (3) insert—

“(3A) An eligible member who has pension credit rights in relation to more than one category of benefits under the scheme may exercise the power to give a transfer notice in relation to the pension credit rights in relation to any one or more of those categories.”

(4) For subsection (4) substitute—

“(4) The cash equivalent for the purposes of subsection (1) shall—

- (a) in a case where the pension credit rights relate to a category of benefits other than money purchase benefits, be taken to be the amount shown in the relevant statement under section 97H, and
- (b) in a case where the pension credit rights relate to money purchase benefits, be determined by reference to the date the notice under that subsection is given.”

(5) For subsection (6A) substitute—

“(6A) Regulations may—

- (a) provide for this Chapter not to apply in relation to a person of a prescribed description;
- (b) provide for this Chapter not to apply in prescribed circumstances in relation to a member of a prescribed scheme or schemes of a prescribed description;
- (c) modify the application of this Chapter in relation to a member who has accrued rights to benefits of a prescribed description.

(6B) In this Chapter a reference to a “category” of benefits is to one of the following three categories—

- (a) money purchase benefits;
- (b) flexible benefits other than money purchase benefits;
- (c) benefits that are not flexible benefits.”

#### Commencement Information

**I29** Sch. 4 para. 61 wholly in force; Sch. 4 para. 61 in force at Royal Assent for specified purposes; Sch. 4 para. 61 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

62 For section 97G (restrictions on power to give transfer notice) substitute—

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### “97G Restrictions on power to give transfer notice

- (1) An eligible member may not give a transfer notice in relation to a category of benefits if a crystallisation event has occurred in relation to any of the member's pension credit rights to benefits in that category.
- (2) An eligible member may give a transfer notice in relation to a category of benefits other than money purchase benefits only if—
  - (a) the member has been provided with a statement under section 97H in relation to benefits in that category, and
  - (b) not more than 3 months have passed since the date by reference to which the amount shown in the statement is determined.
- (3) An eligible member may not give a transfer notice in relation to benefits other than flexible benefits if there is less than one year to go until the member reaches normal benefit age.
- (4) Where an eligible member of a qualifying scheme—
  - (a) is entitled to give a transfer notice in relation to any category of benefits, and
  - (b) is also entitled to make an application to the trustees or managers of the scheme under section 91(1) in relation to benefits in the same category (or would be entitled to do so but for section 91(1A)(a)),
 the member may not, if the scheme so provides, give a transfer notice in relation to that category of benefits without also making an application under section 91(1) in relation to that category of benefits.
- (5) A transfer notice may not be given if a previous transfer notice given by the member to the trustees or managers of the scheme is outstanding.
- (6) Regulations may extend the period specified in subsection (2)(b) in prescribed circumstances.
- (7) For the purposes of subsection (1) a crystallisation event occurs in relation to a member's pension credit rights to benefits in a category when—
  - (a) payment of a pension in respect of any of the benefits has begun,
  - (b) in the case of money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or
  - (c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”

#### Commencement Information

**I30** Sch. 4 para. 62 wholly in force; Sch. 4 para. 62 in force at Royal Assent for specified purposes; Sch. 4 para. 62 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

- 63 (1) Section 97H (salary related schemes: statements of entitlement) is amended as follows.

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- (2) For subsection (1) substitute—
- “(1) The trustees or managers of a qualifying scheme must, on the application of an eligible member, provide the member with a written statement of the amount of the cash equivalent of the member's pension credit rights in relation to categories of benefits other than money purchase benefits.
- (1A) In the case of a member with pension credit rights in relation to two categories of benefits other than money purchase benefits, the application may relate to pension credit rights in relation to either or both of those categories.”
- (3) In the heading for “Salary related schemes” substitute “ Benefits other than money purchase ”.
- 64 (1) Section 97J (time for compliance with transfer notice) is amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) substitute—
- “(a) in the case of an application that relates to benefits other than money purchase benefits, within 6 months beginning with the valuation date, and
- (b) in the case of an application that relates to money purchase benefits, within 6 months of the date on which the notice is given.”
- (3) After subsection (2) insert—
- “(2A) Regulations may extend the period for complying with the notice in prescribed circumstances.”
- (4) For subsection (7) substitute—
- “(7) In subsection (1)(a), “valuation date” means the date by reference to which the amount shown in the relevant statement under section 97H is determined.”

#### Commencement Information

**I31** Sch. 4 para. 64 wholly in force; Sch. 4 para. 64 in force at Royal Assent for specified purposes; Sch. 4 para. 64 in force in so far as not already in force at 6.4.2015 see s. 89(1)(b)(3)(b)

- 65 In section 97M (effect of transfer on trustees' duties), for the words from “pension credit benefit” to the end of the section substitute “ benefits to which the transfer notice relates ”.
- 66 After section 97N insert—

#### “97NA Prohibition on excluding transfers of some rights without others etc

Except as mentioned in sections 92(4) and 97G(4), a pension scheme may not contain rules that would have the effect of—

- (a) preventing a member from exercising a right under this Chapter in relation to a category of benefits without also exercising a right under this Chapter or otherwise to require a transfer payment to be made in respect of another category of benefits, or

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- (b) preventing a member who exercises a right under this Chapter in relation to a category of benefits from accruing rights to benefits in another category.”
- 67 (1) Section 97P (interpretation) is amended as follows.
- (2) In subsection (1), at the appropriate places insert—
- ““category”, in relation to benefits, has the meaning given by section 97F(6B);”
- ““flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;”.
- (3) In that subsection, omit the definition of “pension credit benefit”.
- (4) Omit subsection (2).
- (5) In subsection (3), for “given to the trustees or managers of a salary related occupational pension scheme” substitute “ in relation to benefits other than money purchase benefits ”.”
- 68 Omit section 97Q.
- 69 In section 125 (overriding requirements), in subsection (1), for “Chapters II, III, IV and V of Part IV” substitute “ Chapters 2 and 3 of Part 4, Chapters 1 and 2 of Part 4ZA ”.
- 70 In section 126 (extra-statutory benefits), in paragraph (b), for “Chapter II, IV or V of Part IV” substitute “ Chapter 2 of Part 4 or Chapter 1 or 2 of Part 4ZA ”.
- 71 In section 149 (power to modify certain provisions), in subsection (1), for “Chapters II, III and IV of Part IV” substitute “ Chapters 2 and 3 of Part 4 and Chapter 1 of Part 4ZA ”.
- 72 In section 174 (linked qualifying service), in subsection (1)(a)—
- (a) in the opening words, for “Chapter 4 or 5 of Part IV” substitute “ Chapter 1 or 2 of Part 4ZA ”;
- (b) in sub-paragraph (iii)—
- (i) for “Chapter 4 of Part IV” substitute “ Chapter 1 of Part 4ZA ”;
- (ii) for “Chapter 5” substitute “ Chapter 2 ”.
- 73 In section 176 (interpretation), in subsection (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))*
- 74 The Pensions (Northern Ireland) Order 1995 is amended as follows.
- 75 In Article 67A (the subsisting rights provisions: interpretation), in paragraph (9)(a), for head (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
- (iia) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.



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- 76 In Article 73 (preferential liabilities on winding up), in paragraph (9), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- 77 In Article 73B (Article 73 and 73A: supplementary), in paragraph (7), for “Chapter 4 of Part IV” substitute “ Chapter 1 of Part 4ZA ”.
- 78 In Article 121 (interpretation of Part 2), in paragraph (1), in paragraph (b) of the definition of “transfer credits”, for “Chapter 5 of Part IV of the Pension Schemes Act (early leavers)” substitute “ Chapter 2 of Part 4ZA of the Pension Schemes Act (transfers and contribution refunds) ”.

*Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))*

- 79 The Pensions (Northern Ireland) Order 2005 is amended as follows.
- 80 (1) Article 2 (interpretation) is amended as follows.
- (2) In paragraph (3), for “an occupational pension scheme” substitute “ a pension scheme ”.
- (3) In paragraph (4)(a), for head (ii) substitute—
- “(ii) Chapter 2 or 3 of Part 4 of the Pension Schemes Act (certain protection for early leavers) or regulations made under either of those Chapters;
- (ii) Chapter 1 or 2 of Part 4ZA of that Act (transfers and contribution refunds) or regulations made under either of those Chapters;”.
- 81 (1) Article 14 (pension liberation: interpretation) is amended as follows.
- (2) In paragraph (2)(a)—
- (a) after “accrued rights” insert “ or an entitlement ”;
- (b) in head (ii), for “the applicable rules” substitute “ the scheme rules ”.
- (3) In paragraph (3)—
- (a) for sub-paragraph (a) substitute—
- “(a) section 90 of the Pension Schemes Act (right to cash equivalent under Chapter 1 of Part 4ZA of that Act);”;
- (b) in sub-paragraph (b), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- (4) In paragraph (4)(d), for “the applicable rules” substitute “ the scheme rules ”.
- (5) Omit paragraph (5).
- 82 In Article 19 (freezing orders), in paragraph (4)(g), for “salary related schemes” substitute “ benefits other than money purchase ”.
- 83 In Article 20 (consequences of freezing order), in paragraph (7), for sub-paragraphs (a) and (b) substitute—
- “(a) Chapter 1 of Part 4ZA of the Pension Schemes Act (transfer rights: general), or
- (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),”.
- 84 In Article 68 (inspection of premises), in paragraph (2)(d)—
- (a) for “Chapter 4 of Part IV” substitute “ Chapter 1 of Part 4ZA ”;

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- (b) for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- 85 In Article 119 (restrictions on winding up, discharge of liabilities etc.), in paragraph (6)(b), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- 86 In Article 122 (payment of scheme benefits), in paragraph (3)(b), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- 87 (1) Schedule 6 (pension compensation provisions) is amended as follows.
- (2) In paragraph 20(1)(c), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.
- (3) In paragraph 32(1)(b), for “Chapter 5 of Part IV” substitute “ Chapter 2 of Part 4ZA ”.

## SCHEDULE 5

Section 78

### PENSION SCHEME FOR FEE-PAID JUDGES: CONSEQUENTIAL AMENDMENTS

#### *Pensions (Increase) Act 1971 (c. 56)*

- 1 The Pensions (Increase) Act 1971 is amended as follows.
- 2 In section 19(2)(a) (extent to Northern Ireland)—
- (a) after “or section” insert “ 18A or ”;
- (b) after “section 10 of that Act” insert “ or provision made under section 18A of that Act that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act ”.
- 3 In Schedule 2 (official pensions), after paragraph 4A insert—
- “4AA A pension payable under a scheme made under section 18A of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 of that Act.”

#### *Judicial Pensions and Retirement Act 1993 (c. 8)*

- 4 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 5 In section 22 (application of the Pensions (Increase) Act 1971 to Northern Ireland), in subsection (2)—
- (a) after “shall include” insert “—
- (a)”;
- (b) at the end insert “; and
- (b) pensions payable under a scheme made under section 18A above, other than pensions payable under or by virtue of provision that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 6 (1) Section 28 (funding arrangements) is amended as follows.
- (2) In subsection (2) (benefits payable out of money provided by Parliament), after paragraph (a) (but before the “and” at the end) insert—

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- “(aa) any pension or other benefits payable under a scheme made under section 18A above.”
- (3) In subsection (7), for “section 10 above” substitute “—
- (a) section 10 above, or
  - (b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.”
- 7 In section 28A (contributions in respect of Northern Ireland judges), at the end insert “ or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A) ”.
- 8 (1) Section 29 (regulations and orders) is amended as follows.
- (2) In subsection (2), after “other than” insert “ regulations under section 18A above or ”.
- (3) After subsection (2) insert—
- “(2A) A statutory instrument which contains regulations under section 18A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

**Status:**

Point in time view as at 01/10/2020. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Pension Schemes Act 2015.