

PENSION SCHEMES ACT 2015

EXPLANATORY NOTES

OVERVIEW & STRUCTURE

25. The Act is in six parts:

Part 1 – Categories of pension scheme

26. This Part contains provisions for a new framework in relation to the categorisation of pension schemes. It establishes three mutually exclusive definitions for scheme type based on the type of promise provided in the accumulation phase of pension saving about the retirement benefits that a scheme offers to members at decumulation. The schemes are defined in terms of a ‘pensions promise’. A scheme can be categorised as a defined benefits scheme, shared risk scheme or a defined contributions scheme, depending on the type of the promise. A scheme can also be treated as more than one scheme for the purposes of categorisation, in relation to different promises to members.

Part 2 – Collective benefits

27. This Part defines the concept of collective benefits and makes provision for regulation making powers in relation to them. These powers cover matters such as the setting of targets in relation to benefits, valuation, reporting requirements, transfer values, winding-up and governance.

Part 3 – General changes to legislation about pension schemes

28. This Part contains amendments to existing legislation, mostly as a consequence of the change to scheme definitions set out in Part 1 and the provisions about collective benefits in Part 2. It aims to ensure that current legislative requirements relating to scheme governance and administration apply in the appropriate way to the new categories, and enables requirements on governance and administration to apply to the specific needs of members of shared risk schemes. It introduces a regulation making power to set out conditions for a pensions promise being obtained from a third party (section 36), provides a regulation making power to require managers to act in the best interests of members when taking certain decisions in relation to shared risk schemes and schemes that provide collective benefits (section 37), and changes existing regulation making powers which require schemes to disclose information to members (section 38). It contains measures relating to the preservation and revaluation rules of pension rights according to benefit type for members leaving a scheme before normal pension age (sections 39 and 40). It provides for collective benefits and “Regulatory Own Funds” schemes to be exempt from the indexation requirements set out in the Pensions Act 1995 and provides new regulation making powers to exclude pensions of a prescribed description from those indexation requirements (sections 41, 42 and 43). It removes the statutory requirement for regulations to provide that the Pensions Regulator compile and maintain a register of trustees (section 44), and makes changes to subsisting rights legislation to ensure members are protected against detrimental modifications to rights in a shared risk or defined benefits scheme (section 45). Additional amendments relating to Parts 1 and 2 are contained in Schedule 2.

Part 4 - Pension flexibilities

29. This Part contains a series of changes relating to the introduction of the pension flexibilities announced in the Budget 2014. These changes enable the establishment and funding of a pension guidance service along with the framework to supervise guidance providers and placing a duty on pension providers to signpost the service. This Part also introduces a requirement for trustees or managers of pension schemes offering “safeguarded benefits” (i.e. benefits which are neither money purchase nor cash balance) to check that a member has taken appropriate independent advice prior to making a transfer payment, converting those benefits to flexible benefits or paying an uncrystallised funds pension lump sum in respect of those benefits. This is to ensure that members have properly considered the implications of a transfer. This Part also makes provision to ensure that the flexibilities introduced by the Taxation of Pensions Act 2014 work as intended and restricts the circumstances in which benefits may be converted or paid as a lump sum when a scheme is winding up or enters a Pension Protection Fund assessment period. Finally, this Part extends the current transfer rights, giving scheme members with “flexible benefits” a right to transfer up to and beyond their scheme’s normal retirement age; permitting members with any type of benefit to transfer a category of benefit rather than all their benefits under the scheme; restricts transfers out of certain public service defined benefits pension schemes and introduces a power for Ministers to require the cash equivalent transfer value for transfers from funded public service schemes to schemes from which flexible benefits can be obtained to be reduced, in certain circumstances.

Part 5 – Miscellaneous

30. The Act also contains provisions to:
- allow the Secretary of State to make payments into the Remploy Limited Pension and Assurance Scheme directly, rather than indirectly through the payments it makes to Remploy the wider organisation;
 - enable the Lord Chancellor to establish a pension scheme for eligible fee-paid judges in the United Kingdom and Northern Ireland, as required by case law;
 - make a small amendment to the Public Service Pensions Act 2013;
 - extend to Scotland section 38A of the Pension Schemes Act 1993 that was inserted by the Marriage (Same Sex Couples) Act 2013, as it only currently applies to England and Wales;
 - provide a new definition of “normal benefit age” and “normal pension age” in relation to pension sharing on divorce.

Part 6 – General

31. This Part contains provisions to make consequential amendments and makes general provision in respect of regulations, the territorial extent of the Act, Crown application and commencement.