

PENSION SCHEMES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 Pension Flexibilities

Section 67: Rights to transfer benefits

Schedule 4: Rights to transfer benefits

225. [Section 67](#) introduces Schedule 4 which makes changes to pension scheme members rights to transfer their pension savings.
226. [Schedule 4](#) amends the provisions governing individual rights to transfer in Chapter 4 of Part 4 to the Pension Schemes Act 1993 (which will become Chapters 1 and 2 of a new Part 4ZA), by giving scheme members a new statutory right to transfer separate categories of accrued benefits, where they have two or more categories of benefits within the same pension scheme. These changes will permit the member to transfer a category of benefit, provided that they have ceased to accrue rights to that category, while retaining rights to another category of benefit within the scheme. Schedule 4 also extends the right of members with ‘flexible benefits’ to transfer their benefits up to and beyond the scheme’s normal pension age.
227. Paragraphs 1 to 7 of Schedule 4 to the Pension Schemes Act 2015 substitute Chapters 1 and 2 of a new Part 4ZA for Chapters 4 and 5 of Part 4 to the Pension Schemes Act 1993 and make consequential amendments to other legislation. Paragraph 8 of Schedule 4 to the 2015 Act substitutes new sections 93, 93A and 94 for sections 93 to 94 of the 1993 Act. New section 93 extends existing transfer rights for members of occupational and personal pension schemes. This section permits members with flexible benefits to transfer their pension rights at any age, provided that they have ceased to accrue rights in relation to the category of benefit that they want to transfer, and that rights to the benefit have not crystallised. New section 93 also allows members to transfer any category of benefit, irrespective of whether or not the member is accruing rights to a different category of benefit under the same scheme. This section also provides a power to disapply Chapter 1 of Part 4ZA of the 1993 Act in relation to a person of a prescribed description, and, in prescribed circumstances, in relation to a member of a prescribed scheme or a scheme of a prescribed description. Section 93 also contains a power to modify the Chapter in relation to a member who has accrued rights to benefits of a prescribed description. New section 93A requires trustees or managers to provide members with a statement of entitlement in relation to transferrable rights to benefits other than money purchase benefits. New section 94 gives members the right to take the cash equivalent in accordance with the Chapter.
228. [Paragraphs 9 to 11](#) of Schedule 4 make consequential amendments to sections 95 to 97 of the 1993 Act to reflect the extension of the rights to transfer. Amendments to section 95 provide a power to extend, in prescribed circumstances, the period which the member has to make an application to take the cash equivalent. Amendments to section 97 give a power for regulations to provide for a member’s application to take a

*These notes refer to the Pension Schemes Act 2015
(c.8) which received Royal Assent on 3 March 2015*

cash equivalent to lapse in circumstances where the cash equivalent has been increased or reduced.

229. [Paragraph 12](#) of Schedule 4 substitutes a new section 98, which reflects the extension of the right to transfer, and provides for a member who has acquired a right to a cash equivalent to lose this right if they fail to make a valid application to take the cash equivalent within the three-month period specified in section 95(1A) or, where the time allowed has been extended, in regulations made under section 95(6A). New section 98 also sets out the circumstances in which a member who has acquired a right to take a cash equivalent will lose that right (including if the scheme is wound up or if the duty of the trustees or managers to carry out the member's wishes is extinguished by section 99(2A)).
230. [Paragraph 13](#) of Schedule 4 makes consequential amendments to section 99 of the 1993 Act, which sets out what trustees and managers must do after receiving the member's application to take the cash equivalent. This paragraph also amends section 99 to introduce a new power to make regulations to extend, in prescribed circumstances, the time period that trustees and managers have to action the member's request.
231. [Paragraph 14](#) of Schedule 4 inserts a number of new sections into the 1993 Act. New section 100A prohibits a scheme from containing rules requiring members to transfer the entirety of their rights to benefit in circumstances where the member also has rights to a different category of benefit within the scheme. It also ensures that a member will not cease to accrue rights under a scheme merely because the member has exercised the statutory transfer right in relation to a different category of benefit. New section 100B contains a definition of "scheme rules" (to replace the existing definition of "applicable rules" in section 94(2) of the 1993 Act). New section 100C provides a revised definition of "normal pension age" to reflect the extension of the right to transfer specific categories of benefit, and to cater for cases where the scheme has different normal pension ages, or no normal pension age, in relation to different categories of benefit. New section 100D provides other definitions for the purposes of the Chapter.
232. [Paragraphs 15 to 22](#) of Schedule 4 also make similar amendments to Chapter 5 of Part 4 of the Pension Schemes Act 1993 (which becomes Chapter 2 of Part 4ZA to that Act) which governs transfer of pension credit benefit rights (rights arising from pension sharing on divorce). The amendments to sections 101F to 101H, 100J, 101M and 101P extend the rights of pension credit members to transfer a category of their pension credit rights under a scheme, and to have a right to transfer pension credit rights to flexible benefits at any age. New section 101NA prevents schemes from containing rules which would prevent members from exercising their right to transfer a category of benefit, or from continuing to accrue rights to a different category of benefit under the scheme.
233. [Paragraphs 23 to 46](#) of Schedule 4 make consequential amendments to other legislation.
234. Similar provisions are made for Northern Ireland by paragraphs 47 to 87 of Schedule 4.