

PENSION SCHEMES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 Pension Flexibilities

Section 47: Pensions guidance

Schedule 3: Pensions guidance

158. [Section 47](#) introduces Schedule 3 to the Act.
159. [Schedule 3](#) contains amendments to the Financial Services and Markets Act 2000, and other legislation, about the giving of pensions guidance to pension scheme members and survivors of members with a right or entitlement to cash balance benefits or other money purchase benefits.
160. [Paragraphs 1](#) and [2](#) of Schedule 3 provide that the amendments that follow are to be inserted as a new Part 20A in the Financial Services and Markets Act 2000 after section 333 of that Act.
161. New section 333A introduces the new Part and defines, for the purposes of new Part 20A of the Financial Services and Markets Act 2000, relevant terms including, in subsection (2) the term “pensions guidance”.
162. New section 333B provides for the Treasury’s role in relation to pensions guidance. It places a duty on the Treasury to make arrangements for a pensions guidance service.
163. New section 333C provides that bodies listed in subsection (2) – the Pensions Advisory Service and the three national associations of Citizens Advice Bureaux – are to give pensions guidance in accordance with arrangements made with the Treasury and that these bodies may make arrangements with third parties to discharge their duty. Subsection (4) provides that the Citizens Advice associations may jointly carry out their functions: this is analogous to section 1(3) of the Consumers, Estate Agents and Redress Act 2007.
164. Subsections (5) and (6) provide that the Treasury may repeal the reference to any of the bodies listed in subsection (2) and may make such consequential amendments – for example, to section 333E – as are appropriate.
165. New section 333D provides that the Treasury may make grants or loans to the Pensions Advisory Service and Citizens Advice in Northern Ireland. There is no reference to the other national Citizens Advice associations as there is an existing power in section 40A of the Consumers, Estate Agents and Redress Act 2007. This power to grant fund is limited to funding to enable the giving of pensions guidance and the grant may be given subject to other terms as specified by the Treasury.
166. New section 333E concerns the designation of guidance providers. In addition to the bodies in section 333C which have a statutory function of giving pensions guidance, the Treasury has a power to designate other persons (and to revoke such designations).

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

The Treasury must give notice where a person is designated or a designation is revoked and has a duty to publish a list of persons who are designated. The section sets out the conditions that must be met before the Treasury designates a person.

167. New section 333F provides for a duty on designated guidance providers and the Treasury to co-operate in the giving of pensions guidance and for the sharing of information in pursuit of this requirement.
168. New section 333G provides for a criminal offence of falsely claiming to be giving pensions guidance under Treasury arrangements. A person commits the offence if they describe themselves as giving pensions guidance by arrangement with the Treasury, or if they behave or hold themselves out to be giving guidance by arrangement with the Treasury, when they are not. Persons who are designated guidance providers are deemed to be giving pensions guidance under arrangement with the Treasury. There is a defence for those who take all reasonable precautions and undertake all due diligence to avoid committing the offence. Subsection (4) provides that the offence is to be tried summarily and sets out the penalties in the different criminal jurisdictions in the UK. Subsections (5) and (6) provide for modifications to subsection (4)(a) pending the coming in to force of certain reforms to sentencing in the Criminal Justice Act 2003 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
169. New section 333H provides that the FCA must set standards for the giving of pensions guidance. Where a private person (as defined in subsection (3)) suffers a loss as a result of a breach of the standards they will be able to take action in the courts to recover damages for that loss, although the FCA may specify that breach of certain standards will not be actionable. The FCA has the flexibility to make different standards for different classes of designated guidance providers and for incidental, supplemental, consequential and transitional standards. Certain procedural provisions of the Financial Services and Markets Act 2000 which apply to the FCA's setting of rules, are applied (with modifications) to its setting of standards.
170. New section 333I provides that the FCA must monitor the compliance of designated guidance providers with the standards it sets under section 333H. Subsections (2) to (5) concern the application – with modification – of parts of Part XI of the Financial Services and Markets Act 2000 concerned with the FCA's powers to gather information and conduct investigations.
171. New section 333J establishes that the FCA may make recommendations to designated guidance providers if it considers that they have failed to comply with one or more standards set under section 333H, and thereafter, make recommendations to the Treasury that the Treasury give a direction under section 333M. There is a rebuttable presumption that a recommendation made to the Treasury will be made public unless in the FCA's view, to do so would be against the public interest or otherwise inappropriate. The FCA may make a recommendation even where a designation has been revoked by the Treasury, providing the failure to comply with the standards was at a time when the designation was in effect.
172. New section 333K provides that the FCA must issue a statement of its policy with respect to the making of recommendations under section 333J. Subsections (2) to (5) concern various matters in consequence of the issuing of the FCA's policy statement, including regarding the altering or replacement of the statement and requirements that the Treasury must consent before a statement is issued and that the FCA must publish the statement in such a way as to bring it to the attention of the public. The FCA may charge a reasonable fee for providing copies of the statement.
173. New section 333L concerns the procedure that the FCA must follow when preparing and issuing a policy statement under section 333K.
174. New section 333M provides that the Treasury has a power to issue directions to a designated guidance provider where the Treasury considers the provider has failed to

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comply with the FCA's standards. The Treasury may only give a direction where the FCA has made a recommendation under section 333J(1)(b). The Treasury can apply to the Court to have a direction they have given enforced.

175. New section 333N makes provision regarding the relationship between the Treasury's powers regarding the revocation of designation in section 333E(3) and the power to issue a direction in section 333M(1).
176. New section 333O provides that in discharging its general pensions guidance functions (as defined in subsection (3)), the FCA must do so with a view to securing an appropriate degree of protection for recipients of pensions guidance from designated pensions guidance providers. The FCA must also have regard to its strategic and operational objectives and the regulatory principles set out in Part 1A of the Financial Services and Markets Act 2000.
177. Sections 139A and 139B of the Financial Services and Markets Act 2000 provide the FCA with a power to give guidance in the form of information and advice regarding the Act and the FCA's functions under it. New section 333P gives the FCA a similar power to give guidance in the context of its pensions guidance functions (specified in subsection (1)). Where the FCA gives guidance to a class of designated guidance providers in relation to the FCA's standards or the rules regarding the funding of the FCA's pensions guidance costs under section 333Q, the FCA must comply with certain specified procedural requirements unless doing so would be prejudicial to the interests of recipients of guidance. Section 333P also makes provision regarding procedural matters in connection with the giving of general guidance (as defined in subsection (9)).
178. New sections 333Q and 333R concern the funding for the pensions guidance scheme. New section 333Q provides for the FCA to collect amounts from designated guidance providers to cover the FCA's pensions guidance costs (as specified in subsection (4)). The FCA must consult the Treasury before it publishes a draft of the rules. The amounts recovered under this section may include sums to cover the costs the FCA incurs in collecting the payments and to permit the FCA to maintain an adequate reserve.
179. New section 333R concerns the funding of the Treasury's pensions guidance costs (as defined in subsection (10)). The FCA will make rules with a view to collecting from authorised persons the amount the Treasury has notified to the FCA. The money that the FCA collects – minus any portion allocated for the FCA's collection costs – must be paid to the Treasury, who will then pay those funds into the Consolidated Fund.
180. There are specific procedural requirements regarding the rules made under section 333R in addition to the requirements set out in Chapter 2 of Part 9A of the Financial Service and Markets Act 2000. These include requirements that the Treasury has oversight of the rules that the FCA makes made.
181. Subsection (12) provides the Treasury with a power to amend the definition of the "Treasury's pensions guidance costs" in subsection (10) by regulations.
182. [Paragraph 3](#) of Schedule 3 amends section 1B of the Financial Services and Markets Act 2000 (the FCA's general duties) in consequence of the insertion of new section 333O and provides that when the FCA is carrying out its pensions guidance functions it is to be guided by the duties in section 333O and not those in section 1B.
183. [Paragraph 4](#) amends section 1M of the Financial Services and Markets Act 2000 (FCA's general duty to consult) in consequence of the new duty in section 333O.
184. [Paragraph 5](#) amends section 1S of the Financial Services and Markets Act 2000 (reviews by independent person into discharge of FCA's functions) in consequence of the new duty in section 333O to insert references to the relevant parts of that duty.
185. [Paragraph 6](#) inserts a new section 137FB in the Financial Services and Markets Act 2000. New section 137FB provides for a duty on the FCA to make rules requiring

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managers and trustees of FCA regulated pension schemes to flag to their members who have flexible benefits the availability of pensions guidance. Section 113 of the Pensions Schemes Act 1993 provides for the Secretary of State to make regulations in relation to disclosure of information requirements for pension schemes. The FCA must consult the Secretary of State and the Treasury before publishing a draft of the rules and is obliged to have regard to such regulations when setting them.

186. [Paragraph 7](#) amends section 138F (Notification of rules) of the Financial Services and Markets Act 2000 in consequence of the new rule making powers the FCA is granted by other provisions of this Schedule.
187. [Paragraph 8](#) concerns amendments to section 138I of the Financial Services and Markets Act 2000 (which concerns the FCA’s procedure when making rules) to add the references to the FCA’s new rule making powers.
188. [Paragraph 9](#) amends section 139A of the Financial Services and Markets Act 2000 in consequence of the insertion of section 333O with the effect that when giving guidance regarding the functions specified in section 333P the FCA is guided by the duties in section 333O not section 1B.
189. [Paragraph 10](#) amends section 140A of the Financial Services and Markets Act 2000 to apply the competition scrutiny regime in Chapter 4 of Part 1 of the Financial Services and Markets Act 2000 in the context of the FCA’s pensions guidance functions.
190. [Paragraph 11](#) amends section 168 of the Financial Services and Markets Act 2000 (which concerns the FCA’s power to appoint an investigator). This amendment gives the FCA the same powers to investigate an individual suspected of the new offence in section 333G of falsely claiming to give pensions guidance pursuant to arrangements with the Treasury as it has pursuant to section 24 of the Financial Services and Markets Act 2000 to investigate those suspect of falsely claiming to be authorised.
191. [Paragraph 12](#) amends section 429 of the Financial Services and Markets Act 2000 (which concerns Parliamentary control of statutory instruments under that Act) to provide that regulations made by the Treasury under section 333C (repealing the conferral of functions in that section) or section 333R (adding to, or amending, the definition of “the Treasury’s pensions guidance costs”) are subject to the affirmative procedure.
192. [Paragraphs 13 to 16](#) amend Schedule 1ZA to the Financial Services and Markets Act 2000. Paragraph 13 amends the list the FCA’s new legislative functions which should be exercised by the FCA through its governing body to add references to the FCA’s new functions of making a policy on making recommendations (section 333K) and setting standards (section 333H). Paragraph 13(c) provides that the giving of general guidance in the context of pensions guidance is subject to the same controls as other general guidance issued by the FCA.
193. [Paragraph 14](#) concerns the FCA’s obligation to provide an annual report and amends this obligation to require the FCA to detail its compliance with the overarching duty to protect recipients of pensions guidance (section 333O(1)) in its annual report.
194. [Paragraph 15](#) is consequential on the creation by the new Part 20A of the Financial Services and Markets Act 2000 of a new group of persons – designated guidance providers – that the FCA monitors.
195. [Paragraph 16](#) amends the FCA’s powers to raise fees. These amendments provide that the FCA’s pensions guidance costs are ring-fenced (that is, the fees raised under the FCA’s existing fee raising powers are entirely separate and distinct from the FCA’s pensions guidance costs).

196. **Paragraph 17** amends the list of “legislative functions” in section 85 of the Finance Act 2012 which are not subject to the complaints regime, to add reference to the FCA’s pensions guidance functions.
197. **Paragraph 18** makes transitional provision. Sub-paragraph (1) makes provision so that requirements of the Pension Schemes Act 2015 Act can be satisfied by things done before its commencement. Sub-paragraph (2) disapplies certain requirements that are otherwise imposed in connection with the consultation on the standards to be set pursuant to section 333H of the Financial Services and Markets Act 2000 in order that the consultation that the FCA has already undertaken might satisfy the requirements.
198. **Paragraph 19** provides that costs that the FCA has incurred in anticipation of its new pensions guidance functions – such as the cost of carrying out consultations and drafting rules – might be recovered by the FCA pursuant to the powers set out in the Schedule.

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

199. This section provides that trustees or managers of a pension scheme (in Great Britain) will be required to check that a member or survivor has received appropriate independent advice before converting the member’s or survivor’s safeguarded benefits into flexible benefits, making a transfer payment in respect of safeguarded benefits to a scheme in which the member or survivor will acquire flexible benefits, or paying an uncrystallised funds pension lump sum in respect of safeguarded benefits. Safeguarded benefits mean benefits which are not money purchase or cash balance benefits. Section 48(3) gives the Secretary of State a regulation making power to make exceptions to that requirement. This power is subject to the negative procedure for regulations which create an exception for those who have safeguarded benefits below an amount specified in regulations, but regulations creating any other type of exception are subject to the affirmative procedure. Section 48(2) provides that the regulations can specify what trustees and managers must do to check that a member has received appropriate independent advice, and when the check must be carried out. Trustees or managers who fail to carry out the required check will be liable to civil penalties. Advice is “appropriate independent advice” only if it is given by a person who has permission under the Financial Services and Markets Act 2000 to carry on a regulated activity which has been specified in regulations made by the Secretary of State, and which meets any other requirements specified in regulations.

Section 49: Power to require employer to pay for the advice for purposes of section 48

200. This section enables the Secretary of State to make regulations specifying the circumstances in which an employer must arrange or pay for a member or survivor to receive the appropriate independent advice required by section 48. The regulations can in particular impose a limit on the amount that an employer must pay, prohibit an employer from seeking to recover the employer’s costs from a member or survivor and impose civil penalties on an employer who fails to comply with the regulations.

Section 50: Independent advice: consequential amendments: Great Britain

201. This section makes amendments consequential upon sections 48 and 49.

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

202. This section makes provision for Northern Ireland similar to that made by section 48. However in this case the power to make regulations is conferred on the Department for Social Development in Northern Ireland.

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

203. This section makes provision for Northern Ireland similar to that made by section 49. However the power to make regulations is conferred on the Department for Social Development in Northern Ireland.

Section 53: Independent advice: consequential amendments: Northern Ireland

204. This section makes amendments consequential upon sections 51 and 52.

Section 54: Independent advice: income tax exemption

205. This section inserts a new section, 308B, into the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). That section provides that no liability to income tax will arise where conditions A to C are satisfied. Condition A is that the payment or reimbursement is required by regulations made under the powers given by sections 49 and 52, which may require that employers must provide appropriate independent advice. If only part of the payment meets this requirement - for example where the amount exceeds any defined cost threshold provided for in the regulations - only that part will benefit from the tax exemption. Condition B is that the income tax exemption is not valid for any appropriate independent advice provided as part of a salary sacrifice arrangement, as defined in section 308B(6). Condition C is that such other requirements as may be specified in regulations made by the Treasury must be satisfied.
206. [Section 54\(2\)](#) makes a consequential amendment to section 228 ITEPA.
207. [Section 54\(3\)](#) provides that the amendments will take effect for the tax year 2015-16 and subsequent tax years.

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

208. This section applies where a pension scheme offers members the option of a drawdown pension, and restricts the designation of funds for the payment of a drawdown pension to those funds held to provide money purchase benefits. It provides for this restriction to override any scheme rule which operates otherwise. The requirement for funds designated as available for drawdown to be money purchase benefits does not apply in relation to any funds designated before the coming into force of these provisions.

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

209. This section is a regulation making power. It allows regulations to be made which would place conditions on the conversion of “flexible benefits” (see section 74 for the definition) into money purchase benefits, where that conversion is being undertaken to allow the member or the member’s survivor to take up the option of a drawdown pension.
210. This power includes:
- where only part of flexible benefits other than money purchase benefits is converted, how the benefit left in the relevant arrangement should be calculated in the future.
 - where a member or the member’s survivor wishes to take up the option of converting benefits to money purchase benefits for the purposes of drawdown before reaching the scheme’s normal pension age, setting out how the flexible benefits are calculated for the purposes of conversion and the conditions under which the benefits may be reduced.

211. Finally, any regulations made under this power may override any scheme rules which conflict with them.

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

212. This section relates to a member or a member's survivor taking a lump sum from accrued rights to flexible benefits other than money purchase benefits, where the scheme rules permit this option. It provides for regulations to make provision about the calculation of that lump sum.
213. Some examples of the situations the regulations may cover are specified. These are:
- Where only part of the flexible benefits other than money purchase benefits is taken as a lump sum, regulations may determine how the remaining benefits are to be calculated after the lump sum has been taken; and
 - Where a member or the member's survivor wishes to take up the option of a lump sum before reaching the scheme's normal entitlement date, the regulations may place conditions on how the flexible benefits are calculated to determine the amount of the lump sum available and also set out conditions under which the lump sum may be reduced.
214. Finally, any regulations made under this power may include provisions to override any scheme rules which conflict with them.

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

215. This section will prevent non-money purchase benefits being converted into money purchase benefits after the date the occupational pension scheme begins to wind up. This is to prevent a member avoiding a reduction in their benefits, in a situation where an underfunded scheme winds up in accordance with section 73 of the Pensions Act 1995, by changing the category of their benefits from non-money purchase to money purchase.
216. This section also restricts the options available to members with non-money purchase benefits when their pension scheme is in a Pension Protection Fund (PPF) assessment period. At present under section 135 of the Pensions Act 2004, non-money purchase benefits cannot be transferred or discharged during this period. This provision prevents conversion of these benefits to money purchase benefits.

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

217. This section adds an extra condition to section 138 of the Pensions Act 2004, which governs the payment of scheme benefits whilst a scheme is in a PPF assessment period. At present section 138 requires that the benefits payable to a member must be reduced to the level of compensation which would be payable if the scheme transferred into the PPF. In future, benefits paid as lump sums can only be paid where lump sum compensation would be payable if the scheme had transferred into the PPF. This continues the current position, and means that members will not be able to take out a new uncrystallised funds pension lump sum from rights to non-money purchase benefits during an assessment period.

Section 60: Sections 55 to 57: consequential amendments

218. This section makes consequential amendments to other pensions legislation to ensure that section 55 and regulations made under sections 55 to 57 (relating to the conditions under which funds may be designated as drawdown funds, converted to flexible benefits or paid as a lump sum) override any conflicting scheme rules.

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

219. This section duplicates the effect of section 55 for Northern Ireland.

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

220. This section gives a regulation making power to the Department for Social Development in Northern Ireland which covers the same areas as described under section 56 above.

Section 63: Provision about calculation of lump sums: Northern Ireland

221. This section gives a regulation making power to the Department for Social Development in Northern Ireland which covers the same areas as described under section 57 above.

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

222. This section makes provision similar to that contained in section 58, relating to schemes which begin to wind up or which enter a PPF assessment period under the law of Northern Ireland.

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

223. This section makes similar provision to section 59 regarding payments made by schemes during a PPF assessment period in relation to schemes based in Northern Ireland.

Section 66: Sections 61 to 63: consequential amendments

224. This section has the same purpose as section 60: it makes certain changes to other pensions legislation relating to Northern Ireland, in order to ensure that sections 61 to 63 (drawdown, the conversion of benefits and the payment of lump sums) and any regulations made under those provisions override conflicting provisions in scheme rules.

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 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.

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

235. This section restricts the right (under the Pension Schemes Act 1993) to transfer from one pension scheme to another, so as to prevent a member of an unfunded public service defined benefits scheme using that right to transfer to another pension scheme in which they can obtain flexible benefits. The section confers a power enabling the Treasury to make regulations providing that that restriction will not apply in certain circumstances or in relation to certain schemes or to schemes of a certain type. The restriction will not apply where a member has already made an application under section 95 of the Pension Schemes Act 1993 requiring the trustees or scheme managers to use the member's cash equivalent to transfer to another scheme before 6 April 2015.

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

236. This section confers a power on the relevant person to designate a funded public service defined benefits scheme. For schemes other than the UK Parliamentary pension schemes, the relevant person is defined as any Minister of the Crown by whom or with whose approval a funded public service defined benefits pension scheme was established; or the Treasury. For the MPs' pension scheme the relevant person is the Independent Parliamentary Standards Authority and the trustees of the Parliamentary Contributory Pension Fund (PCPF), for the Ministerial pension scheme the relevant person is the trustees of the PCPF and for the Scottish Parliamentary pension scheme the relevant person is the trustees of the Scottish Parliamentary Contributory Pension Fund.
237. The power may be used only if the relevant person considers that the level or expected level of transfers out of the scheme, either singly or in combination with other factors, increases the likelihood of payments out of public funds or of increased payments out of public funds being needed to ensure that the scheme can meet its liabilities. A designation may have effect for no more than two years and may be renewed or revoked depending on whether there is still a need for it.
238. Section 69(4) confers a power on the Treasury to make regulations which provide that where a designation has been made the scheme trustees or managers must reduce the amount of the cash equivalent for acquiring flexible benefits in another scheme by an amount determined in accordance with the regulations.

Section 70: Sections 68 and 69: consequential amendments

239. This section makes changes to the Pension Schemes Act 1993 and the Pensions Act 2004 as a consequence of the provisions in sections 68 and 69.

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

240. This section makes provision for Northern Ireland similar to that made by section 68 for Great Britain. It restricts the right (under the Pension Schemes (Northern Ireland) Act 1993) to transfer from one pension scheme to another, so as to prevent a member of an unfunded public service defined benefits scheme using that right to transfer to another pension scheme in which they can obtain flexible benefits. It also confers a power enabling the Department of Finance and Personnel to make regulations providing that

that restriction will not apply in certain circumstances or in relation to certain schemes or to schemes of a certain type.

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

241. This section makes provision for Northern Ireland similar to that made by section 69 for Great Britain. However the power to designate is conferred upon the Department of Finance and Personnel or any Northern Ireland department by whom or with whose approval the scheme was established; and the power to make regulations under which the amount of the reduction is to be determined is given to the Department of Finance and Personnel.

Section 73: Sections 71 and 72: consequential amendments

242. This section makes changes to Northern Ireland legislation as a consequence of the provisions in sections 71 and 72.

Section 74: Meaning of “flexible benefit”

Section 75: Meaning of “cash balance benefit”

Section 76: Interpretation of Part 4

243. Sections 74, 75 and 76 are interpretation provisions for the terms used in Part 4 of the Act. Section 74 introduces a definition of a ‘flexible benefit’ which is relevant for provisions relating to guidance (section 47), independent advice (sections 48 and 51), drawdown and treatment of lumps sums (sections 56, 57, 62 and 63) and transfers (sections 67 to 69). Section 75 provides a definition of ‘cash balance benefits’ which fall within the scope of flexible benefits.
244. The definition of “flexible benefit” includes all those benefit categories which fall within the scope of the flexibilities introduced by the Taxation of Pensions Act 2014. The definition includes money purchase benefits, cash balance benefits and also a residual category of benefits which are neither money purchase nor cash balance benefits for the purposes of pensions legislation (other than the provisions relating to pensions in the Finance Act 2004). This residual category may include a benefit structure which provides a sum of money at the member’s retirement date, but is also subject to an additional guarantee, such as the option of a guaranteed annuity rate offered by a scheme before the member becomes entitled to receive their pension.