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

PENSION SCHEMES ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Categories of Pension Scheme

Section 1: Introduction

Section 2: Defined benefits scheme

Section 3: Shared risk scheme (sometimes known as "defined ambition")

Section 4: Defined contributions scheme

33. These sections define three new categories of pension scheme, which are: defined benefits scheme; shared risk scheme (sometimes referred to as 'defined ambition'); and defined contributions scheme. These categories apply only where legislation expressly states that they should, and do not apply in any public service pensions legislation.

34. The Pension Schemes Act 1993 defined a 'money purchase scheme' as a scheme which offers or may offer only money purchase benefits. A money purchase benefit is generally one which is derived from a pot of contributions, together with any investment returns on those contributions. The legislative definition of a money purchase benefit is a 'benefit the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member'. The Pensions Act 2011 added a stipulation that a benefit (other than a pension in payment) is only money purchase if 'its rate or amount is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of its provision to or in respect of the member'.

35. Schemes which fall outside this definition are not generally defined in pensions legislation but are simply considered to be 'non-money purchase'.

36. Sections 2 to 4 define three mutually exclusive categories of pension scheme. These categories are based on the type of promise the member has during the accumulation phase about the retirement benefit (income or pot).

37. The first category is a defined benefits scheme (section 2). This type of scheme provides a pre-determined retirement income to all members, beginning at the scheme's normal pension age or decumulation point and continuing for life.[1] This income is pre-determined insofar as it is set at a rate that is calculated according to promised factors as stipulated in the scheme rules or other scheme documentation. This is expressed as a 'full pensions promise' to members. The normal pension age or earliest occasion for accessing the full benefits is fixed – that is, the only way the age or period of accumulation can change is by change to the scheme rules. Schemes where the normal pension age changes in line with state pension age, without requiring a change to the

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1 For example, some schemes might not have a normal pension age but might have a specific period of service defined by accumulation period.

scheme rules, are thus excluded. Also excluded are schemes which apply a longevity factor to the benefit entitlement. Regulations may prescribe additional requirements which must be met for a scheme to fall within the defined benefit category.

38. The second category is a shared risk scheme (section 3). This type of scheme offers a 'pensions promise', to all members at some point during the accumulation phase in relation to at least some of the retirement benefit that members might receive, whether this benefit is given in the form of a retirement income or a retirement lump sum.

39. The third category is a defined contributions scheme (section 4). This type of scheme gives no promise during the accumulation phase in relation to any of the retirement benefits that may be provided to members.

40. The definitions therefore describe the extent to which members receive a promise during the accumulation phase: a defined benefits scheme is a scheme which provides a full pensions promise to members about all benefits to be provided; a shared risk scheme provides a pension promise about at least some of the benefits to be provided by the scheme; and a defined contributions scheme provides no pensions promise during the savings period. For further definition of 'pensions promise' and related terms, see section 5.

41. The following schemes provide examples for each of the categories. These are not exhaustive but are for illustration:

- a salary-related pension scheme where the retirement income to be paid out is determined according to a formula based on a salary: for example, 1/80 x average salary x years in pensionable service. The age or point at which this income can start to be paid in full to members can only be changed by a change to the scheme rules. This is a defined benefits scheme.

- a pension scheme into which the employer and employee pay contributions. These contributions are then invested, and so the retirement benefit in part depends on how those investments perform, but some contributions are used to purchase a deferred annuity or otherwise secure a promise about part of the income that will be received in retirement. The retirement benefit received is a combination of that promise and the funds accumulated via contributions and investment returns. This is a shared risk scheme.

- a pension scheme into which the employer and employee pay contributions, which are then invested. The retirement benefit depends wholly on the money contributed to the scheme and the investment return, and potentially any pooling of risk between members, and so the employee is given no promise or certainty during the accumulation phase. This is a defined contributions scheme.

42. For a scheme which does not fit into any of the categories, regulations must be made to treat the scheme as two or more schemes which do fit into the categories (see section 6).

Section 5: Meaning of "pensions promise" etc

43. This section explains what is meant by the terms 'pensions promise' and 'full pensions promise'.

44. Subsection (1) states that (for the purposes of defining a defined benefits scheme), there is a 'full pensions promise' provided to members, if, at all times before the benefit comes into payment, there is a promise about the level of benefit that will be received and the level of benefit is determined wholly by reference to that promise in all circumstances. (Subsection (3) contains more about what a promise about the level of benefit consists of.)

45. Subsection (2) states that (for the purposes of defining a shared risk or defined contributions scheme), a 'pensions promise' is provided if there is a promise to members

during the accumulation phase, in relation to a retirement benefit, about the level of benefit that will be received. The level is the rate of the income or the amount of the lump sum (see section 7). The promise must be expressed at a time before the benefit comes into payment, but unlike under a defined benefits scheme, does not need to be expressed at all times before payment, i.e. throughout the accrual phase.

46. Any pensions promise about a level of retirement benefit includes a promise about the factors that will be used to calculate the level of a retirement benefit (subsection (3)(a)). These factors may, for example, include the length of pensionable service, or be linked to the member's salary, but do not include longevity factors. A promise that the level of retirement benefit will be calculated by reference to what the pot of contributions or investment returns can provide does not constitute a 'pensions promise' for the purposes of defining a defined benefits or shared risk scheme (subsection (3)(b)). Neither is it a promise where a scheme specifies the factors that will be used to distribute the assets between members and establish the value of a collective benefit (subsection (3)(c)).

47. A pensions promise is provided if the scheme sets out the promise, or if it requires the promise to be obtained from a third party. This enables a pension scheme to be defined on the basis of the member's experience of whether there is a pensions promise, regardless of whether it comes from the scheme itself, the employer or a third party.

48. Subsection (5) provides that, in relation to a shared risk or defined contributions scheme, there is also a promise if the scheme offers the option of a promise (or the option of requiring a promise). This means that the scheme categorisation depends on what the scheme offers to members, not the offer that individual members take up. Should a scheme offer a money purchase pension with the option for members to purchase a guarantee, because there is the potential for a pensions promise to be given, this scheme would be defined as a shared risk scheme.

49. Subsection (6)(a) states that certain discretions to vary the benefit do not affect a scheme's categorisation where it would be considered otherwise as offering a 'full pensions promise'. This is providing that these are capable only of being used for reasons related to a member's individual circumstances and meet other requirements that may be specified in regulations. For example, a defined benefits scheme may make provision for early retirement on the grounds of ill health, on a case-by-case basis, without it affecting the categorisation of the scheme under the new definitions. Since these discretions are exercised only on an individual basis, they are different from discretions applied at the scheme level.

50. Subsection (6)(b) states that a scheme may also offer other discretions in relation to retirement benefit without affecting its categorisation as a defined benefits scheme, as long as those discretions are of a description specified in regulations.

51. Subsection (7) provides that certain promises about the level of retirement income are not to be counted as pensions promises if they are only given within a specified period of that income coming into payment and are conditional on it coming into payment by a particular date. This is to cater for defined contributions schemes which also provide a retirement income stream, and make a promise only shortly before the point of decumulation, about that income. Such schemes will need to discuss and make a commitment to the member about that retirement income before the first payment is made, but will usually only make the promise in relation to the final pot and only in the immediate run up to the retirement date, so it provides no more certainty to the member than other defined contributions schemes. This subsection enables this type of scheme to remain defined contributions. It does this by excluding from the definition of "pensions promise" promises which meet a four part test: – that the promise is about the level of income; that promise is conditional on the income coming into payment by a certain date; that the promise is first given during a period in the run-up to that date (with the length of that period to be specified in regulations); and that it is not a promise of a specified description (to ensure that where a scheme makes a promise within the prescribed period which does give the member greater certainty, this will be counted

as a pensions promise - for example, where a promise is made about an income before the sum total of the savings is known).

52. Subsection (8) states that, when working out whether there is a particular kind of promise in relation to some or all of the benefits that may be provided as set out in sections 2 to 4, account can be taken of benefits which may be provided only after the member has been a member of the scheme for a certain length of time and any other benefits that may be provided to the member at a future time – for example, where members start in a scheme with money purchase benefits and no promise, but then after a certain number of years or at a certain age start accruing benefits to which a promise attaches.

Section 6: Treatment of a scheme as two or more separate schemes

53. This section requires regulations to be made for a pension scheme that does not fit within any of the categories set out in the sections above (it is not a defined benefits, defined contributions or shared risk scheme) to be treated as if it were two or more separate schemes, each then fitting within a category, for the purposes of these definitions and other specified legislation.

54. An example of such a scenario would be where an existing scheme has a defined benefits section which is not open to new members, and a defined contributions section for new members. This type of scheme would not be defined as a shared risk scheme, since, though there are some elements of a pensions promise, the promise is not available to all members. Instead, regulations must be made providing for the scheme to be treated as if it were two schemes for the purpose of the categorisation – in the example given above, it is likely that the power would be used to treat the scheme as if it were a defined benefits scheme and a defined contributions scheme.

55. The section also enables regulations to be made to provide for other circumstances in which a scheme can be treated as two or more schemes, each fitting within one of the scheme categories.

Section 7: Interpretation of Part 1

56. This section defines terms for the purposes of Part 1.

57. ‘Normal pension age’, in relation to retirement benefits, refers to the earliest age at which, or occasion on which, the pension scheme member is entitled to receive benefits from the scheme without adjustment for taking benefits early or late. If there is no such age or occasion, ‘normal pension age’ will be normal minimum pension age as defined by section 279(1) of the Finance Act 2004 – that is, before 6th April 2010, 50, and on or after that date, 55. A ‘fixed’ normal pension age means a pension age (or other decumulation occasion) that cannot be changed except by an amendment to the scheme rules.

58. ‘Pension scheme’ has the meaning given by section 1(5) of the Pension Schemes Act 1993 – that is ‘a scheme or other arrangements comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of people: on retirement; on having reached a particular age or on termination of service in an employment’.

59. ‘Retirement benefit’ refers to the benefit that a member of a pension scheme receives, which can be provided either in the form of a ‘retirement income’ or a ‘retirement lump sum’. Retirement income is a pension or annuity payable to the member on reaching normal pension age. A retirement lump sum is a lump sum which is payable to the member on reaching normal pension age or made available for the provision of other retirement benefits on or after this time (this may include the purchase of an annuity).

Part 2 – Collective Benefits

Section 8: Introduction and definition

60. Section 8 sets out the defining characteristics of a 'collective' benefit.

61. Where, in all circumstances the rate or amount of the benefit payable to or in respect of a member depends entirely on (a) the amount available to pay that member's and other members' benefits and (b) factors used to determine what proportion of that amount is available for the provision of the particular benefit, these benefits are defined as 'collective' in the Act. The definition also provides that a benefit which is a money purchase benefit is not a collective benefit.

Section 9: Duty to set targets for collective benefits

62. Section 9 provides that regulations may require that trustees or managers of pension schemes offering collective benefits set targets in relation to the rate or amount of those benefits. In particular, regulations can be made about, amongst other things, the way that targets are expressed, recorded and published. The intention is that members of a scheme with collective benefits should be provided with a reasonable estimate of the benefits that they can expect to receive from the scheme; in the absence of a well defined pot over which the individual has clear ownership, the target is a way of illustrating for the member what they might receive. Regulations may also require trustees or managers to set initial targets at such a level that the probability of meeting the target will fall within a range specified in regulations and for this to be certified by an actuary. The setting of targets is to ensure that schemes providing collective benefits operate in a transparent manner and provide some assurance to members in relation to those benefits.

63. Section 9(3) provides that regulations may, in particular, make provision for matters to which the actuary should have regard, and may require trustees or managers to provide the actuarial certificate to a specified person. Regulations may also make provision about the content of the actuarial certificate and require the trustees or managers to obtain the certificate from an actuary who has certain qualifications or meets other specified requirements.

Section 10: Policy about factors used to determine each benefit

Section 11: Powers to impose requirements about factors used to determine each benefit

64. Section 10 provides that regulations may require trustees or managers to have a policy on the factors used to calculate members' benefits and to implement that policy. Section 11 allows the Secretary of State to make requirements about the factors to be used.

Section 12: Payment schedule

Section 13: Overdue contributions and other payments

65. Section 12 provides for a power to make regulations which may require trustees or managers to prepare a payment schedule which shows the contributions due for payment to the scheme in respect of any collective benefits, and the dates on which those contributions are payable. Section 13 gives a regulation making power to require a specified person to be notified in the event of any payment shown in a payment schedule becoming overdue. Regulations can also make provision for the recovery of overdue payments.

66. Section 12(4) and 13(3) provide that regulations may make provisions corresponding, or similar, to those set out in sections 87 and 88 of the Pensions Act 1995 (which deal with schedules of payments for money purchase schemes).

Section 14: Statement of investment strategy

Section 15: Investment performance reports

67. Sections 35 and 36 of the Pensions Act 1995 (together with the Occupational Pension Schemes (Investment) Regulations 2005) outline the requirements and principles governing investments for trust-based schemes, including a requirement for the trustees to draw up a statement of investment principles. Amongst other things, this statement must cover the trustees' policies in relation to the kinds of investment to be held, the balance between different kinds of investment, risks, and the expected return on investments.

68. Section 14 gives a regulation making power to require trustees or managers of a scheme to produce a statement about the investment strategy to be followed in connection with the provision of collective benefits.

69. Section 14(3) gives a power for these regulations to make corresponding or similar provision to that which applies to trust-based schemes under the 1995 Act. Regulations may make specific requirements about what must be included in the statement of investment strategy, and how frequently the strategy should be reviewed.

70. Under section 15 regulations may be made requiring the trustees or managers of schemes to obtain regular reports on the performance of investments held for the provision of collective benefits. Regulations may provide for how frequently the investment performance reports should be obtained, from whom they should be obtained and what the reports must include.

Section 16: Investment powers

71. Under this section regulations may make provision in relation to investment powers of trustees or managers of schemes containing collective benefits. The regulations may also make provision allowing trustees or managers to delegate decisions about investments to another person and about the investment powers of any person to whom such decisions have been delegated. In this way trustees or managers can delegate powers to those with investment knowledge to act in an appropriate way. These regulations may make similar provision to section 34 or 36 of the Pensions Act 1995, which contain provision relating to powers of investment, delegation and choice of investments for occupational trust-based schemes.

Section 17: Restriction on borrowing by trustees and managers

72. This section provides a power to make regulations to prohibit trustees or managers of schemes containing collective benefits from borrowing money or acting as a guarantor, except in specified cases. This also applies to anyone to whom the trustees or manager have delegated decisions about collective benefit investments.

Section 18: Investment powers: duty of care

73. This section provides a power to make regulations to ensure that trustees or managers of schemes which contain collective benefits, and those who have had investment functions delegated to them, cannot be excluded from liability when exercising their investment functions involving collective benefit investments. This requirement will help to ensure that those responsible for collective benefit investments cannot avoid their duty of care in respect of how they manage the funds, in turn helping to ensure the funds are properly managed and providing a safeguard for members. This section allows current restrictions that apply under section 33 of the Pensions Act 1995 to trustees of trust-based occupational schemes in relation to investment functions to similarly apply in relation to those running schemes which offer collective benefits.

Section 19: Valuation reports

Section 20: Valuation process

74. Section 19 gives a regulation making power which may require those schemes offering collective benefits to obtain a document, prepared by an actuary, which values the assets held by the scheme for the purposes of providing collective benefits and assesses how likely it is that the scheme will be able to meet any targets in relation to those benefits. This document is defined in the Act as a ‘valuation report’. Among other matters, the regulations may make provision about the content and frequency of valuation reports, may require that the actuary preparing the report must have particular qualifications or meet other requirements and may require the actuary to certify whether the probability falls within the required probability range or not.

75. Section 20 provides for a power to make provision about the methods or assumptions to be used by an actuary when drawing up a valuation report. Regulations made under this section may require an actuary to have regard to guidance when preparing the valuation report and may impose other requirements on the actuary.

76. The section also contains a power to require the trustees or managers to decide which methods or assumptions the actuary should use and a power for regulations to set out matters that the trustees or managers must take into account, or principles they must follow, when making that decision. These principles might, for example, state the parameters of the economic and actuarial assumptions that must be used.

Section 21: Policy for dealing with a deficit or surplus

77. Under this section, regulations may provide that trustees or managers of schemes offering collective benefits are required to have a policy for dealing with circumstances where the probability of a scheme meeting a target in relation to a collective benefit is outside of the required range of probability set out in regulations - termed in the Act as ‘deficit’ or ‘surplus’.

78. Trustees and managers will usually have some flexibility and discretion about how they react to a ‘deficit’ or ‘surplus’, therefore the section sets out powers which may require the policy to contain provision for a ‘deficit or surplus’ to be dealt with in one or more of a range of ways. Regulations may require the policy to contain an explanation of the possible effect of the policy on members in different circumstances and to be drawn up with a view to achieving certain results within a specified period of time. Regulations may require consultation with members about the policy and any changes to it, and may make provision for the policy to be regularly reviewed or revised. Regulations may also make provision about the content of the policy and set out matters or principles that trustees must take into account or follow in setting the policy.

Section 22: Power to impose requirements about dealing with a deficit or surplus

79. This section provides for regulations to set out circumstances in which a deficit or surplus must be dealt with in a particular way. The regulations can set out specific things trustees or managers must do and the time within which they have to do them.

Section 23: Deficits attributable to an offence or the imposition of a levy

80. This section sets out a regulation making power to allow an amount to be treated as a debt due from an employer to a scheme offering collective benefits in situations where a deficit in relation to a target benefit has resulted from a specified offence or the imposition of a specified levy. In this context, section 23(2) provides that regulations may mirror, or be similar to, any provision made by section 75 of the Pensions Act 1995 (amounts deemed to be debts due from an employer).

Section 24: Payment of amounts out of collective benefit funds

81. Regulations under this section will ensure that assets held in relation to collective benefits are used to provide those benefits. However there is a power to make exceptions to this general rule. It may be that there are some limited circumstances when it may be appropriate for an employer or some other party to be entitled to some share of any surplus from the scheme. For example where an employer wishes to assist a collective benefit scheme that falls into difficulty by putting some extra funds in, then to encourage such an action there may be arrangements in place to allow the possibility of full or partial repayment to the employer if the scheme has a future surplus. Regulations made under this section may make similar provisions to existing provisions in section 37 of the Pensions Act 1995 (payment of surplus to employer).

Section 25: Policy for calculating cash equivalent of benefits

82. This section contains a power to require trustees or managers of a scheme offering collective benefits to have and to follow a policy for the calculation and verification of cash equivalents of collective benefits. The cash equivalent is used for the purpose of calculating transfer values and for valuing rights for sharing pensions on divorce.

83. Regulations under this section may require trustees or managers to ensure that the policy is consistent with any requirements imposed by regulations under section 97 or 101I of the Pension Schemes Act 1993 or section 30 of the Welfare Reform and Pensions Act 1999 or any other specified requirements. Regulations may also make provision about the content of the policy, the review and revision of the policy and may require trustees or managers to consult about the policy. The regulations can also set out the sort of things trustees or managers must take into account or principles they must follow in setting the policy.

Section 26: Winding up

84. This section provides for regulations about the winding up of schemes providing collective benefits. The regulations can also apply to part of a scheme providing collective benefits.

85. The regulations can make provision about the distribution of assets between members, the operation of the scheme during wind up, discharge of liabilities, and excess assets on wind up. The Pensions Act 1995 already makes provision in relation to these areas for some occupational pension schemes.

86. The section therefore provides for regulations to disapply, amend or otherwise modify the application of sections 38, 73, 73A, 73B, 74 and 76 of the Pensions Act 1995, which concern the winding up of occupational pension schemes. It also provides regulation making powers to make provision corresponding or similar to any provision made by sections 38, 73, 73A, 73B, 74 and 76 of the Pensions Act 1995.

Section 27: Requirement to wind up scheme in specified circumstances

87. This section provides for regulations to set out circumstances in which the trustees or managers must wind up either the whole or part of a scheme providing collective benefits. The powers have been drafted to ensure that any wind up required under this provision will be as effective as if it had been made under powers conferred by the scheme. Regulations made under this section may also override any other legislation, rule of law or provision of a scheme that would otherwise prevent wind up, and override any need for any consent or procedure that would otherwise be required.

Section 28: Policies about winding up

88. Under this section, regulations may provide that trustees or managers of schemes offering collective benefits are required to have a policy for dealing with wind up of a scheme providing collective benefits and to follow the policy.

89. The regulations can require trustees or managers to consult about the policy and to make provision for reviewing and revising the policy.

90. The regulations can also make provision about the content of the policy and can set out the sort of things trustees or managers have to take account of or the principles they have to follow when putting the policy together.

91. The regulations can require the policy to include an explanation of when trustees are required to wind up the scheme and the circumstances when they have the power to decide when to wind up. If they have the power to decide when to wind up, regulations can require the policy to set out how they intend to use that power.

92. The regulations can also require the policy to include an explanation of how assets will be distributed, and if the trustees or managers have the power to decide how to distribute assets, how they intend to use that power.

Section 29: Working out which assets are available for the provision of which benefits

93. This section provides for regulations to set out how to work out which assets are available for the provision of collective benefits, which assets are available for the provision of which collective benefits (for example if there is more than one section in a scheme providing collective benefits) and which assets are available for the provisions of benefits other than collective benefits.

Section 30: Requirement to obtain actuarial advice

Section 31: Sub-delegation

Section 32: Publication of documents etc

Section 33: Enforcement

94. Section 30 provides that regulations may require trustees or managers to consult an actuary who has specified qualifications or meets other specified requirements before making a specified decision or taking other specified steps.

95. Section 31 provides a power for regulations to confer discretion on a person in relation to the provisions in Part 2 of the Act, for example regulations may make provision for the methods or assumptions to be used by an actuary but leave some discretion about these matters to the actuary.

96. Section 32 provides that where regulations made under Part 2 of the Act require the trustees or managers to prepare or obtain a document or to have a policy, regulations may also impose requirements about the publication of that document or policy and require copies of that document or policy to be sent to certain persons.

97. Section 33 provides a power for the regulations made under this Part of the Act to provide for civil penalties to apply where a person breaches requirements in those regulations.

Section 34: Overriding requirements

98. This section allows for regulations made under this Part of the Act to override any conflicting provisions in scheme rules.

Section 35: Interpretation of Part 2

99. Section 35 defines a number of expressions used in Part 2 of the Act.

100. The section also provides that a power conferred by Part 2 of the Act to make provision corresponding or similar to any provision made by a section of another Act includes a power to make provision corresponding or similar to any provision that may be made by regulations under that section.

Part 3 – General Changes to Pensions Legislation about Pension Schemes

Section 36: Pensions promise obtained from third party

101. This section relates to the possibility of a pensions promise, for the purposes of a defined benefits or shared risk scheme being obtained from a third party (as set out in section 5). It contains a power to enable the Secretary of State to make regulations to require that trustees or managers of a scheme must not obtain any such promise from a third party unless conditions set out in the regulations are met. Regulations under this section may also provide for civil penalties to apply to a person who fails to comply with them. This section also makes changes to section 34(7) of the Pensions Act 1995 to add this section to the list of provisions that section 34, which makes its own provisions in relation to trustees' power of investment, cannot override.

Section 37: Duty to act in the best interests of members

102. Regulations under this section may require managers in non-trust based schemes to act in members' best interests when taking certain specified decisions. This duty may apply in relation to shared risk schemes and schemes offering collective benefits.

103. Regulations may provide for the duty to override obligations that are inconsistent with that duty, but do not otherwise affect any other duty that might arise. Where a manager has breached or threatened to breach such regulations to act in members' best interests, regulations may provide that the manager will be subject to the same consequences as the consequences of breaching a fiduciary duty to the members.

Section 38: Disclosure of information about schemes

104. Section 113 of the Pension Schemes Act 1993 sets out a power for the Secretary of State to make regulations in relation to occupational and personal pension schemes, setting out requirements to keep certain persons informed of various matters including the scheme's constitution, its administration and finances, and the rights and obligations that may arise under the scheme.

105. This section amends section 113, removing the list at subsection (2) of the persons who can be kept informed under provisions of the regulations, and instead specifying that it applies in respect of 'persons of prescribed descriptions' – that is, the persons who should be kept informed will be set out in secondary legislation.

106. The section also introduces a requirement for schemes to have regard to any guidance prepared by the Secretary of State when complying with disclosure requirements.

Section 39: Extension of preservation of benefit under occupational pension schemes

107. This section amends Part 4 of the Pension Schemes Act 1993, which concerns the preservation of benefit for early leavers of occupational pension schemes. Pension scheme members whose pensionable service is terminated before reaching normal pension age are entitled to payment of the benefit accrued up to that point, providing they have two years' qualifying service or have previously transferred their rights into the scheme from a personal pension. (Members who leave without a preserved benefit

are entitled to transfer the value of the benefits they have accrued or receive a refund of their own contributions.)

108. The preserved benefit to which such members are entitled – termed 'short service benefit' – is the same as that which would have been payable if they had remained members in pensionable service in the scheme until retirement.

109. The Pensions Act 2014 introduced a requirement that, where all benefits for a member are money purchase benefits, a preserved pension must be provided after 30 days' qualifying service.

110. Section 39 amends section 71 of the Pension Schemes Act 1993 so that schemes must provide a short service benefit where leavers have at least 30 days' qualifying service and all the pension benefit is a non-salary related one (that is, not calculated either by rate or amount with reference to the member's salary) or where it is a collective benefit. If any of the pension benefit is salary related, the two year rule still applies.

111. Where a benefit may be calculated on a salary related basis in some circumstances and a non-salary related basis in others (e.g. an underpin benefit which pays the higher of the two calculations), it will be treated as salary-related for these purposes.

112. If a member's pensionable service began before the amendments came into force, the previous requirements for preservation of benefits will continue to apply.

113. The section also ensures the uniform accrual rules do not apply in respect of collective benefits.

Section 40: Revaluation of accrued benefits

Schedule 1: Early leavers: revaluation of accrued benefits

114. When a member stops being an active member of a scheme more than a year prior to retirement, the accrued benefits are required to be 'revalued' at the scheme's normal pension age to provide a measure of inflation protection over the period of deferral. Sections 83 to 86 of, and Schedule 3 to, the Pension Schemes Act 1993 set out the procedure for revaluation based on benefit type.

115. The existing section 84 of the Pensions Schemes Act 1993 takes the final salary method as its default method of revaluation for accrued benefits. This method requires benefits to be increased by inflation capped at 5 or 2.5 per cent each year, but there is an alternative for average salary, flat rate or money purchase benefits. In these cases, the legislation allows for revaluation using the average salary and flat rate methods, where trustees or managers consider these methods, respectively, to be more appropriate than the final salary method, and the money purchase method where benefits are money purchase or benefits from a personal pension scheme.

116. The basic principle behind the non-final salary provisions is that both active scheme members and those who have left the scheme before normal pension age should be treated in the same way. Their rights in relation to accrued benefits should not be affected because they have, for example, changed their place of employment and consequently left that pension scheme.

117. The methods are set out in Schedule 3 to the 1993 Act. For the final salary method, the annual Occupational Pensions (Revaluation) Order sets out the percentages to be used for people retiring during the following year. The average salary and flat rate methods state that benefits are to be revalued in the same way as they would have been had the member remained in pensionable service. In the money purchase method the requirement is to apply the same investment return on the accrued benefits to both active and deferred members.

118. The Pensions Act 2011 (Consequential and Supplementary Provisions) Regulations 2014 amended the 1993 Act to introduce an additional cash balance method for cash balance benefits not calculated by reference to final salary which accrued after section 29 of the Pensions Act 2011 was commenced. This also required active and deferred members to be treated in the same way.

119. Schedule 1 amends the Pension Schemes Act 1993. There will be no changes to the method applicable for benefits which accrued before the changes come into force or for relevant pension credits rights where entitlement arose before the changes come into force. A new 'default method' will apply for all benefits except those which are money purchase, salary related or flat rate. ('Salary related' will include final salary cash balance schemes). The default is simply to revalue benefits as they would have been had the member remained in pensionable service.

120. The exceptions for the default method remain money purchase benefits, flat rate benefits and what are now termed 'salary related' benefits. A salary related benefit must be revalued using the final salary method except where those benefits are average salary and trustees or managers consider the average salary method more appropriate. Money purchase benefits should be revalued using the money purchase method. These methods continue to apply the definitions set out in Schedule 3 to the 1993 Act where referenced.

121. Collective benefits will be revalued using the default method.

122. The Schedule (see new section 84D) also sets out the revaluation procedure for hybrid benefits – those benefits which are made up of different components, the highest of which is paid. In this case, each component will be revalued separately before deciding which is the highest. This replicates the effect of provision currently contained in secondary legislation. At new section 84E there is provision for schemes which have used certain alternative methods of revaluation (primarily public service pension schemes) to continue to do so.

123. There is also a power (at new section 85A) to add revaluation methods for personal pension schemes. This is to allow for the possibility that in the future the design of personal pensions introduces a wider range of benefits than are provided for by the new provisions.

Section 41: Collective benefits exempt from indexation

Section 42: Regulatory own fund schemes exempt from indexation

Section 43: Power to create other exemptions from indexation

124. The Pensions Act 1995 makes provision for the indexation of pensions under occupational pension schemes (other than public service pension schemes). Section 41 excludes collective benefits from the requirement to annually increase pensions in payment set out in section 51 of the 1995 Act.

125. Section 42 amends the provision in section 51 of the Pensions Act 1995 to ensure schemes set up as "Regulatory Own Funds" will be exempt from requirements to index benefits. This is as it may not always be appropriate for such schemes to index the benefits offered. Section 42(3) introduces a definition of a Regulatory Own Fund which refers directly to Article 17 of European Council Directive (2003/41/EC).

126. Section 43 amends section 51 of the Pensions Act 1995 to insert a regulation making power that may disapply the requirement to annually increase pensions in payment to a pension or part of a pension of a specified description. The power cannot be used to remove the requirement to index pensions that came into payment or parts of pension attributable to pensionable service that has occurred before the day on which regulations come into force, or to a pension or any part of a pension under a defined benefits scheme.

The regulations will therefore not be able to affect rights already accrued or benefits under a defined benefits scheme.

Section 44: Removal of requirement to maintain register of independent trustees

127. This section removes the statutory requirement for regulations to provide that the Pensions Regulator compile and maintain a register of trustees (the relevant regulations are the Occupational Pension Schemes (Independent Trustee) Regulations SI 2005/703).

128. Section 23 of the Pensions Act 1995 allows the Pensions Regulator to appoint an independent trustee to a scheme whose employer has suffered an insolvency event. The Regulator can only appoint a trustee from the trustee register, which it must establish and maintain. But the Regulator has another, general power (under section 7 of the Act) to appoint trustees to replace a person found not to be 'fit and proper' to be a trustee. In relation to this there is no requirement to appoint from a register of trustees. Section 44 of the Pension Schemes Act 2015 removes the requirement to maintain a register of trustees under section 23 of the 1995 Act, in order that the Regulator can instead follow the same procedure as when appointing trustees under section 7 of the 1995 Act.

Section 45: Rules about modification of schemes

129. Section 67 of the Pensions Act 1995 contains provisions to protect members against detrimental modifications to their 'subsisting rights' – that is, 'any right which at that time has accrued to or in respect of the member to future benefits under the scheme rules; or any entitlement to the present payment of a pension or other benefit which the member has at that time, under the scheme rules'.

130. Section 45 of the Pension Schemes Act 2015 replaces the existing regulation making power to disapply section 67 of the 1995 Act for the exercise of a power in a prescribed manner and replaces it with a power to disapply in prescribed cases.

131. Modifications can only be made if the value of the benefits is the same before and after the change or if the member agrees. Some changes can only be made if the member agrees: these are called 'protected modifications'. Section 67A of the 1995 Act sets out the circumstances in which a modification to members' rights is a 'protected modification'.

132. Currently, section 67A states that a change is a 'protected modification' where money purchase benefits would replace non-money purchase benefits, or where the change would result in a reduction to a pension in payment.

133. Section 45 of this Act amends section 67A of the 1995 Act to include a modification where a right to benefits that include a pensions promise is to be replaced by a right to benefits where there is no pensions promise, where a right to a retirement income in respect of which there is a pension promise becomes a right to benefits other than retirement income and where a right or entitlement to a benefit which is not a collective benefit is replaced with a right or entitlement to collective benefits.

134. Section 45 of this Act also amends section 67A of the 1995 Act to provide that a reduction to a collective benefit in payment is not a "protected modification".

135. It also updates the list of relevant override provisions in section 67A of the 1995 Act to include regulations made under Part 2 of this Act and regulations made under Schedules 17 and 18 to the Pensions Act 2014. This means where these regulations override conflicting provision in the scheme rules, that the regulations are treated as part of the scheme rules for the purposes of the subsisting rights provisions.

Section 46: Other amendments to do with Parts 1 and 2

Schedule 2: Other amendments to do with Parts 1 and 2

136. Schedule 2 makes consequential amendments to existing pensions legislation to take account of the categories of scheme defined in Part 1 and collective benefits defined in Part 2. The Schedule also makes some resulting changes to replace references to money purchase schemes to limit the number of ways of categorising schemes in legislation.

137. Where there are references in existing legislation to a 'money purchase scheme', these are generally replaced by references to 'a scheme under which all the benefits that may be provided are money purchase benefits'. This does not change the effect of the legislation – rather, they are technical changes to limit the number of categories that can be attached to pension schemes.

138. In other cases, the new categories are themselves substituted for existing definitions.

Pension Schemes Act 1993

139. Section 124 of the Pension Schemes Act 1993 places a duty on the Secretary of State to pay unpaid contributions to schemes in the event of employer insolvency and consequent default on employer contributions. The amount the Secretary of State is required to pay is the least of three amounts set out in paragraphs (a) to (c) of subsection (3). Subsection (3A) states that where the scheme is a money purchase scheme, the amount is the lesser of the amounts specified in paragraphs (a) and (c) (paragraph (b) is not relevant to money purchase schemes). Schedule 2 of the Pension Schemes Act 2015 amends the wording to replace 'money purchase scheme' with 'defined contributions scheme, or a shared risk scheme under which all of the benefits that may be provided are money purchase benefits'. The Schedule inserts a new subsection (3A) so that it also applies to a shared risk scheme under which all the benefits that may be provided are money purchase benefits or collective benefits. This updates the provision to ensure it applies in the right way to schemes which offer collective benefits and that they are covered by the appropriate provision, as well as ensuring all schemes which are shared risk and have only money purchase and collective benefits, and schemes which are defined contributions and provide a guaranteed income after the point of retirement, are captured.

Pensions Act 1995

140. Section 37 of the Pensions Act 1995 makes provision in relation to payments to employers when a trust-based occupational scheme is in surplus. Paragraph 7 of Schedule 2 of the Pension Schemes Act 2015 amends subsection (1A) of section 37 of the 1995 Act to disapply that section in relation to funds held for the purposes of collective benefits. Funds held for the purposes of providing collective benefits should only be used to provide those benefits except in very limited circumstances. Employer liability in respect of collective benefits is limited to the employer contributions and they cannot be required to make any additional payments where the funds are insufficient to meet the targets. Correspondingly, they should not, as a general rule, have a right to any surplus in the fund. Regulations made under section 24 of the 2015 Act will set out any exceptions to the rule that the funds must only be used for provision of collective benefits.

141. Sections 51 and 51A of the Pensions Act 1995 relate to indexation requirements for pension schemes (that is, the method by which pensions in payment are increased annually to take account of inflation). Schedule 2 of the Pension Schemes Act 2015 amends subsection (1)(a)(iii) of section 51 of the 1995 Act, which exempts pensions in money purchase schemes from indexation requirements in certain circumstances, by substituting 'defined contributions scheme' for 'money purchase scheme'. It consequently amends section 51A of the 1995 Act to replace 'money purchase scheme' with 'defined contributions scheme'. This means that the indexation requirements

exclude all defined contributions schemes, including money purchase schemes, schemes offering collective benefits, and those that are defined as self-annuitising under section 51A.

142. Section 73 of the Pensions Act 1995 deals with distribution of liabilities when an occupational pension scheme winds up. Paragraph 11 of Schedule 2 of the Pension Schemes Act 2015 amends subsection (2) of section 73 of the Pensions Act 1995 to reflect the new scheme categories found in Part 1 of the 2015 Act .

143. Paragraph 11 applies the existing provisions on wind up to the new categories of defined benefits, shared risk and defined contributions schemes. The provisions on winding up do not apply to schemes under which all the benefits that may be provided are money purchase benefits or prescribed schemes or schemes of a prescribed description. This maintains the current position.

144. An 'employer debt' is a reference to a statutory debt arising under section 75 of the Pensions Act 1995. Section 75 of the Pensions Act 1995 applies to an occupational pension scheme (other than a scheme which is a money purchase scheme, or a prescribed scheme or a scheme of a prescribed description) where there is a funding deficit in circumstances where either the scheme is winding up or a prescribed event has occurred in relation to the employer.

145. Paragraph 12 of Schedule 2 to the Pension Schemes Act 2015 provides that section 75 of the 1995 Act will not apply to an occupational pension scheme which offers only collective benefits, money purchase benefits, or a combination of the two.

146. Paragraph 12 also provides that where a scheme offers a combination of collective and non-collective benefits, the scheme is to be treated for the purposes of Part 1 of the Pensions Act 1995 as two separate schemes, with one scheme relating to the collective benefits and the other relating to the other benefits. Not all benefits in a defined contributions scheme will necessarily be money purchase – some or all may be collective benefits.

147. Sections 87 and 88 of the Pensions Act 1995 make provision requiring trustees or managers of occupational money purchase schemes to prepare schedules of payments for scheme members. Schedule 2 of the Pension Schemes Act 2015 amends this requirement so that it applies to all defined contribution schemes and any shared risk schemes under which either all of the benefits that may be provided are money purchase benefits, or a combination of money purchase and collective benefits. The wording of subsection (2)(a) of section 87 of the 1995 Act is altered to place focus on the type of benefits that are being offered, in order that 'relevant benefits' are considered regardless of whether a scheme is a defined contributions or a shared risk scheme

148. Section 124 of the Pensions Act 1995 is amended so that the terms 'defined contributions scheme', 'defined benefits scheme' and 'shared risk scheme', as set out in Part 1 of this Act, apply in that Act and to include a definition of "occupational" in relation to a defined benefits scheme, shared risk scheme or defined contributions scheme.

Welfare Reform and Pensions Act 1999

149. Section 38 of the Welfare Reform and Pensions Act 1999 makes provision about the treatment of pension credits in winding up. Currently it does not apply to a money purchase scheme. The amendment made by paragraph 19 of Schedule 2 replaces the reference to a money purchase scheme with a reference to a scheme under which all the benefits that may be provided are money purchase benefits. This does not change the effect.

Pensions Act 2004

150. Paragraphs 23 to 38 of Schedule 2 make amendments to the Pensions Act 2004. The majority of the amendments made to the Pensions Act 2004 by paragraphs 26 to 38 of Schedule 2 take out a number of references to money purchase schemes and update provisions in the 2004 Act to take account of the new pension scheme categories and the introduction of collective benefits. In most cases, the effect of the provisions is to extend exemption of the provision from schemes offering only money purchase benefits to schemes in which all benefits are collective or a combination of collective and money purchase. However, in paragraph 26 of Schedule 2 there is a further qualification – with the effect that the provision (which relates to freezing orders) does apply to schemes with only money purchase benefits which include a third party promise.

151. Paragraphs 24, 30, 33 and 36 of Schedule 2 also amend the definition of pensions legislation in sections 13, 90, 254 and 291 of the Pensions Act 2004 to include provisions in and made under the Pension Schemes Act 2015, ensuring that the Regulator can take action where there are breaches of the 2015 Act and regulations made under it and to allow for modification of the provisions where schemes receive contributions from a European employer.

152. Section 126 of the Pensions Act 2004 defines those occupational pension schemes which are eligible to be taken over by the Board of the Pension Protection Fund. Paragraph 31 of Schedule 2 amends the Pensions Act 2004 to include reference to the new categories of occupational pension scheme in Part 1 of the 2015 Act, (defined benefits, shared risk and defined contributions schemes) as eligible for the Pension Protection Fund. This paragraph also has the effect that occupational pension schemes that offer only money purchase and collective benefits, and occupational pension schemes that offer only collective benefits are not eligible for the Pension Protection Fund.

153. Section 318 of the Pensions Act 2004 defines terms used throughout that Act. Paragraph 38 of Schedule 2 to the Pension Schemes Act 2015 inserts the new scheme category and collective benefit definitions introduced by the 2015 Act and omits the definition of ‘money purchase scheme’. It also updates the list of overriding provisions contained in the definition of “scheme rules” in the Pensions Act 2004, to include regulations made under Part 2 of the 2015 Act, and under Schedule 17 and 18 to the Pensions Act 2014. This means that where these regulations override conflicting provision in the scheme rules the regulations are treated as part of the scheme rules for the purposes of the 2004 Act.

Pensions Act 2008

154. Sections 20 to 28 of the Pensions Act 2008 set out the requirements that a pension scheme must meet if it is to be a qualifying scheme for the purposes of meeting an employer’s enrolment duties under pensions legislation. (This is sometimes referred to as ‘automatic enrolment’.)

155. The amendments made by Schedule 2 to the Pension Schemes Act 2015 replace the existing definitions of ‘defined benefits scheme’, ‘money purchase scheme’ and ‘hybrid scheme’ in these sections with the new definitions set out in Part 1 of the 2015 Act, and change the section headings accordingly. The quality requirements are on the whole unchanged (except where stated).

156. Section 26 of the 2008 Act is amended to refer to a personal pension scheme ‘that is a defined contributions scheme’. The requirements are the same except it will no longer be a requirement that all benefits under the scheme must be money purchase benefits.

157. Section 99 of the 2008 Act is amended to substitute the definition of ‘defined benefits scheme’ and insert the definitions of ‘collective benefit’, ‘defined contributions scheme’ and ‘shared risk scheme’ as set out in Part 1 of the 2015 Act, as well as defining

'occupational' as it applies to these pension schemes. The original references to 'defined benefits', 'money purchase scheme' and 'hybrid scheme' are omitted.

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). 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 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 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 Minster 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.

Part 5 – Miscellaneous

Section 77: Payments into Remploy Limited Pension and Assurance Scheme

245. This section allows for the Secretary of State to make payments into the Remploy Limited Pension and Assurance Scheme, the occupational pension scheme for the organisation Remploy.

246. Remploy is a non-departmental public body that provides employment services for disabled people and those with barriers to work. Its pension scheme is currently funded by Remploy via monies received from the Department for Work and Pensions. The change will enable the Department for Work and Pensions to make payments to the scheme directly.

Section 78: Pension scheme for fee-paid judges

Schedule 5: Pension scheme for fee-paid judges: consequential amendments

247. This section provides for a power under the Judicial Pensions and Retirement Act 1993 to enable the Lord Chancellor to establish a pension scheme for eligible fee-paid judges in the United Kingdom, as required by case law. This is for historic cases only. As things currently stand, the case law requires pensions to be provided in respect of service reaching back to 7 April 2000, but the point is subject to appeal. It also ensures that fee-paid judges who are subsequently appointed to the salaried judiciary are extended the same protection rights as members of existing public service pension schemes as provided for in regulations under the Public Service Pensions Act 2013.

248. Schedule 5 contains amendments. Some of the amendments ensure that pensions under the new scheme for fee-paid judges go up with inflation.

Section 79: Judicial pensions: pension sharing on divorce etc

249. This section corrects the provision of the Judicial Pensions and Retirement 1993 (paragraph 1(5) of Schedule 2A) dealing with pension sharing to ensure that it works correctly for cases where pension sharing is activated after a person has left judicial office. This will apply to both salaried judiciary and eligible fee-paid judges.

Section 80: Public service pension schemes

250. This section makes a small amendment to Schedule 5 of the Public Service Pensions Act 2013, to ensure that the pension schemes relating to the Security Service and Secret Intelligence Service are not caught within that Act's definition of "existing scheme" and so forced to close on 1 April 2015. It is brought into force upon Royal Assent by section 89, to ensure that no risk of forced closure of the Security Service and Secret Intelligence Service schemes arises on 1 April 2015.

Section 81: Extension to Scotland of certain provisions about marriage of same sex couples

251. Section 38A of the Pension Schemes Act 1993 inserted by the Marriage (Same Sex Couples) Act 2013 enables regulations to be made in relation to the administration of survivor benefits in a 'relevant gender change' case. This section extends section 38A to Scotland and makes minor consequential amendments so that regulations made under section 38A can apply to Scotland.

Section 82: Pension sharing and normal benefit age

252. When a pension is shared on divorce, the former spouse's or civil partner's share may (or, in the case of unfunded public service schemes must) be retained in the pension scheme as a pension credit benefit. Schemes must have a normal benefit age when they start to pay the pension credit benefit. At the moment this must be between 60 and 65.

253. As longevity increases, some pension schemes will start to increase their normal pension age above 65. This section amends section 101C of the Pension Schemes Act 1993 to allow a pension scheme to increase its normal benefit age for a pension share to a permitted maximum. The permitted maximum is 65, or if higher, the highest normal pension age for any benefit payable to, or in respect of, ordinary members of the scheme.

254. The section also amends section 101B of the Pension Schemes Act 1993 to provide a new definition of "normal benefit age" and "normal pension age".

Part 6 General

Section 83: Power to make consequential amendments

Section 84: Regulations

Section 85: Regulations: Northern Ireland

Section 86: Regulations: supplementary

255. These sections set out various provisions relating to the regulation making powers contained in the Act and the procedure for exercising those powers, including the parliamentary scrutiny that will be applied to them.

Section 87: Crown application

256. This section states that the provisions in Part 2 and sections 36, 37, 48, 49, 51, 52, 55, 56, 57 and 61 to 63 of the Act apply to a pension scheme managed by or on behalf of the Crown as they apply to other pension schemes.

Section 88: Extent

257. This section concerns the territorial extent of the Act. In general, the Act extends to England and Wales and to Scotland only. However, subsection (3) ensures that section 81 only extends to Scotland. Subsection (4) extends sections 54(3), 74, 75 and 76 and Part 6 to Northern Ireland. Sections 51, 52, 61, 62, 63, 71(8) and (9) extend to Northern Ireland only. Any amendment or repeal made by the Act has the same extent as the provision to which it relates.